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COMMONWEALTH OF AUSTRALIA.

PARLIAMENTARY DEBATES.

SESSION 1903.

(SECOND SESSION OF THE FIRST PARLIAMENT.)

3 EDWARD VII.

IN FIVE VOLUMES.

VOL. XIII.

(Comprising the period from 26th May to 24th June, 1903.)

SENATE AND HOUSE OF REPRESENTATIVES.

*Printed and Published for the GOVERNMENT of the COMMONWEALTH of AUSTRALIA by
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PARLIAMENT OF THE COMMONWEALTH.

GOVERNOR-GENERAL.

His Excellency the Right Honorable **THE EARL OF HOPETOUN**, a Member of His Majesty's Most Honorable Privy Council, Knight of the Most Ancient and Most Noble Order of the Thistle, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, Knight Grand Cross of the Royal Victorian Order, and Commander-in-Chief of the Commonwealth of Australia. (Sworn, 1st January, 1901 ; Recalled.)

Succeeded by

His Excellency The Right Honorable **HALLAM, BARON TENNYSON**, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, and Commander-in-Chief of the Commonwealth of Australia. (Sworn as Acting Governor-General, 17th July, 1902. Sworn as Governor-General, 9th January, 1903.)

BARTON ADMINISTRATION.

(1st January, 1901, to 24th September, 1903.)

Minister of External Affairs	...	The Right Honorable Sir Edmund Barton P.C., G.C.M.G., K.C.
Attorney-General	...	The Honorable Alfred Deakin.
Minister of Home Affairs	...	{ The Honorable Sir William John Lyne, K.C.M.G. (to 11th August, 1903). The Right Honorable Sir John Forrest, P.C., G.C.M.G. (from 11th August, 1903).
Treasurer	...	{ The Right Honorable Sir George Turner, P.C., K.C.M.G. The Right Honorable Charles Cameron Kingston, P.C., K.C., (resigned office, 24th July, 1903).
Minister of Trade and Customs	...	{ The Honorable Sir William John Lyne, K.C.M.G. (from 11th August, 1903). The Right Honorable Sir John Forrest, P.C., G.C.M.G. (to 10th August, 1903).
Minister of Defence	...	{ The Honorable James George Drake (from 10th August, 1903). The Honorable James George Drake (to 10th August, 1903).
Postmaster-General	...	{ The Honorable Sir Philip Oakley Fysh, K.C.M.G. (from 10th August, 1903).
Vice-President of Executive Council		The Honorable Richard Edward O'Connor, K.C.

DEAKIN ADMINISTRATION.

(From 24th September, 1903.)

Minister of External Affairs	...	The Honorable Alfred Deakin.
Minister of Trade and Customs	...	The Honorable Sir William John Lyne, K.C.M.G.
Treasurer	...	The Right Honorable Sir George Turner, P.C., K.C.M.G.
Minister of Home Affairs	...	The Right Honorable Sir John Forrest, P.C., G.C.M.G.
Attorney-General	...	The Honorable James George Drake.
Postmaster-General	...	The Honorable Sir Philip Oakley Fysh, K.C.M.G.
Minister of Defence	...	The Honorable Austin Chapman.
Vice-President of Executive Council		The Honorable Thomas Playford.

MEMBERS OF THE SENATE.

FIRST PARLIAMENT.—SECOND SESSION.

President—The Hon. Sir Richard Chaffey Baker, K.C.M.G., K.C.

Baker, Hon. Sir Richard Chaffey, K.C.M.G., K.C.	...	South Australia.
**Barrett, John George	...	Victoria.
*Best, Hon. Robert Wallace	...	"
Cameron, Lt.-Col. Cyril St. Clair	...	Tasmania.
Charleston, David Morley	...	South Australia.
Clemons, John Singleton	...	Tasmania.
Dawson, Anderson	...	Queensland.
De Largie, Hugh	...	Western Australia.
**Dobson, Hon. Henry	...	Tasmania.
Downer, Hon. Sir John William, K.C.M.G., K.C.	...	South Australia.
Drake, Hon. James George	...	Queensland.
§Ewing, Norman Kirkwood	...	Western Australia.
††Ferguson, John	...	Queensland.
Fraser, Hon. Simon	...	Victoria.
Glasse, Thomas	...	Queensland.
Gould, Lt.-Col., Hon. Albert John	...	New South Wales.
Harney, Edward Augustine	...	Western Australia.
Higgs, William Guy	...	Queensland.
Keating, John Henry	...	Tasmania.
Macfarlane, James	...	"
§§Mackellar, Charles Kinnaird, M.B., C.M.	...	New South Wales.
Matheson, Alexander Perceval	...	Western Australia.
McGregor, Gregor	...	South Australia.
Millen, Edward Davis	...	New South Wales.
**Neild, Lt.-Col. John Cash	...	"
††O'Connor, Hon. Richard Edward, K.C.	...	"
O'Keefe, David John	...	Tasmania.
Pearce, George Foster	...	Western Australia.
Playford, Hon. Thomas	...	South Australia.
Pulsford, Edward	...	New South Wales.
†Reid, Hon. Robert	...	Victoria.
‡Sargood, Lt.-Col. Hon. Sir Frederick Thomas, K.C.M.G.	...	"
|| Saunders, Henry John	...	Western Australia.
Smith, Miles Staniforth Cater	...	"
Stewart, James Charles	...	Queensland.
Styles, James	...	Victoria.
Symon, Sir Josiah Henry, K.C.M.G., K.C.	...	South Australia.
Walker, James Thomas	...	New South Wales.
Zeal, Hon. Sir William Austin, K.C.M.G.	...	Victoria.

* Chairman of Committees.

** Temporary Chairman of Committees.

† Deceased reported, 26th May, 1903.

§ Resignation reported 26th May, 1903.

† Elected by the Parliament of Victoria to fill the vacancy caused by the death of Senator Sargood; sworn in 20th May, 1903.

|| Appointed by the Governor and afterwards elected by the Parliament of Western Australia to fill the vacancy caused by the resignation of Senator Ewing; sworn in 4th June, 1903.

†† Resignation reported 30th September, 1903.

||| Seat declared vacant, 13th October, 1903.

§§ Elected by the Parliament of New South Wales to fill the vacancy caused by the resignation of Senator O'Connor; sworn in 14th October, 1903.

MEMBERS OF THE HOUSE OF REPRESENTATIVES.

FIRST PARLIAMENT.—SECOND SESSION.

Speaker.—The Hon. Sir Frederick William Holder, K.C.M.G.

Bamford, Frederick William...	...	Herbert. (Q.)
††Barton, Right Hon. Sir Edmund, P.C., G.C.M.G., K.C.	...	Hunter. (N.S.W.)
†Batchelor, Egerton Lee	...	South Australia.
Bonython, Sir John Langdon	...	"
Braddon, Right Hon. Sir Edward Nicholas Coventry, P.C., K.C.M.G.	...	Tasmania.
Brown, Thomas	...	Canobolas. (N.S.W.)
Cameron, Donald Norman	...	Tasmania.
*Chanter, John Moore	...	Riverina. (N.S.W.)
Chapman, Hon. Austin	...	Eden-Monaro. (N.S.W.)
Clarke, Francis	...	Cowper. (N.S.W.)
Conroy, Alfred Hugh	...	Werriwa. (N.S.W.)
Cook, James Hume...	...	Bourke. (V.)
Cook, Joseph	...	Parramatta. (N.S.W.)
Cooke, Hon. Samuel Winter...	...	Wannon. (V.)
Crouch, Richard Armstrong	...	Corio. (V.)
Cruickshank, George Alexander	...	Gwydir. (N.S.W.)
Deakin, Hon. Alfred	...	Ballarat. (V.)
Edwards, George Bertrand	...	Sth. Sydney. (N.S.W.)
Edwards, Richard	...	Oxley. (Q.)
Ewing, Thomas Thomson	...	Richmond. (N.S.W.)
Fisher, Andrew	...	Wide Bay. (Q.)
Forrest, Right Hon. Sir John, P.C., G.C.M.G.	...	Swan. (W.A.)
Fowler, James Mackinnon	...	Perth. (W.A.)
Fuller, George Warburton	...	Illawarra. (N.S.W.)
Fysh, Hon. Sir Philip Oakley, K.C.M.G.	...	Tasmania.
Glynn, Patrick McMahon	...	South Australia.
Groom, Arthur Champion	...	Flinders. (V.)
‡Groom, Littleton Ernest	...	Darling Downs. (Q.)
‡Groom, William Henry	...	Darling Downs. (Q.)
Harper, Robert	...	Mernda. (V.)
§Hartnoll, Hon. William	...	Tasmania.
Higgins, Henry Bournes, K.C.	...	Nthrn. Melbourne. (V.)
Holder, Hon. Sir Frederick William, K.C.M.G.	...	South Australia.
Hughes, William Morris	...	West Sydney. (N.S.W.)
Isaacs, Hon. Isaac Alfred, K.C.	...	Indi. (V.)
Kennedy, Thomas	...	Moir. (V.)
Kingston, Right Hon. Charles Cameron, P.C., K.C.	...	South Australia.
†Kirwan, John Waters	...	Kalgoorlie. (W.A.)
Knox, William	...	Kooyong. (V.)
Lyne, Hon. Sir William John, K.C.M.G.	...	Hume. (N.S.W.)
Macdonald-Paterson, Hon. Thomas	...	Brisbane. (Q.)
Mahon, Hugh	...	Coolgardie. (W.A.)
Manifold, James Chester	...	Corangamite. (V.)
Mauger, Samuel	...	Melbourne Ports. (V.)
McCay, Hon. James Whiteside	...	Corinella. (V.)
McColl, Hon. James Hiers	...	Echuca. (V.)
†McDonald, Charles	...	Kennedy. (Q.)
McEacharn, Sir Malcolm Donald	...	Melbourne. (V.)
McLean, Hon. Allan	...	Gippsland. (V.)
McLean, Francis Edward	...	Lang. (N.S.W.)
McMillan, Sir William, K.C.M.G.	...	Wentworth. (N.S.W.)
O'Malley, King	...	Tasmania.
Page, James	...	Maranoa. (Q.)
Paterson, Alexander	...	Capricornia. (Q.)
Phillips, Hon. Pharez	...	Wimmera. (V.)
†‡Piesse, Hon. Frederick William	...	Tasmania.

* Chairman of Committees.

† Temporary Chairman of Committees.

‡ Sworn in 25th September, 1901.

§ Sworn in 4th April, 1902.

|| Deceased reported 8th August, 1901.

¶ Deceased reported 6th March, 1902.

†† Resignation reported 29th September, 1902.

FIRST PARLIAMENT.—SECOND SESSION—*continued.*

Poynton, Alexander	...	...	...	...	South Australia.
Quick, Sir John	...	...	...	...	Bendigo. (V.)
**Reid, Right Hon. George Houston, P.C., K.C.	...	...	...	...	East Sydney. (N.S.W.)
Ronald, James Black	...	...	...	...	Sthrn. Melbourne. (V.)
†Salmon, Hon. Charles Carty	...	...	...	...	Leaneecorie. (V.)
Sawers, William Bowie Stewart Campbell	...	...	...	...	New England. (N.S.W.)
Skene, Thomas	...	...	...	...	Grampians. (V.)
Smith, Bruce	...	...	...	...	Parke. (N.S.W.)
Smith, Hon. Sydney	...	...	...	...	Macquarie. (N.S.W.)
Solomon, Elias	...	...	...	...	Fremantle. (W.A.)
†Solomon, Vaiben Louis	...	...	...	...	South Australia.
Spence, William Guthrie	...	...	...	...	Darling. (N.S.W.)
Thomas, Josiah	...	...	...	...	Barrier. (N.S.W.)
Thomson, Dugald	...	...	...	...	North Sydney. (N.S.W.)
Tudor, Frank Gwynne	...	...	...	...	Yarra. (V.)
Turner, Right Hon. Sir George, P.C., K.C.M.G.	...	...	...	...	Balaclava. (V.)
Watkins, David	...	...	...	...	Newcastle. (N.S.W.)
Watson, John Christian	...	...	...	...	Bland. (N.S.W.)
Wilkinson, James	...	...	...	...	Moreton. (Q.)
Wilks, William Henry	...	...	...	...	Dalley. (N.S.W.)
Willis, Henry	...	...	...	...	Robertson. (N.S.W.)

** Resignation reported 18th August, 1903 ; re-elected and sworn in 9th September, 1903.

† Temporary Chairman of Committees.

OFFICERS.

Senate.—E. G. Blackmore, C.M.G., Clerk of the Parliaments ; C. B. Boydell, Clerk Assistant, G. E. Upward, Usher of the Black Rod.

House of Representatives.—C. G. Duffy, Clerk ; W. A. Gale, Clerk Assistant ; T. Woollard, Serjeant-at-Arms.

Reporting Staff.—B. H. Friend, Principal Parliamentary Reporter ; D. F. Lumsden, Second Reporter.

COMMITTEES OF THE SESSION.

SENATE.

STANDING ORDERS COMMITTEE.—The President, the Chairman of Committees, Senators Lt.-Colonel Gould, Sir John Downer, Sir W. A. Zeal, Dobson, Higgs, Harney, †O'Connor, Playford. (Appointed 28th May, 1903.)

LIBRARY COMMITTEE.—The President, Senators Matheson, Sir J. H. Symon, Keating, Barrett, Millen, Stewart. (Appointed 28th May, 1903.)

PRINTING COMMITTEE.—Senators Pulsford, Clemons, Pearce, Charleston, Dawson, Styles, Staniforth Smith. (Appointed 28th May, 1903.)

HOUSE COMMITTEE.—The President, Senators Lt.-Colonel Neild, De Largie, Playford, Fraser, Cameron, Glassey. (Appointed 28th May, 1903.)

COMMITTEE OF DISPUTED RETURNS AND QUALIFICATIONS.—Senators De Largie, Sir John Downer, Glassey, Macfarlane, Sir Josiah Symon, Walker, and Lt.-Colonel Neild. (Appointed 3rd September, 1903.)

HOUSE OF REPRESENTATIVES.

STANDING ORDERS COMMITTEE.—Mr. Speaker, the Chairman of Committees, the Prime Minister, Mr. McCay, Mr. A. McLean, *Mr. Reid, Mr. V. L. Solomon, and Mr. McDonald. (Appointed 5th June, 1901.)

LIBRARY COMMITTEE.—Mr. Speaker, Sir Langdon Bonython, Sir Edward Braddon, Mr. Isaacs, Mr. Macdonald-Paterson, Mr. Bruce Smith, Mr. Spence. (Appointed 5th June, 1901.)

HOUSE COMMITTEE.—Mr. Speaker, Mr. Fisher, Mr. Glynn, Sir Malcolm McEacharn, Sir William McMillan, Mr. Salmon, Mr. Manifold. (Appointed 5th June, 1901.)

PRINTING COMMITTEE.—Mr. Ewing, Mr. Fowler, Mr. Harper, Mr. Poynton, Sir John Quick, Mr. E. Solomon, Mr. Watkins. (Appointed 5th June, 1901.)

ELECTIONS AND QUALIFICATIONS COMMITTEE.—Mr. Batchelor, Sir Edward Braddon, Mr. Clarke, Mr. Joseph Cook, Mr. Kirwan, Sir John Quick. (Appointed 5th June, 1901.)

*Resigned 18th August, 1903.

†Resigned 30th September, 1903.

ACTS OF THE SESSION.

APPROPRIATION ACT (No. 14 of 1903)—

An Act to grant and apply a sum out of the Consolidated Revenue Fund to the service of the year ending 30th June, 1904, and to appropriate the supplies granted for such year in this session of the Parliament. [Initiated in House of Representatives by Sir George Turner, 21st October, 1903. Assented to 22nd October, 1903.]

APPROPRIATION (WORKS AND BUILDINGS) ACT (No. 16 of 1903)—

An Act to grant and apply a sum out of the Consolidated Revenue Fund to the service of the year ending 30th June, 1904, for the purposes of Additions, New Works, and Buildings. [Initiated in House of Representatives by Sir George Turner, 29th September, 1903. Assented to 22nd October, 1903.]

COMMONWEALTH PUBLIC SERVICE AMENDMENT ACT (No. 19 of 1903)—

An Act to Amend the Commonwealth Public Service Act 1902. [Initiated in House of Representatives by Mr. Deakin, 15th October, 1903. Assented to 22nd October, 1903.]

DEFENCE ACT (No. 20 of 1903)—

An Act to provide for the Naval and Military Defence and Protection of the Commonwealth and of the several States. [Initiated in House of Representatives by Sir John Forrest, 30th June, 1903. Assented to 22nd October, 1903.]

ELECTORAL DIVISIONS ACT (No. 9 of 1903)—

An Act relating to Elections. [Initiated in House of Representatives by Sir William Lyne, 27th August, 1903. Assented to 11th September, 1903.]

EXTRADITION ACT (No. 12 of 1903)—

An Act relating to Extradition. [Initiated in Senate by Senator Drake, 1st October, 1903. Assented to 22nd October, 1903.]

HIGH COURT PROCEDURE ACT (No. 7 of 1903)—

An Act to regulate the Practice and Procedure of the High Court. [Initiated in House of Representatives by Mr. Deakin, 9th June, 1903. Assented to 28th August, 1903.]

HIGH COURT PROCEDURE AMENDMENT ACT (No. 13 of 1903)—

An Act to amend the High Court Procedure Act 1903. [Initiated in Senate by Senator Drake, 8th October, 1903. Assented to 22nd October, 1903.]

JUDICIARY ACT (No. 6 of 1903)—

An Act to make provision for the Exercise of the Judicial Power of the Commonwealth. [Initiated in House of Representatives by Mr. Deakin, 26th May, 1903. Assented to 25th August, 1903.]

NATURALIZATION ACT (No. 11 of 1903)—

An Act relating to Naturalization. Initiated in Senate by Senator Drake, 24th June, 1903. Assented to 13th October, 1903.]

NAVAL AGREEMENT ACT (No. 8 of 1903)—

An Act to approve of an Agreement relating to the Naval Force on the Australian Station entered into by the Commissioners for executing the office of Lord High Admiral of the United Kingdom and the Governments of the Commonwealth and of New Zealand and to appropriate moneys for the purposes of that Agreement. [Initiated in House of Representatives by Sir Edmund Barton, 2nd July, 1903. Assented to 28th August, 1903.]

PATENTS ACT (No. 21 of 1903)—

An Act relating to Patents and Inventions. [Initiated in Senate by Senator Drake, 26th June, 1903. Assented to 22nd October, 1903.]

RULES PUBLICATION ACT (No. 18 of 1903)—

An Act for the Publication of Statutory Rules. [Initiated in House of Representatives by Mr. Deakin, 20th October, 1903. Assented to 22nd October, 1903.]

SENATE ELECTIONS ACT (No. 2 of 1903)—

An Act to make further provision for the Election of Senators. [Initiated in Senate by Senator Drake, 26th May, 1903. Assented to 15th July, 1903.]

SUGAR BOUNTY ACT (No. 4 of 1903)—

An Act to provide for a Bounty to Growers of Sugar Cane and Beet. [Initiated in House of Representatives by Sir George Turner, 10th June, 1903. Assented to 30th July, 1903.]

SUGAR REBATE ABOLITION ACT (No. 3 of 1903)—

An Act to abolish the Rebate of Excise Duty on Sugar. [Initiated in House of Representatives by Sir George Turner, 10th June, 1903. Assented to 30th July, 1903.]

SUPPLEMENTARY APPROPRIATION ACT 1901-2 AND 1902-3 (No. 15 of 1903)—

An Act to grant and apply out of the Consolidated Revenue Fund a further sum for the service of the year ended 30th June, 1902, and a further sum for the service of the year ended 30th June, 1903. [Initiated in House of Representatives by Sir George Turner, 1st October, 1903. Assented to 22nd October, 1903.]

SUPPLEMENTARY APPROPRIATION (WORKS AND BUILDINGS) ACT 1901-2 AND 1902-3 (No. 17 of 1903)—

An Act to grant and apply out of the Consolidated Revenue Fund for Additions, New Works, and Buildings, a further sum for the service of the year ended 30th June, 1902, and a further sum for the service of the year ended 30th June, 1903. [Initiated in House of Representatives by Sir George Turner, 1st October, 1903. Assented to 22nd October, 1903.]

SUPPLY ACT (No. 1) (No. 1 of 1903)—

An Act to grant and apply out of the Consolidated Revenue Fund a sum for the service of the year ending 30th June, 1904. [Initiated in House of Representatives by Sir George Turner, 1st July, 1903. Assented to 4th July, 1903.]

SUPPLY ACT (No. 2) (No. 5 of 1903)—

An Act to grant and apply out of the Consolidated Revenue Fund a sum for the service of the year ending 30th June, 1904. [Initiated in House of Representatives by Sir George Turner, 28th July 1903. Assented to 30th July, 1903.]

SUPPLY ACT (No. 3) (No. 10 of 1903)—

An Act to grant and apply out of the Consolidated Revenue Fund a sum for the service of the year ending 30th June, 1904. [Initiated in House of Representatives by Sir George Turner, 17th September, 1903. Assented to 29th September, 1903.]

BILLS OF THE SESSION.

APPROPRIATION BILL (No. 1)—

[Initiated in House of Representatives by Sir George Turner, 29th September, 1903; Order of the Day discharged, bill laid aside, 21st October, 1903.]

CLAIMS AGAINST THE COMMONWEALTH ACT AMENDMENT BILL—

[Initiated in Senate by Senator Neild, 28th May, 1903; Order of the Day discharged, 19th August, 1903.]

CONCILIATION AND ARBITRATION BILL—

[Initiated in House of Representatives by Mr. Deakin, 28th July, 1903; lapsed at prorogation.]

CONSTITUTION ACT AMENDMENT BILL—

[Initiated in House of Representatives by Mr. V. L. Solomon, 19th August, 1903; lapsed at prorogation.]

FEDERAL TERRITORY BILL—

[Initiated in Senate by Senator Higgs, 8th October, 1903; lapsed at prorogation.]

PAPUA (BRITISH NEW GUINEA) BILL—

[Initiated in House of Representatives by Sir Edmund Barton, 16th July, 1903; lapsed at prorogation.]

PAPUA CUSTOMS TARIFF BILL—

[Initiated in House of Representatives by Sir Edmund Barton, 24th July, 1903; lapsed at prorogation.]

PARLIAMENTARY EVIDENCE BILL—

[Initiated in Senate by Senator Neild, 28th May, 1903; Order of the Day discharged, 19th August, 1903.]

POST AND TELEGRAPH ACT AMENDMENT BILL—

[Initiated in Senate by Senator Dobson, 25th June, 1903; lapsed at prorogation.]

SEAT OF GOVERNMENT BILL—

[Initiated in House of Representatives by Sir William Lyne, 1st October, 1903; lapsed at prorogation.]

PARLIAMENT CONVENED.

FIRST PARLIAMENT—SECOND SESSION.

(*Gazette No. 14, 1903.*)

Parliament was convened by the following Proclamation :—

PROCLAMATION.

AUSTRALIA TO WIT.

(Sgd.) TENNYSON,
Governor-General.

By His Excellency the Right Honorable HALLAM, BARON TENNYSON,
Knight Commander of the Most Distinguished Order of Saint
Michael and Saint George, Governor-General and Commander-
in-Chief of the Commonwealth of Australia.

WHEREAS by the Commonwealth of Australia Constitution Act it was amongst other things enacted that the Governor-General might appoint such times for holding the Sessions of the Parliament as he thinks fit, and also from time to time by Proclamation or otherwise prorogue the Parliament : And whereas on the thirty-first day of March, One thousand nine hundred and three, the Parliament was further prorogued until Twelve o'clock noon on Tuesday, the twenty-sixth day of May, One thousand nine hundred and three, then to meet for the despatch of business : Now therefore I, the said HALLAM, BARON TENNYSON, do hereby further announce and proclaim that the place for the meeting of the said Parliament for the despatch of business as aforesaid shall be the buildings known as the Houses of Parliament, situated in Spring-street, in the City of Melbourne, and the Members of the Senate and the House of Representatives respectively are hereby required to give their attendance at the said time and place accordingly.

Given under my Hand and the Seal of the Commonwealth of Australia aforesaid, this seventeenth day of April, in the year of our Lord One thousand nine hundred and three, and in the third year of His Majesty's reign.

By His Excellency's Command,

EDMUND BARTON,
Prime Minister.

GOD SAVE THE KING !

COMMONWEALTH OF AUSTRALIA.

PARLIAMENTARY DEBATES.

Second Session of the First Parliament.

THE Parliament was prorogued on 10th October, 1902, until 14th November, 1902. It was further prorogued to 19th December, 1902, thence to 23rd January, 1903, thence to 24th February, thence to 31st March, and finally to 26th May, when it met for the despatch of business.

Senate.

Tuesday, 26 May, 1903.

PROCLAMATION.

The Senate met at noon pursuant to the proclamation of His Excellency the Governor-General.

The CLERK of the Parliaments read the proclamation.

GOVERNOR-GENERAL'S SPEECH.

His Excellency the Governor-General entered the chamber, and took the chair. A message was forwarded to the House of Representatives intimating that His Excellency awaited the attendance of honorable members in the Senate chamber, who, being come with their Speaker,

HIS EXCELLENCY was pleased to deliver the following speech:—

GENTLEMEN OF THE SENATE AND GENTLEMEN OF THE HOUSE OF REPRESENTATIVES:

I have called you together to continue the work begun in the first session of the Parliament of the Commonwealth. It was found impossible, by reason of the exhaustive discussion of the Federal Tariff, to deal with any but the most urgent of the proposals then brought before you, and renewed demands must now be made on your

industry and patriotism before the Commonwealth machinery can be deemed complete.

Experience has emphasized the necessity for the establishment of the High Court of Judicature contemplated by the Constitution. You will be asked to give your immediate attention to a Bill dealing with this subject.

Another measure will be introduced to regulate legal procedure in this connexion so as to avoid unnecessary delay or expense in the course of litigation.

An early opportunity will be afforded you of considering the report of the experts who were intrusted with the duty of examining the conditions of several areas within which it has been proposed that the seat of government of the Commonwealth should be placed. My Advisers expect that the information which has been collected on this subject will enable you to come to a satisfactory conclusion.

Ministers regard with satisfaction the growth of public feeling in favour of the establishment of Courts of Conciliation and Arbitration as a means of avoiding strikes and lock-outs, and of amicably settling industrial disputes. They will, therefore, ask you to consider a proposal to establish courts for the prevention and settlement of disputes extending beyond the limits of any one State.

You will be asked to ratify an agreement between the Admiralty and the Government of the Commonwealth which modifies the existing agreement, and secures for the naval defence of Australia the protection of a powerful and continuously efficient squadron of warships at a moderate cost.

In pursuance of resolutions passed during last session, a Bill will be introduced to accept British New Guinea as a territory of the Commonwealth by the completion of its transfer from the Imperial Government. Due provision will be made for the future administration of the new territory.

You will be asked to establish by Statute a uniform defence system for Australia.

The direct representation of the Commonwealth in London by a High Commissioner is deemed necessary, and a measure for that purpose will engage your attention.

A Bill will be laid before you to establish a uniform patent law, enabling inventors, in future, to obtain protection throughout the Commonwealth by a single registration.

My Advisers feel that the distinct demand expressed by the people of Australia for the substitution of white for coloured labour in the sugar industry implies a readiness to share the financial burden imposed by this substitution. They, therefore, propose to replace the system of rebates, charged against the excise duties payable to the States concerned, by an equivalent bonus chargeable to the whole population. This step, while it will not lessen the encouragement given to the employment of white labour, will effect a more equitable distribution of the cost of the national policy.

In order to execute and maintain the provisions of the Constitution intended to assure freedom of trade between the States, a Bill will be introduced to provide for the establishment of an Inter-State Commission with the powers necessary to give effect to that essential purpose.

You will also be asked to consider short measures relating to naturalization, rings and trusts, and elections to the Senate in certain events.

GENTLEMEN OF THE HOUSE OF REPRESENTATIVES :

Estimates of expenditure will be submitted to you in due course, framed with a careful regard to economy, but, at the same time, maintaining the efficiency of the public service of the Commonwealth.

GENTLEMEN OF THE SENATE AND GENTLEMEN OF THE HOUSE OF REPRESENTATIVES :

A number of other important measures are in preparation. Among these is a Bill to provide a uniform navigation and shipping law. This measure, however, is necessarily long and complicated. Consideration has been given by my Advisers to the question of taking over the State debts and to the establishment of a banking law for the Commonwealth. My Advisers will gladly take advantage of any opportunity which may offer of bringing these subjects before you, but they are not sanguine of being able to do so in the course of this session.

Although legislative consent to the project has not yet been received from South Australia and Western Australia, a commission of railway engineers has been appointed to inquire into the question of railway connexion between the East and the West of Australia, and their report will shortly be complete. In instituting this important examination Ministers have felt that members should be in possession of the fullest information possible before any steps are taken in this important work. They are, however, of opinion that the isolation of Western Australia retards the development of the federal spirit. It is admittedly desirable to remove so serious a bar to the complete political and commercial union of the Commonwealth, and my Advisers trust that it will be found that the project rests on a basis of sound finance. When the legislative authority is complete, provision for a survey of the line will be sought, should the report of the Commission justify that course.

During the past year the cable communications of the Commonwealth have been affected for the better by important events. The Pacific cable, now successfully completed, cannot be expected to yield an immediate monetary profit. But the project and its accomplishment have already cheapened and facilitated intercourse with the mother country and Europe, as well as Canada, New Zealand, and the United States. Subject to your approval, a contract has been entered into between my Government and the Eastern Extension Telegraph Company, which, while conserving substantial reductions on the rates prevailing until recently, substitutes an arrangement terminable in a reasonable

time for the virtually perpetual obligation which was originally entered into by four contracting States, and which was a burden on the Commonwealth until the conclusion of the new agreement.

The inquiries of the Select Committee on the Bonus Bill have, since the close of last session, been continued by a Royal Commission, and the report, when received, will be laid before you.

The Imperial Conference held during the past year in London may be expected to be far-reaching in its results. I have already referred to the naval agreement, which formed one of the subjects for discussion. Other matters of grave importance to the Commonwealth were discussed, and the conclusions of the conference will be laid before you. The urgency, however, of questions of domestic importance prevents Ministers from asking you to give immediate consideration to the question of preferential trade and to other subjects dealt with in the resolutions.

My Advisers observe with gratification recent utterances of the Secretary of State for the Colonies advocating the encouragement of trade relations between various parts of the Empire.

The approaching termination of the existing contract for the carriage of mails between England and Australia, *via* Suez, will render it necessary to make new arrangements, giving effect to the provision in the Post and Telegraph Act, which forbids the making of contracts for the carriage of mails by vessels on which other than white labour is employed. The matter is under careful consideration, and tenders will shortly be invited.

Arrangements are in progress, and will shortly be concluded, for a more frequent and efficient mail service between Tasmania and the mainland in consideration of an increased subsidy.

The passage of the Commonwealth Electoral Act has rendered necessary the division of the various States into new electorates. This work is proceeding with all possible speed, and the plan of division will be submitted to you when completed.

Notwithstanding the drought, which proved so disastrous in many parts of Australia, the Federal finances are in a very satisfactory condition. The return of good seasons, which is now so widely expected,

will give new impetus to the development of our resources and the expansion of our industries.

I now leave you to your deliberations, in the earnest hope that you may be prospered by Divine guidance in your great and arduous labours.

HIS EXCELLENCY THE GOVERNOR-GENERAL having retired,

The PRESIDENT took the chair, and read prayers.

VACANT SEATS.

The PRESIDENT acquainted the Senate that vacancies had occurred during the recess by the death, on 2nd January, 1903, of Sir Frederick Thomas Sargood, K.C.M.G., a Senator for the State of Victoria, and by the resignation, on 17th April, of Norman Kirkwood Ewing, a Senator for the State of Western Australia, and that, in pursuance of the directions of the Constitution Act, in the absence of the President from the Commonwealth, the Governor-General had notified the vacancy in the representation of the State of Victoria to the Governor of that State, and that he (the President) had notified the vacancy in the representation of the State of Western Australia to the Governor of that State, and that he had received from the Governor-General the original certificate under the hand of the Governor of Victoria to the effect that the Honorable Robert Reid, a member of the Legislative Council of Victoria, had been chosen to fill the vacancy in the representation of that State.

Certificate read by the Clerk.

DEATH OF SENATOR SIR F. T. SARGOOD.

Senator DRAKE (Queensland—Postmaster-General).—The lamented death of Sir Frederick Sargood, on the 2nd January last, occurred at a time when honorable senators were nearly all at their homes throughout Australia, and this is the first opportunity that has occurred of giving expression to the profound grief with which that sad news was received. It is probable that most of the members of the Senate, like myself, only had the pleasure and the privilege of the acquaintance of Senator Sir Frederick Sargood since it commenced its sittings. There are some here, and probably more outside, whose acquaintance with the deceased

gentleman dated very much further back. Before the federation of the States, Senator Sir Frederick Sargood had a distinguished career as a legislator and as a member of several administrations in Victoria. To this Parliament he brought a fund of ripe experience of men and affairs gathered in an active life passed in politics and in commercial pursuits, and his clear judgment and diligent criticism of the measures brought before this Parliament were of the greatest value to the Commonwealth. Our admiration of him will not be lessened when we remember that his influence and his example were always exercised in the direction of maintaining the dignity of the Chamber. By his death the Commonwealth has lost a worthy citizen, and the Senate has lost a member whose memory will be esteemed by all who knew him. I beg leave to move—

1. That this House records its sense of the loss the Commonwealth has suffered in the death of Lieut.-Colonel Sir Frederick Sargood, K.C.M.G., and expresses its sincere condolence with his widow and family in their bereavement.
2. That Mr. President be requested to convey the foregoing resolution to Lady Sargood.

Senator Sir JOSIAH SYMON (South Australia).—I rise to second the motion, which, couched in terms of the most expressive character, will, I am sure, command the assent, although in the circumstances a painful assent, of every member of this Chamber. My acquaintance with the late Sir Frederick Sargood was most intimate during the time that he was a member of this Senate, and I can say that no word, no syllable of exaggeration has passed the lips of my honorable and learned friend at the table in his estimate of the character of our lamented friend. Upon all questions he was animated, as I think, by a most lofty and abiding sense of public duty. In that he never failed, and from the line of conduct which that led him into he never shrank. He was, I think, in all things a pattern of conscientious industry. He sought, in season and out of season, to serve the State, to serve the Commonwealth, without at the same time doing any disservice to any individual. I know no man who was more absolutely free from personal feeling of any kind or description, who was more absolutely patriotic in all that he did, in all that he undertook to do: his counsel and his ready help were available, I think, alike to all, no matter on what side of the Senate they sat. To me his lamented death

was a cause of deep personal grief. He never brought himself prominently forward if the cause of the country would be best served by his remaining in the background. He served loyally in this Senate, and my honorable and learned friend said no word more than was necessary when he declared a minute ago that his memory will ever be fresh in this Chamber. It will be ever kept green in the minds of the citizens of the Commonwealth, and it will be an example and a guide to us all.

Senator MCGREGOR (South Australia).—It is always our duty in circumstances of this kind to sympathize with those who have been bereaved, and in the case of a gentleman of the character of him who has left us, it is our duty, not only to sympathize with his relatives, but also to express our own sorrow at losing one who had always been of assistance in carrying out legislation for the benefit of the people. The members of the labour party always found in the late Senator Sargood a gentleman. It did not matter how much he might differ with others on questions of legislation or of opinion: he never allowed any of those differences to affect his gentlemanly conduct towards others, and I could point to numerous instances of little kindnesses bestowed upon those who sought his assistance in the capacity of a legislator and in the capacity of a friend. We all hope that those who may have the privilege of making the laws of the Commonwealth will be gentlemen of the upright character and the straightforward conduct of our late friend, Senator Sir Frederick Sargood.

Senator BARRETT (Victoria).—I join in the regrets which have been expressed in connexion with the death of Senator Sargood. As a representative of this State, and for very many years before I entered a House of Legislature, I had an acquaintance with Sir Frederick, and in an official capacity I assisted him in some matters concerning the industrial population of this State. Perhaps the greatest tribute I can pay to his memory is to say that he was a good and a just man. As an employer of labour he set an example that might have been followed by many others throughout Australia. We feel to-day that in him we have lost a dear friend. I concur in what has been said of him. I trust that we shall keep his memory green, and strive to emulate him in that which he set before him to do—namely, his duty.

The PRESIDENT.—Before putting the question, I may, perhaps, be permitted to say how cordially I agree with everything that has been said in praise of the lamented senator. He was every man's friend, a most generous opponent, and whenever any differences of opinion arose between himself and any one else he was most cordial and gentlemanly. I feel sure that every honorable senator here deeply regrets his loss, and expresses his sympathy with the widow.

Question resolved in the affirmative.

SENATE ELECTIONS BILL.

Bill presented by Senator DRAKE, and read a first time.

PETITION.

Senator FRASER presented a petition from the Victorian Chamber of Manufactures praying for the repeal of sub-section (g) of section 3, and section 11, of the Immigration Restriction Act 1901.

Petition received and read.

NEW SENATOR.

Senator REID made and subscribed the oath and signed the roll.

GOVERNOR-GENERAL'S SPEECH : ADDRESS IN REPLY.

The PRESIDENT.—I have the honour to inform the Senate that I have received a copy of the speech delivered in this chamber by His Excellency the Governor-General, and that I propose, subject to the approval of the Senate, to dispense with the reading thereof.

Resolved (on motion by Senator DRAKE)—

That a committee be appointed to prepare an address in reply to the Governor-General's speech and report to the Senate to-morrow; such committee to consist of Senators Sir John Downer, Lt.-Col. Cameron, Macfarlane, and McGregor.

PAPERS.

Senator DRAKE laid upon the table the following papers:—

Annual Report of the Administration of British New Guinea.

Proceedings of the Conference held in London between the Secretary of State for the Colonies and the Prime Ministers of the self-governing colonies.

Customs and Excise Regulations.

SPECIAL ADJOURNMENT.

Resolved (on motion by Senator DRAKE)—

That the Senate at its rising adjourn until half-past two o'clock to-morrow.

Senate adjourned at 12.50 p.m.

House of Representatives.

Tuesday, 26 May, 1903.

PROCLAMATION.

The House met at noon pursuant to the proclamation of His Excellency the Governor-General.

Mr. SPEAKER took the chair.

The CLERK read the proclamation.

Mr. SPEAKER read prayers.

OPENING OF PARLIAMENT.

The USHER OF THE BLACK ROD, being announced, was admitted, and delivered the message that His Excellency the Governor-General requested the immediate attendance of honorable members in the Senate Chamber.

Mr. SPEAKER and honorable members attended accordingly.

JUDICIARY BILL.

Bill read the first time.

GOVERNOR-GENERAL'S SPEECH : ADDRESS IN REPLY.

Mr. SPEAKER.—I have to report that I have attended in the Senate Chamber, where His Excellency the Governor-General was pleased to deliver his opening speech, of which, for greater accuracy, I have obtained a copy. (*Speech, p. 5.*)

Resolved (on motion by Sir EDMUND BARTON)—

That a committee, consisting of Mr. Clarke, Mr. L. E. Groom, Mr. Hume Cook, and Sir Langdon Bonython, be appointed to prepare an address in reply to the speech delivered by His Excellency the Governor-General to both Houses of the Parliament.

The committee retired, and having entered the chamber, presented the proposed address.

PETITIONS.

Sir EDWARD BRADDON presented a petition from the committee of the Hobart Public-house Trust Association praying that the elimination of private profit in the liquor traffic may be the principle exclusively adopted in the federal capital and territory.

Mr. A. C. GROOM presented a petition from the Victorian Chamber of Manufactures praying for the repeal of sub-section (g)

of section 3, and of section 11, of the Immigration Restriction Act 1901.

Petitions received and read.

GENERAL ELECTIONS.

Mr. POYNTON.—I wish to direct the attention of the Prime Minister to a notice in reference to the next elections for the House of Representatives, which stood on the business-paper in my name last session, and to ask him if the Government have determined that those elections shall be held on the same day as the elections to the Senate.

Sir EDMUND BARTON.—The answer to that question must depend, to some extent, upon, amongst other things, certain action being taken or not taken in the States; but I should like my honorable friend to give notice of the question, so that I may prepare a more satisfactory answer.

PRICE OF "HANSARD."

Mr. McDONALD.—Last year we were told that the price of *Hansard* to subscribers would be 4s. a session, but I understand, from what I have read in the press, that in future 10s. 6d. is to be charged. I want to know why, and on whose authority, this alteration has been made? A number of would-be subscribers have sent to me—and no doubt other honorable members are in the same position—the sum of 4s., in order that I may procure copies of *Hansard* for them, but I do not know whether to incur the extra expense on their behalf. In view of the unreliability of the newspaper reports from time to time, I think that we should encourage the distribution of *Hansard*, and even provide for a daily *Hansard*.

Sir EDMUND BARTON.—I understand that what is to be done is to charge for *Hansard* the price which was charged last session, together with the postage required by the provisions of the Post and Telegraph Rates Act. The matter is one which comes within the jurisdiction of the President and Mr. Speaker, who have acted within the powers conferred upon them. If the honorable member desires further information upon the subject, no doubt Mr. Speaker will be willing to afford it.

Mr. WATSON.—Is it within the powers of the President and Mr. Speaker to fix the price of *Hansard*?

Sir EDMUND BARTON.—I think so.

Mr. WATSON.—I think that the opinion of the House should be taken upon such a matter.

Mr. SPEAKER.—It is proposed that the rate of subscription charged last session—4s. per annum—shall be charged this session, together with the necessary postage fixed by Parliament. There is to be no alteration in the price of *Hansard*.

ADMIRALTY AGREEMENT.

Sir JOHN QUICK.—Will the Prime Minister cause to be printed and circulated as soon as possible a copy of the agreement between the Admiralty and the Government of the Commonwealth?

Sir EDMUND BARTON.—That agreement is attached to a Bill which is in draft, and which will shortly be laid upon the table. It will also be found among the papers relating to the proceedings of the Imperial Conference, which I shall shortly lay upon the table.

COLONIAL AMMUNITION COMPANY.

Mr. WATSON.—Can the Minister of Defence lay upon the table, before the discussion of the Address in Reply, any agreement which has been entered into, or which it is proposed to enter into, with the Colonial Ammunition Company of Victoria for the supply of ammunition to the Commonwealth?

Sir JOHN FORREST.—I do not think that the matter is sufficiently far advanced for me to do that, but I shall look into the question. I do not think that an agreement has yet been arrived at. It was always intended that before any agreement was entered into its terms should be submitted to the House.

COMMONWEALTH AMMUNITION FACTORY.

Mr. WATSON.—Have any steps been taken by the Minister or Government to carry into effect an intention indicated on their behalf some considerable time ago to establish a Commonwealth Ammunition Factory?

Sir JOHN FORREST.—No steps in that direction have yet been taken.

FEDERAL CAPITAL SITES COMMISSION.

Mr. FULLER.—When does the Minister for Home Affairs expect to receive the report of the commission appointed to inquire into the proposed federal capital sites?

Sir WILLIAM LYNE. — I am informed that the report will probably be ready about the middle of next month.

EASTERN EXTENSION CABLE COMPANY.

Mr. BATCHELOR. — When will the Prime Minister lay a copy of the agreement between the Eastern Extension Cable Company and the Government upon the table?

Sir EDMUND BARTON. — Almost immediately. It is my intention to invite the sanction of the two Houses to that agreement.

Mr. FISHER. — Copies of all these agreements should be laid upon the table as quickly as possible. It is the business of the Government to see that honorable members are provided with the fullest information in regard to these matters.

PAPERS.

MINISTERS laid upon the table the following papers:—

Conference between the Secretary of State for the Colonies and the Prime Ministers of the self-governing colonies, June—August, 1902.

British New Guinea, annual report, 1st July, 1901—30th June, 1902.

Regulations under Customs Act, dated 30th October, 27th November, and 9th, 13th, and 15th December, 1902.

New sugar regulations under Excise Act and Excise Tariff Act, dated 8th January, 1903.

Return of (a) persons refused admission to the Commonwealth under Immigration Restriction Act 1901 during the year 1902; (b) persons who passed the prescribed test during the year 1902; (c) persons admitted without being asked to pass the education test during the year 1902.

Papers relating to the arrival within the Commonwealth of six hatters under contract to Mr. Charles Anderson.

Regulations under Commonwealth Public Service Act 1902.

Mr. SPEAKER laid upon the table—

Annual reports of the Commissioner for Audit for the years ending 30th June, 1901, and 30th June, 1902.

ELECTIONS ACT AMENDMENT.

Mr. McDONALD. — Is it the intention of the Government to introduce a Bill to repeal that section of the Elections Act which prohibits members of State Parliaments from contesting seats without resigning?

Sir EDMUND BARTON. — The matter will be considered.

Mr. Speaker left the chair at 12.35 p.m.; sitting resumed at 3.30 p.m.

ADMISSION OF MAORIES INTO THE COMMONWEALTH.

Mr. REID. — May I ask the Prime Minister if he would be good enough to supplement the papers with reference to the admission of six hatters into the Commonwealth, which he has just laid upon the Table, by the further papers relating to the admission of three Maories into New South Wales?

Sir EDMUND BARTON. — I shall procure the papers referred to as soon as possible, if they are of any interest to my right honorable friend.

INTER-STATE COMMISSION BILL.

Mr. SPEAKER reported the receipt of a message from His Excellency the Governor-General recommending that an appropriation be made from the consolidated revenue for the purposes of this Bill.

QUEENSLAND RAILWAY PASSES.

Mr. McDONALD. — I desire to know if the Minister for Home Affairs can explain the exact position in which Queensland representatives in the Commonwealth Parliament stand with regard to the passes which they now hold over Queensland railway lines; also, what action is being taken by the Government?

Sir WILLIAM LYNE. — Some time ago the railway commissioners of the States affected met and agreed to a certain division of the sum voted to meet the expense of conveying members of the Commonwealth Parliament over the railways. The Governments of all the States, excepting Queensland, indorsed the agreement then arrived at. The Queensland Government refused to ratify the action of their officer, and the amount to which they would be entitled under the arrangement made has been placed to a suspense account. In the meantime, I have issued orders to honorable members which will enable them to travel upon the Queensland railways. The Government of that State say that they are willing as an act of grace to convey members of the Commonwealth Parliament over their railways free of cost, but I object to having honorable members placed in that position. I think that they should travel free upon the railways as a matter of right, and not as the result of a concession on the part of the State

Government. I have given orders to honorable members which they may use if they desire.

Mr. McDONALD. — But what is our position in regard to the passes?

Sir WILLIAM LYNE. — They are of no value if the Queensland Government refuse to accept them.

Mr. POYNTON. — What do the Queensland Government ask for?

Sir WILLIAM LYNE. — An amount somewhat larger than that agreed upon at the conference of railway commissioners.

Mr. POYNTON. — Why not give it to them?

Sir WILLIAM LYNE. — The Government left the whole matter in the hands of the railway commissioners, but the Queensland Government refused to acknowledge the agreement arrived at, although they were represented by one of their officers. The course I have adopted in giving honorable members orders is intended to protect them against being placed in what I regard as a false position.

REMISSION OF CUSTOMS FINES.

Mr. THOMSON. — I desire to ask the Prime Minister whether the promise made by him in Sydney with regard to the remission of 80 per cent. of the fine imposed upon a young sailor named Tingey has been carried out?

Sir EDMUND BARTON. — I was represented in the press as having stated at the meeting which I addressed in the Sydney Town Hall that I had decided that the goods taken from the man referred to should be returned, and that 80 per cent. of the fine should be remitted. That, however, was a slight inaccuracy on the part of the press. What I did say was that I intended to take measures to insure that result, and what has happened since has been this: I had not the Customs papers before me, and had not put any direction upon them, and, in the absence of such direction, the fine has not been remitted. I shall, however, make representations upon the subject to my colleague, the Minister for Trade and Customs. I think that the Comptroller of Customs, when he intimated that the fine could not be remitted, rather overlooked the powers possessed by the Minister for Trade and Customs. I am informed that whilst my colleague, the Attorney-General, was for a time administering the Customs department,

he gave directions in accordance with the promise I made, and I have no doubt that the fine will be remitted.

SUGAR EXCISE DUTY.

Mr. CONROY. — I wish to ask the Minister for Trade and Customs why he allowed five sugar companies in Queensland to escape the payment of excise duty amounting to £27,000; also, what has become of the money?

Mr. KINGSTON. — I can assure the honorable and learned member that I have not to my knowledge allowed any person or company to escape the payment of duty. If any persons are attempting to escape I shall be only too glad to be supplied with particulars which will enable me to enforce payment.

ADMISSION OF BOILERMAKERS INTO THE COMMONWEALTH.

Mr. FULLER. — I desire to ask the Prime Minister whether he is aware that six boilermakers recently entered Western Australia under a special contract with the Western Australian Government, and whether he will kindly explain to the House the circumstances under which they were admitted?

Sir EDMUND BARTON. — The papers dealing with the subject mentioned by the honorable and learned member fully explain the matter, and I shall lay them on the table.

GOVERNOR-GENERAL'S SPEECH: ADDRESS IN REPLY.

The Address in Reply was read by the Clerk as follows:—

MAY IT PLEASE YOUR EXCELLENCY—

We, the House of Representatives of the Parliament of the Commonwealth of Australia, in Parliament assembled, beg to express our loyalty to our Most Gracious Sovereign, and to thank Your Excellency for the Speech which you have been pleased to address to Parliament.

Mr. L. E. GROOM (Darling Downs). — It is with some considerable emotion that I rise to move—

That the Address in Reply to His Excellency's Speech, as read by the Clerk, be now adopted.

It affords me much pleasure to submit this motion and to emphasize the continuance of a great deal of that federal legislation which I believe has done much to cement the

union of these States into one splendid Commonwealth. At the beginning of the federation much was said of a hostility towards the union. Hints were made, and suggestions were repeated, that the people as a whole were not in sympathy with the federal compact which had been adopted. After having moved about considerably amongst the citizens of my own and other States, my own impression is that the federal feeling throughout the Commonwealth is stronger now than at any period of our national life. The legislation which has been enacted by this Parliament—and I do not say that the Ministry can claim the whole of the credit attaching to it—has done much to accentuate that feeling. Even persons who formerly were opposed to federation have, by reason of the work accomplished, now become ardent federalists. Further, I believe that the spirit of the Constitution itself is becoming deeply implanted in the very lives of our citizens, in the laws of the community, and in the trade and commerce of the Commonwealth as a whole. I think it is a happy augury that we can start the legislation of this second session of the Commonwealth Parliament with the consciousness that we have the good will of the people at our backs. Fortunately, too, the general outlook is considerably better now than it was some little time ago, inasmuch as the serious drought which worked such terrible devastation has passed away. My experience is that it is very difficult to dissociate the results which are said to have flowed from federation, from those which arose from the drought alone. Most of the evils under which Australia laboured are alleged to have been caused by federation, whereas a majority of them, I believe, are entirely due to the drought itself. However, good rains have now fallen throughout the Commonwealth, and in Queensland and the other States there is greater promise of prosperity than there has been for many years. I believe that this Parliament by its legislation will promote the peace, welfare and good government of the people as a whole. In the Governor-General's speech the Ministry have foreshadowed certain measures of vast importance to us. Foremost amongst them I place the Bill dealing with the establishment of the High Court of Australia. Until that tribunal is established we have not fulfilled the whole

of the federal plan. The idea underlying the scheme of federation as devised by the Federal Convention was that there should be three distinct branches of government—that legislative, executive, and judicial functions should each be discharged in their proper sphere. But all that we have done is to establish our Legislature and Executive. Until the High Court is established we have not fulfilled the design of those who drafted the Constitution. It is an absolute necessity that that tribunal should be set up. It is not for this Parliament to say whether or not it shall be established. The Constitution which provides for its creation was submitted to the people, and it was part of the scheme which they adopted. Therefore, we have an absolute mandate from the people of the Commonwealth to establish the High Court. The experience of the last few months has emphasized the need which exists for its creation. During that time a feeling of uncertainty as to our laws has been operating throughout the various States. Various decisions have been given by various State Supreme Courts, and consequently those responsible for administering the law do not know whether they are bound by those decisions. The question of whether the Commonwealth has power to tax State goods has been decided, so far as New South Wales is concerned, by the Supreme Court of that State, whilst as to whether or not the federal agencies can be taxed has been decided by the Supreme Court of Victoria. These are questions which strike at the very foundation of our Government, and upon such important and vital matters, involving the interpretation of the Constitution, serious doubts and perplexity exist in the minds of those administering the law. It is our duty to put an end to that condition of uncertainty at the earliest possible moment. I would further point out that as the result of the recent conference of the Premiers of the various States claims have been set up by them in respect of State rights. We are told that this Parliament is invading State rights, and I hold that it is highly unsatisfactory that under existing conditions the Legislature has to decide for itself upon matters involving the interpretation of the Constitution. The States Attorneys-General are putting forward other claims. They have raised the question of whether or not the section in the Commonwealth

Electoral Act which deals with the time and place for holding elections for the Senate is valid. We think that we have legislated properly upon that subject, although, personally, I do not express any opinion upon the matter. There may be considerable room for doubt upon it. But what is the position? We have antagonism existing between the States and the Commonwealth, where, instead of recrimination, we ought to have co-operation. Therefore, it is absolutely incumbent upon us to establish the High Court in order that these matters may be determined. The very idea underlying its creation is that we should have a body which is absolutely impartial, which cannot be controlled either by this or any other Legislature so long as it interprets the spirit of the Constitution, and the Constitution itself, in accordance with the oaths of its members, "without fear, favour, or affection." The idea underlying its establishment was that it should be a body set apart—that it should keep each Parliament within its own distinct sphere, and that it should decide as to the jurisdiction of each of the respective sovereign bodies. The position of the States which Chief Justice Chase laid down, in his judgment in the case of *Texas v. White*, was that under the Constitution of the United States there was an indestructible Union composed of indestructible States. That probably is the correct interpretation of our Constitution at the present time. But we are in the position that we do not know how the Constitution will be interpreted. Is the interpretation to be left in the hands of our own Parliament, a body which, I submit with all deference, is not constituted for the purpose of deciding delicate constitutional questions? And it should not be left in the hands of the States Parliaments, which are also unfit for the performance of such a duty; nor should it be left to the Executive Ministers of either Commonwealth or States. The idea of the Constitution was that we should have a judicial body to decide such questions, thus allaying friction, and putting an end to all antagonism by a fair and impartial construction of the Constitution. Further, I believe that, constituted as we are at the present time, it is highly unsatisfactory not to have an Australian Court of Appeal. It was urged that there should be an Australian Court of Appeal composed of men trained under Australian law, versed in Australian history, and appointed by an

Mr. L. E. Groom.

Australian Parliament. Our position now is that if we want a question of our own Constitution interpreted, so that it may be binding on the whole of the Commonwealth, we have practically to first get a decision by a State Court, and then take that decision across the seas in order to have it interpreted by the Privy Council. The idea above all others was that when we were constituted an Australian Federation, with an Australian Parliament, we should have an Australian Court of Appeal. If we are to have a High Court constituted, that court must be composed of the very best men the Commonwealth can produce.

Mr. CONROY.—Then there must be no politicians in the court.

Mr. L. E. GROOM.—That is a matter which the honorable and learned member may discuss presently. It often happens, however, that eminent politicians have made excellent Judges, and in the old country the Attorney-General is frequently appointed to the Bench. I believe that the legal profession has the advantage of making its members conscientious by reason of the etiquette which binds them, and that they can throw off the political garb and assume the rôle of Judge with benefit to the community.

Mr. CONROY.—If they be honest politicians.

Mr. L. E. GROOM.—The average lawyer is, I am glad to say, an honest man.

Mr. McDONALD.—What of the Queensland Chief Justice? How did he get to the position?

Mr. L. E. GROOM.—The Queensland people have reason to be proud of their Chief Justice. If we are to have a High Court, it must be composed of men who have the respect of the public and the confidence of the profession. If there is to be a Court of Appeal to which Australians may go from the State Courts, it must be a Court of which members of the Australian legal profession will advise their clients to take advantage; and if we appoint men of the proper stamp, the court will be a success from the very jump. We are asked—What is the use of creating this costly Court of Appeal in view of a probability that we shall have only a few cases for decision? It is possible that there may be only a few cases, but I do not believe that will be found to be so. The fact that there were only a few cases for decision did not deter the United States from starting their Court

of Appeal. When that court was constituted there was not a single case on the docket, and from 1790 to 1800 there were heard only six cases involving important questions of constitutional interpretation. When Chief Justice Marshall was appointed in 1800, he found only ten cases listed for trial. The position I put is, that if there is only one case of constitutional importance to be decided, and that one case strikes at the very foundation of the principles of the Constitution, it is our duty to appoint a court of the highest authorities in order to have a correct interpretation.

Mr. DEAKIN.—A number of the decisions given by Justice Marshall in the first years of the United States Court have been cited.

Mr. L. E. GROOM.—That is so; and Justice Marshall had a peculiar advantage in that he retained his seat in the court for, I think, 34 years. In my opinion the High Court should be composed, not of fluctuating Judges, but of permanent Judges, because only in that way can be obtained that continuity of interpretation which is essential to the safe and proper administration of the law. One of the great advantages of the position on the Privy Council of Lord Watson was that, by sitting there year after year, he got such a thorough grasp of the underlying principles of the Constitution of Canada that he was able to give interpretations which harmonized with the sentiments of the Canadian people. For these and many other reasons which could be adduced, it affords me considerable gratification to see that a Bill for the creation of a High Court of Appeal has been put practically in the front rank of the measures submitted by the Government. Another part of the federal scheme was that there should be constituted an Inter State Commission; that was part of the scheme adopted by the citizens when the referendum was taken. But I hope that when the Inter-State Commission is constituted its duties will not be confined merely to the regulation of railway matters, but that powers will be given to regulate the rates for shipping. Queensland has felt the inequalities in the matter of shipping rates. A rate has in times past been charged from Sydney to ports north of Brisbane different from the rate charged from Brisbane to the same ports. As a matter of fact, in the evidence given the other day before the commission sitting at Brisbane, an illustration was afforded in the fact that coal is carried from Newcastle past

Ipswich and other collieries at a much lower rate than that at which coal is carried from Brisbane, owing to certain peculiar conditions.

Mr. THOMSON.—Natural conditions, I suppose?

Mr. L. E. GROOM.—Possibly natural conditions; but my point is that we ought not to have those natural conditions affected by artificial combination. The idea is that Inter-State trade should be all on fair terms. Now that we are a united community no one portion of the Commonwealth should in matters of trade be preferred to any other portion. I hope that when the Inter-State Commission is constituted, full powers will be given, in order to regulate such abuses as those to which I have referred. I have alluded to the High Court, which will settle matters between individuals, between States, and between the Commonwealth and States, and I have mentioned the Inter-State Commission, which is intended to regulate commerce and trade, and to enforce those sections of the Constitution which deal with such matters. I am pleased to notice that the Government have gone further, and said that there is another class of disputes which seriously affects trade and commerce, and that it is proposed to constitute a court of arbitration and conciliation to deal with them. I notice with pleasure that that is part of the Government scheme for this session. After all, what does this question come to? To me a strike, like a war, is a break-down of our civilization. When we consider the discoveries which have been made in science, and when we see the advances in industries and in production, it seems to me an admission of weakness on the part of those who administer the affairs of government if they cannot devise some means of settling an ordinary labour trouble or dispute. I hail with pleasure the announcement that the Government are going to do their best to remedy grievances in this direction. What is the principle underlying the whole question? What right has the State to interfere? The State has the right to interfere for the reason that a strike is a matter of public concern. A strike does not affect only the particular parties interested, but it disorganizes trade, causes pain and suffering, and, what is worst of all, it leaves for years a feeling of class hatred in the community. If the Government provide a scheme

which will prevent this class feeling, they will have done good service to the Commonwealth. The first principle is that it is in the interests of the public that the State should step in and say—"This dislocation of trade and commerce and business shall absolutely cease." If strikes and lockouts are to be made illegal, as they should be, the workmen and employers must be given some other method of solving disputes. We know that the right of combination has grown up in years past. The right of combination and the formation of unions has steadily advanced year after year, and also the building up of funds by workmen. England may have gone further than have some of these States, but the right of combination is recognised throughout, and further recognition is given to the enforcement of combination by that industrial warfare, which is practically the legalized method of settling disputes. But I repeat that if we take away from the men this right of industrial warfare we must of necessity substitute some other means of settling disputes. I act on the principle that the persons who are concerned in a strike or lockout are not always the best judge of their case. In ordinary affairs if two persons cannot come to an agreement as to the meaning of a contract, they go before a court of law, and the Judge decides as to the true purport of their contract or agreement. Let us adopt a similar method in industrial warfare. Let us conciliate, by all means, if we can; but if we cannot obtain conciliation, let our Courts of Arbitration come in and say to the parties—"Stop! This warfare shall not go on! You are causing untold misery in this community. State your case, take it to the proper tribunal and let the matter be impartially decided." That court, of necessity, must be a court that can command the confidence of the whole community. I believe that if one of the Judges of the High Court were appointed chairman of that tribunal, and were assisted by arbitrators, we should obtain happy and excellent results. There is one matter to which I regret the Governor-General's speech makes no reference. I am sorry that it does not allude to the desirableness of establishing a department of Agriculture. I think honorable members remember with pleasure the very able speeches upon this question which were delivered last session by the honorable and learned member for

Mr. L. E. Groom.

Bendigo, and the honorable and learned member for Indi. They put very strongly before the Government reasons why the Commonwealth should set up a department of Agriculture. I do not for one moment contend that the Government is in a position to establish a department of Agriculture, as fully equipped and as fully manned as is the department of Agriculture in the United States of America; but I do believe that a great deal of good could be done if they were to create at an early stage some central federalizing agency. In the past, splendid work has been done by the various departments of the several States. We know that excellent agricultural colleges have been established at Dookie in Victoria, at Hawkesbury in New South Wales, at Gatton in Queensland, and in other parts of the Commonwealth. We know also that the State departments have disseminated excellent bulletins, by which means useful instruction has been given. But we ought to go a step further. It is absolutely necessary that we should have some central federalizing agency, by which the experiences of any one State could be brought to bear upon the experiences of another. In Queensland we have at the present time an absolute shortage in the supply of seed wheat, and we have been compelled to draw our supplies from South Australia. If there had been a central agency to afford us some practical information as to the various kinds of seed wheat which we were drawing from that State, that knowledge would have been worth many thousands of pounds to Queensland. But we have not, at the present time, that centralizing agency. I submit, further, that we ought to have a central department of the description I have named, for the reason that a great many of the powers which the States formerly possessed, and which could have been used to encourage agriculture have now passed over to the Commonwealth. Take, for instance, the Telegraph department. One of the features of the department of Agriculture in the United States of America, is the Weather Bureau. We have weather bureaux working on common lines in the various States, and my hope is that we shall have, at no distant date, a Federal weather bureau in Australia. If that bureau were established it would be able to supply to all parts of the Commonwealth information in regard to approaching storms

and tempests, many of which have caused so much loss to agriculturists. It would also be able to supply information with respect to the likelihood of frosts in different localities, so that agriculturists would be in a position to take precautionary measures. Such precautions have been taken from time to time in Queensland. But the whole matter must be placed upon a sound basis. It is essential that we should have centres throughout the Commonwealth taking simultaneous observations, acting simultaneously, and sending their reports to the one centre. The Telegraph department has passed over to the Commonwealth, and honorable members know that without the telegraph a weather bureau is impossible. Another point to be remembered is that we have methods of encouraging agriculture by means of protective duties, or by granting bonuses, and it is well that we should have a department to advise us with respect to productions which might be assisted by bonuses. Laws regulating trade and commerce have also passed into the hands of the Commonwealth, as well as laws relating to external affairs—powers probably carrying with them the appointment of agents abroad to supply us with information with regard to produce grown in other lands, and also as to produce imported into the Commonwealth, but which could be grown here. Even the power to make mail contracts has passed over to the Federation, and honorable members must realize to what an extent the pastoralists and the agriculturists can be assisted by us if in making oversea mail contracts we see that ships are selected that can be made available for the conveyance of our produce across the sea. I have mentioned only a few of the powers which have been taken over by the Commonwealth; I dare say there are many others which will occur to honorable members. If we take all these functions, gathered together, and also add to them such an important matter as the collection of statistical information, we shall see that there have passed over to the Commonwealth large powers that could be exercised for the benefit of the agriculturists, if a department such as I have suggested were created to assist them. I was pleased also to observe in His Excellency the Governor-General's speech a reference to the fact that the Government do not intend to allow the burden of a white Australia to fall upon Queensland and New South Wales alone.

I think that when the question of a white Australia was before this House, honorable members were practically unanimous in the opinion that the citizenship of Australia should be preserved for European races. It was felt that Queensland, owing to her peculiar position, had thrown in her midst black races, which honorable members representing the southern States considered were practically a menace to the citizenship of Australia. Honorable members from the south said that such a state of affairs should no longer be tolerated; and those who represented the north discussed the question with them, and appreciated their action. We contend, however, that as Queensland has come into the federal union, and is joining with the south in its demand that the country should be rid of black labour, she can turn round with justice and say to the south—"If you are going to have an equality of benefit, there should also be an equality of burden." I propose to quote some figures bearing on the subject from a letter which was written by Sir John See, on 3rd February last. As to the accuracy of the figures, I must ask the House not to rely upon me for the authority. Sir John See said that the burden of a white Australia fell on the States as follows:—In South Australia it was practically equal to 6d. per ton of sugar consumed; in Victoria it amounted to 1s. 9d. per ton; in Western Australia, 3s. 9d. per ton; in Tasmania, 8s. 5d. per ton; in Queensland, 14s. 3d. per ton; and in New South Wales, 16s. 2d. per ton of sugar consumed.

Sir GEORGE TURNER.—Sir John See was referring to something that was going to be done.

Mr. L. E. GROOM.—I hope that what is going to be done by the Government will rectify that state of affairs.

Sir GEORGE TURNER.—The letter quoted by the honorable and learned member referred to something that was going to be done at that time.

Mr. L. E. GROOM.—Although the proposal may not have been on exactly the same lines as this, it involved somewhat the same principle. It was on somewhat the same lines. That is to say, the bulk of the burden fell upon New South Wales and Queensland, although, as a matter of fact, the benefit of a white Australia is one in which all Australia is interested. There are many other measures named in His Excellency the Governor-General's speech to

which I should like to refer, but I have simply taken a few matters which I think are of urgent importance. Judging from the general tenor of His Excellency the Governor-General's speech, and the list of Bills which are proposed, I believe that if we act as we acted during the last session of Parliament we shall do a great deal to cement the Australian union.

Mr. CLARKE (Cowper).—I have very much pleasure indeed in seconding the adoption of the address in reply to His Excellency's speech. My task is rendered somewhat easy, owing to the very patriotic and learned speech which has been delivered by the proposer of the address. I do not intend to enter into the details of the various measures which are forecasted in His Excellency's speech; but, as this marks the second stage in the work of the Federal Parliament, I should like briefly to refer to what has taken place in the past session. In their cooler moments honorable members can now look back upon it, possibly, with varying degrees of feeling. We have passed through what may be regarded as a very stormy session, but the contentious matters which were bound to occupy the attention of any Federal Parliament during its first session have been disposed of, and I take it that, whatever feelings of irritation or soreness may have been created as a consequence of the legislation passed during that session—feelings which were bound to have been created where our system of party government prevails—have happily passed away, and that we may now join together in keeping up a record which I believe this Parliament is fairly entitled to claim. I was very much pleased the other day on reading a summary of the work of the first session of the Federal Parliament, published by a newspaper in the old country. After briefly enumerating the measures we had passed, the verdict given by that particular journal was that the work of the first session of the Federal Parliament was a world's record of democratic legislation. Coming as it does from quite an independent source, I think that declaration is very gratifying. The speech before us contains references to measures which are of a distinctly non-party character, and I can only reiterate what the honorable and learned member for Darling Downs has suggested in his speech, that it is our duty to comply in every respect with the terms of the

Constitution. It is our duty to establish a High Court, and the other measures which are strictly laid down in the Federal Constitution, because federation will not, indeed, be complete until those matters have been fully dealt with, and any postponement or dallying with them would be a violation of the Constitution itself. I desire to say a word or two upon the question of the selection of a site for the federal capital. That is a matter which particularly affects the State from which I come, but it is not on that account so much that I wish to refer to it now. I am pleased to see that it occupies a prominent position in the Governor-General's speech. I am anxious to see the site of the federal capital selected as early as possible, so that the terms of the Constitution may be complied with, and so that at least one serious cause of provincial jealousy may be removed. The matter is one which no doubt requires a good deal of consideration and care, as the site chosen is to be the site of the capital of the Commonwealth for all time. It is, therefore, not advisable to rush hastily into the matter; but, at the same time, I cannot agree with those who suggest that the selection of the site should be indefinitely postponed. With regard to the naval defence subsidy which we shall be asked to consider, whilst I am quite prepared to support the proposal for an increased naval subsidy, in our present financial condition, I can only regard that proposal as a temporary expedient. I hope that the day will come, and that it will not be very long in coming, when we shall be able to equip and maintain an Australian navy of our own. We should, I think, be placing ourselves in a false position, and in a position which no self-respecting people could submit to for any length of time, if we allowed ourselves to be regarded by some prominent public men in the old country as occupying the position of mendicants, by paying what is thought by them to be an insufficient sum for our naval protection. Whilst I admit that the sum is very small, it is not so much a question of the amount paid as of the principle and sentiment underlying its payment. We cannot expect to go on in this way, paying a subsidy from year to year, and making no attempt whatever to encourage and foster the desire for the self-protection of our own country. I hope that encouragement will be given to the growth of volunteer naval reserves. The principle

has been laid down, and I think rightly laid down, with regard to our military forces that we should rely to a very great extent upon our citizen soldiers. If that principle is good as applied to one branch of our defence, I think it should be equally good as applied to the other. I am pleased to see that the Government have been able to announce in His Excellency's speech that they will shortly introduce a uniform patents law. We know the troubles which have existed in the past, and which exist at the present time in connexion with patents. We know that if any of our mechanics of an inventive turn of mind, wish to secure a patent for their inventions, they have to make application in the six different States of the Commonwealth. That is the cause of a great deal of trouble, irritation, and delay, to say nothing of the expense involved. I hope therefore, that this Bill will shortly be introduced, and will be such as will give satisfaction to the people of Australia. Like the honorable and learned member who preceded me, I may regret that the time at our disposal is so short. If the life of the Parliament were to last five years, I think we should still have some matters of urgency that we would like to have considered. But there is one matter which I should like to see the Government take in hand at the earliest possible moment. I do not think it is a matter which requires legal enactment, but it is one which may properly be dealt with by regulation. I refer to the adoption of a uniform system of postage throughout the Commonwealth. By that I mean the adoption of a uniform Commonwealth stamp which may be legally used in any part of Australia. With regard to the banking laws also, to which some slight reference is made in the speech, I hope that in time to come it will be considered the function and the duty of the Commonwealth to take over the bank-note issue. It does seem to me an anomalous thing that the bank notes of one State are not negotiable in another State unless an exchange is paid. That is a handicap and a cause of irritation which should not exist within a Commonwealth, and could be avoided by the Government taking over the issue of bank notes. We have sufficient work outlined in His Excellency's speech to occupy our close attention during the time which remains before the dissolution of this Parliament. I hope I shall not be thought guilty of insincerity

when I say that I feel quite sure that it is the earnest desire of every member, no matter upon which side of the House he sits, to expedite legislation as much as possible, and to make this Parliament one which can be looked up to by the other Parliaments of Australia, and one also which might be considered a credit to any part of the world. I have very much pleasure in seconding the adoption of the address in reply to His Excellency's opening speech.

Mr. REID (East Sydney).—I should like to begin my remarks by making an observation which I think will meet, not only with the concurrence of the honorable members of this Chamber, but also with the approval of the people of Australia—that is to express the sense of satisfaction I feel that in selecting a successor to the first Governor-General of Australia, our most distinguished and highly-esteemed friend, Lord Hopetoun—His Majesty has exercised a most agreeable choice in selecting the present holder of that distinguished office, Lord Tennyson. With reference to the speech delivered by my honorable and learned friend the member for Darling Downs, I think that, in one sense, he may be said to have set a parliamentary record by it. During my experience of public life—extending over 23 years—I think I never yet heard a speech in which the subject of the motion was more cleverly eluded. I had some vague idea that we were discussing the Governor-General's speech, but I did not discover that until my honorable friend the member for Cowper began his observations. My honorable friend the member for Cowper sets us all such an honorable example by the rarity of his speeches that, even in listening to him, I had a painful anxiety lest it should happen to be the last address which he would make to us in the present Parliament. But it is an honorable record which I am sure we might all endeavour to imitate as far as possible. The House will, however, I am convinced, feel, that in what I consider it my duty to say, I cannot altogether escape from the responsibilities which attach to the position which I hold. I think that honorable members of this House, and the public too, will expect that, upon an occasion of this sort, I should review the political situation, I am afraid at some length. My hope is, however, that the remarks which I make will be taken as representative of the party which I have the honour to

lead, and that in that sense they may help after all to shorten the general discussion. I trust that the conditions under which the members of this House listened to the Governor-General's speech to-day will not be repeated upon another occasion. I do not know what the rule may have been in the Parliament of Victoria, but I do know that so far as my own State is concerned the arrangements are very different. I think we all found ourselves in a very novel position—as if we were suppliants at the doors of another chamber. I understand that the procedure which was followed to-day imitated the procedure of one State, but, with every admiration for the procedure of that State, I do not think that it should be repeated on another occasion in connexion with the opening of the Parliament of the Commonwealth. Now, Mr. Speaker, I wish also to say that I unfortunately am afflicted with a pretty good political memory, and when I listened to the Governor-General's speech to-day I could not help remembering that very notable occasion when the Prime Minister and my honorable and learned friend, the Minister for Trade and Customs, and the Attorney-General, and the Minister for Home Affairs assembled in a country town in New South Wales upon the occasion—the memorable and historical occasion—upon which the first Prime Minister of Australia delivered a manifesto speech to the people of these States. It was a very great occasion, and the speech was one—although I might differ from some of its contentions—that was fully worthy of the position which my right honorable friend the Prime Minister holds. But if on that occasion there had been present some flashlight photographer gifted with the power of prophecy, who could have thrown upon the wall of that chamber that night the remarkable results of two and a half years of practical experience, the effect would certainly have been startling. Because there were two measures which the Prime Minister and his colleagues that night, in that considered address, put before the people of Australia as of supreme urgency. There were two other matters which the Prime Minister put before the people of Australia as matters which should not be hastened—as matters concerning which there should be great care and deliberation. The first matters I allude to were the High Court and the Inter-State

Commission Bill. The Prime Minister described the High Court as the bulwark of the rights of individuals in this Commonwealth, of the rights of the States, and of the rights of the Commonwealth also. He described the measure for its establishment as a Bill which should be passed through Parliament with the least possible delay. In making that statement I think that the Prime Minister was absolutely correct, and appreciated, thoroughly and faithfully, the duty of his Ministry. But we are told in this House to-day that the Judiciary Bill was pushed aside by measures of greater urgency. I consider that without the High Court we have no Constitution at all, and that the rights of the people of this country are absolutely in a position which is a disgrace to the Government and to this House.

Mr. RONALD.—Question.

Mr. REID.—Of course I am only expressing my opinion in saying that, and I am fortified by the remarks made by the Prime Minister in that speech. But there is another authority equally high. I look toward my honorable and learned friend the Attorney-General—I feel almost inclined to say my right honorable friend, so great is my personal esteem for him. The Attorney-General in that brilliant and masterly address which he made in moving the second reading of the Judiciary Bill in March, 1902, laid down in words which would suffer if I endeavoured to condense them, the position of affairs in this Commonwealth in reference to that subject. He said that there are “three fundamental conditions” of any federation.

First, the establishment of a Supreme Constitution.

That is our Federal Constitution, which we have.

The next is a distribution of powers under that Constitution.

And then he added this remark—

The third is an authority reposed in a judiciary to interpret that Supreme Constitution, and to decide as to the precise distribution of powers.

The first and second absolutely depend for their effect upon the third.

Now, that is a statement of the Attorney-General in moving the second reading of that Bill in March last year. The Attorney-General stated upon that occasion that the Bill had been drafted for twelve months. That is, it was drafted in March, 1901, and the fact that the Ministry did not

make that the first measure of their last session was a singular departure from their duty, and their declarations to the people. I do not wish to impute any motives, but, if any member of the Ministry is to occupy a seat on that Bench—and I am proud that there are Ministers absolutely fit for any such position, who would reflect honor upon it—

Mr. CONROY.—No.

Mr. REID.—At any rate that is my opinion, and I do not wish to conceal it. It is a measure which should never have been allowed to fall into the list of remnants, as it was. At the rate at which it was dealt with, it would have been passed last session no doubt before we prorogued; but I think there was such a strong feeling in the House that, since so great a delay had occurred, it would be a wrong thing that it should go into law under those conditions. The greatest of the duties of a first Federal Ministry is the selection of the occupants of that High Court tribunal, and I suppose there is not a man in this Chamber who will not admit that if ever there is an occasion upon which the ability and patriotism of Ministers will be tested, it will be in the selection of the High Court Bench. There was a strong feeling in the House that such a selection should be made in the presence of the Parliament, and not during a recess, and that feeling I think was honorable to the House.

Mr. CONROY.—The House would not trust them.

Mr. REID.—I hope that my honorable and learned friend will allow me to speak. I wish it to be distinctly understood that the remark would equally well apply to any Ministry that happened to hold office. I am not making any personal reference to present Ministers. I am speaking of the matter entirely apart from them. However, the House felt that it should not be done in that way.

Mr. CROUCH.—Was not the Bill withdrawn to keep Senator O'Connor in the Senate? I understood that that statement was made in Tasmania.

Mr. REID.—I do not wish to say or to impute anything of the sort.

Sir EDMUND BARTON.—The honorable member did in one of his speeches in Tasmania, if the press is correct.

Mr. REID.—If I said so, it is all right; it was the source of the quotation that

inspired me with want of confidence. My observation, if I made any, with reference to that distinguished man, was one of the most friendly character. There is no man in Australia of whom I have a higher opinion than that distinguished man, and, without being personal, I think he is the only Minister who has shown a capacity for navigating the vessel of State. I can understand even a Ministry led by myself yielding to the temptation of retaining the services of such a man as long as possible. But if we succumbed to temptation, as the honorable and learned member for Corio once did, when he flew at an advancing brigade, I hope we should be pardoned. There was another matter of supreme urgency, which the Prime Minister put before the people of Australia as a second bulwark, which was to guarantee equality of trade throughout the Commonwealth—it was to be the other great measure which must be passed without delay. We know the melancholy history of that Bill: it got into the hands of the Minister for Home Affairs, and we know what happened after that. There were but two things which the Prime Minister insisted should not be expedited, should hang fire. He pointed out that it would be a very difficult thing to incorporate the post and telegraph systems of six States, and to bring the military forces of six States together, and that time must be taken, the utmost care and deliberation must be exercised before those two departments were taken over, so that when they were taken over the Commonwealth could manage them efficiently. Now, five weeks after he made that statement to the people of Australia those two departments were taken over, and the result has been nothing but chaos ever since. I do not wish to reflect for one moment upon the Ministers in charge of the two departments. If they were the best administrators in the world—I do not say they are—the same result might easily have followed. If, instead of doing what the Ministry did, they had done the wise thing which the Prime Minister said they would do, and had given these two Ministers a chance of working out a scheme for those great services before they were taken over, there would have been a vast difference in the experience of the people of the Commonwealth. There was no necessity to delay appointing the Ministers, because

they could be very fully employed long before the departments were taken over. So that the two great things which were to be done at once have not been done, and the two great things which were to be done slowly, were done at once. Passing away from that, I have to express my regret that the Ministry have dropped one of those measures which were paraded before the people of Australia two and a half years ago in the forefront of the Ministerial programme. The old men of Australia were told that the Government intended to establish a Commonwealth old-age pension system. It was a deliberate bid for the support of those people all through Australia. Any man who had the slightest knowledge of the Braddon clause knew that it was impossible to establish a national system under a provision which compelled the nation to pay away 15s. of every £1 it raised through the Custom-house. If a million a year were required, as it well might be, for a national system, under our Constitution it meant raising £4,000,000 in order to get £1,000,000.

Mr. WATSON.—Not by direct taxation, surely!

Mr. REID.—I am not speaking of the Ministry that is to be. I am speaking of this Ministry, whose platform is indirect taxation—only taxation through the Custom-house. My honorable friend will see that it is on that basis I am criticising the conduct of the Ministry in putting out that bait to the people of Australia before the general election. A measure was mentioned in the first Governor-General's speech; it is not mentioned to-day, and it cannot be mentioned for the next seven or eight years, as long as the Braddon clause remains in the Constitution. That is a bait still, and it will not come up again until the general election after next.

Mr. RONALD.—It is dead!

Mr. REID.—I hope it is not dead, because the idea is a good one if it can be carried out; but it is of no use to deceive the people with promises about Bills which it is impossible to carry. I do not consider that sort of electioneering creditable to any Ministry. I want now to refer briefly to one or two events of the recess. Honorable members will admit that I am entitled on this occasion to make some reference to the actions of Ministers whilst parliamentary observation has been

withheld. I intend to exercise that right now, and I hope only upon this one occasion during the session. This is the time in which to do it, and, having done it, I think we can get on with business. During the recess we have had a number of Ministerial addresses. I cherish no sort of vindictiveness against the Ministry for their choice of the Minister of Home Affairs as my political follower. It seemed that he was thought by the Ministry to be the proper man to follow me wherever I went. But he labours under some honourable disqualifications. He is so profoundly sensitive as to the accuracy of every statement he makes that he invariably becomes exceedingly dull, so that when he finishes an address his auditors go away with the feeling that after all there is little to be said in favour of the first Federal Ministry. That being so, I look upon my honorable friend as a very agreeable personage to meet in political encounters. But as for the Prime Minister, the eminence of his position, and the gravity of his manner in dealing with public affairs, gives a weight to his utterances which cannot always be disregarded. Many of his statements, of course, are not worthy of attention in this House, because in all political addresses there is a great deal of attack and criticism which should not be referred to here. But the statements to which I am about to refer were of a serious character, and set me absolutely in the wrong light before the people of Australia. In the first place, the Prime Minister, in the course of his addresses to the people of Tasmania, made a number of statements which were unfair, not only to myself, but to the party whom I lead. He charged the Opposition with having caused the loss of the proposed duty on tea. It is said that the tea duty is a strong line in Tasmania. The Prime Minister had not much to say about it when he at last ventured to speak in the Town Hall, Sydney. He is, I know, the last man in the world to make in cold blood a statement which he does not believe to be absolutely correct; and in dealing with his remarks I wish it to be understood that I do not question his desire to be accurate—I only lament his inability to be so. It was only because a number of his own followers voted against the proposed duty on tea that the duty was not agreed to by the House. A large number of Ministerialists voted

against the duty, while a large number of members of the Opposition voted with the Government.

Mr. THOMSON. — Proportionately, the members of the Opposition voting with the Government were more than the followers of the Government who voted against the proposal.

Mr. REID. — Yes, yet the Prime Minister put the Opposition in the position of having defeated the proposed duty. Personally, I do not mind it, because I am proud of the vote, though I think that, under proper circumstances, a duty on tea is one of the fairest revenue taxes in the world, since all the money collected goes into the Treasury. That is a great recommendation for a tax intended to obtain revenue. But why did the Prime Minister forget facts to such an extent as he did? May I remind him how tenacious the Ministry were in regard to the duty on salt. There is a salt mine in the State which the Minister for Customs represents, and honorable members surely do not forget the terrific conflict which occurred here between those who wished for a heavy duty upon salt and those who did not. There was quite a balancing of forces, so that several gentlemen whose amiability exceeded their sense of straightness more than once, I believe, voted on both sides of the question.

Mr. WATSON. — Some of the members of the Opposition voted for the duty upon salt.

Mr. REID. — Some of them did, though, as a whole, the Opposition tried to reduce it. Whilst the Ministry fought to the death for a heavy duty upon salt—and not for the amount of revenue they expected to receive from it—when the Treasurer proposed to recommit the proposed duty on tea, from which £400,000 or £500,000 per annum could have been obtained, the honorable member for Bland told him that if the tea duty were included in the items to be recommitted he would divide the House upon the question, and the tea duty was not recommitted. Why had not the Ministry the pluck to do for £500,000 of revenue one tenth of what they did for the salt-pan men of South Australia? In the second place, the Prime Minister, knowing that Tasmania had just gone through a fever of income tax, and was in a condition of ferocity in reference to all proposals for direct taxation, forgot that it is as much a plank in the platform of the Opposition as of the Government that the Federal

Parliament shall not be used for the introduction of measures of direct taxation. I have made the announcement half-a-dozen times.

Mr. RONALD. — Oh!

Mr. REID. — I have, and I cannot help it if the honorable member has not heard it. I have made the statement time after time in a most public manner. I have said that it was much better to leave each State to manage its own affairs in that respect. That being so, and there having been a fever regarding the income tax in Tasmania, the Prime Minister did not hesitate to associate the policy of direct taxation with the Opposition. Now, it is bad to have a forgetful memory, but it is good to forget when it happens to be useful at a particular time. Following upon this, the members of the Opposition and myself were accused of trying to draw the colour line in Australia, and the Prime Minister spoke of some of his own followers in tones of regret. He said that he regretted that some of his own followers had supported me in this respect. I regret to say that another remark was made by the Prime Minister at the meeting which was held in the Town Hall, Sydney. This did not come under my notice till yesterday. I was in Tasmania when the Prime Minister spoke in Sydney, and as I am not so keen as I used to be about reading reports of speeches, it was only when I was looking over some papers yesterday that I came across the statement to which I wish to call the serious attention of the House and of the Prime Minister. The right honorable gentleman is reported as having spoken of the action of the Opposition in reference to the Immigration Restriction Act in this way—

The Opposition tried to defeat the Act because they were leagued with those who want cheap labour throughout the Commonwealth. That was the game which I detected, and which I thank God I defeated. The leader of the Opposition, who could enter into that unholy combination, is the man who talks to you about thimble rigging. That is a statement which, if it came from an honorable member below the gangway, would not demand any great attention, but coming as it does from the Prime Minister of the Commonwealth it calls for serious notice, and I desire now in the warmest manner and in the strongest terms to repudiate it. It was an infamous statement to make, and if the right honorable gentleman has any authority for it I hope he will produce it.

Sir EDMUND BARTON.—From what newspaper is the right honorable gentleman quoting?

Mr. REID.—From the *Sydney Morning Herald*. If the right honorable gentleman denies the accuracy of the report, I shall be glad to accept his denial. The statement, however, is made at considerable length and repeated more than once. I wish to point out—and it is only right that I should do so—the kind of company in which I found myself at the time when, according to the Prime Minister, I was in league with the capitalists of Australasia in order to bring cheap labour into the Commonwealth. Every member of the labour party voted upon the same side as I did.

Mr. McDONALD.—Hear, hear; and they will do so again.

Mr. REID.—This remark of the Prime Minister's is a kind of boomerang. If I am in league with those who wish to bring cheap labour into the Commonwealth, and the labour party voted as I did, they must also be in league with the capitalists of Australia, or they cannot have sufficient intelligence to know what they are doing. Either the labour members were allowing themselves to be made use of by those who were in league with the capitalists, or they were not. The remark was unworthy of the Prime Minister. No man in Australia has pursued a more independent course than I have done in reference to the capitalists. When I had the powers of State in my hands in New South Wales, I took a course in reference to the capitalists' interests—I say this without egotism, because it is simply an historical truth—which no public man had had the courage to adopt before. I opposed that interest with a land tax and an income tax, and I never refer to such matters without feeling that the last reproach that should be cast upon me is that I am an ally of those who wish to bring cheap labour into the Commonwealth. The object of making such a statement does not redeem it. The object is not a good one. It is intended to injure my public character, and I say that charges injurious to a man's public character should not be made unless there is proof behind them. To attempt to say that I have had any sort of an alliance with the capitalists of Australia in relation to the introduction of cheap labour is to utter an absurdity. In my public career I have been singularly free—perhaps

owing to my poverty—from any kind of political or business connexion with the capitalists' interests, and it is one of the consolations of poverty that a man's independence seems to be greater the poorer he is.

HONORABLE MEMBERS.—Hear, hear.

Mr. REID.—It is remarkable that the Prime Minister also took this ground in Sydney. He claimed great credit for the Government for facing the prospect of defeat in connexion with the Immigration Restriction Act. He could not face actual defeat with equanimity; that would be too trying to the nerves, but he said, "We faced almost defeat in our determination to carry that Bill." But I pointed out that there was a reason why the Government had a backbone for once. It was because Mr. Chamberlain had put it there. The Ministry had rendered it impossible for them to listen to the suggestions of honorable members, because they had previously announced to the Secretary of State for the Colonies that his views were theirs. I objected to that statement at the time, and the answer given by the Prime Minister was that the Government were not influenced by Mr. Chamberlain's views, because they had the Bill in type before his despatch was sent. That, however, was not the point. My point was that a Ministry, coming face to face with this Parliament in connexion with a matter of great national importance, should not have given themselves away to a British Minister before the discussion began. And it is rather singular to read the statements made by the Prime Minister in view of the declaration of one of his colleagues who—with the exception, perhaps, of the Minister of Defence—weighs his words more carefully than any other member of the Government. I shall show the House that the policy for which the Opposition voted in reference to the colour line, as it is called, was outlined in the Senate by the Vice-President of the Executive Council soon after the meeting of Parliament. My honorable and learned friend Senator O'Connor is not given to rash statements, and it is very extraordinary that we should find in the report of the debate upon the Governor-General's speech, at page 127 of *Hansard*, the following remarks:—

Senator CHARLESTON. — Will the honorable gentleman explain to what extent the Government intend to restrict the immigration of Asiatics, Hindoos, and Japanese?

Senator O'CONNOR.—The principle that is intended to be followed is that all alien coloured labour is to be shut out.

There is no talk about dodging these unfortunates with the language test, which actually enables them to secure admission to the Commonwealth if they can pass it. Senator O'Connor tells us that—

The principle that is intended to be followed is that all alien coloured labour is to be shut out.

Senator CHARLESTON.—Aliens only ?

Senator Sir JOSIAH SYMON.—How about British subjects ?

Senator O'CONNOR.—British subjects are dealt with in many places as coloured labour. It is impossible to deal with British subjects on the same footing as you deal with other coloured people—

That is to say, they cannot be shut out. Senator O'Connor continued—

but there is a way of dealing with them by the education test, which is known to operate very successfully in some countries.

That is to say that the alien coloured labour would be shut out absolutely, and that the educational dodge would shut out coloured British subjects. Here we have a statement made by the Vice-President of the Executive Council at the opening of last session. He goes on to say—

It is only a question of the assent by the King to legislation dealing with British subjects. However, that is a matter which does not affect the question put to me by Senator Charleston. His question is in regard to Asiatics.

Thus, at the beginning of last session, a statement of the policy for which we voted and fought was given by the Vice-President of the Executive Council ; so that it really seems to me that a line of criticism has been followed that is scarcely fair to the Opposition. The Prime Minister also spoke of an intention on the part of the Opposition to rip up the whole of the Tariff which has just been passed, and expose the House and the country to another twelve months of fiscal wrangling. Now, with reference to a statement of that sort, I do not make any complaint, because it is quite open to the Prime Minister to form that view of what our course would be in the absence of any explicit statement on the point. But I wish to take advantage of this opportunity—which I suppose is a very good and fair one—to put in the most deliberate way the true position of the Opposition upon this question of the Tariff. It is more satisfactory to both sides to have the position cleared up as much as possible. Of course, it is impossible to clear it up

absolutely, but I wish to purify the atmosphere as far as I can, and I desire it to be understood that, so far as the Opposition are concerned, we have no policy of that sort. We do propose, however, to deal with items in that Tariff which were intended to destroy revenue—not to produce revenue—and to reduce the duties upon them to a more reasonable limit.

Mr. A. McLEAN.—Could that be done without opening up the whole question ?

Mr. REID.—I think so, because there are a large number of items in the Tariff which are revenue producing items. With reference to other items, the duties upon which range beyond that point and become in our estimation destructive of revenue, our principles compel us to endeavour to put the Tariff upon what we conceive to be a sound basis.

Mr. McCAY.—The only duties which were not opposed by the Opposition were those imposing 10 per cent. : consequently 90 per cent. of the Tariff would be opened up.

Mr. REID.—I do not know that every vote which is given in committee upon a Tariff is an infallible index to the policy of the Prime Minister, or of the man who aspires to occupy the position in the due course of nature. The remark of the honorable and learned member, however, scarcely deals with the matter to which I was referring. So far from having any desire to waste the time of the people in wrangling about the Tariff, I wish to minimize that wrangling as much as I can. But I want to answer the statements made by the Ministry to the effect that I should take another course. Of course the Ministry would be content if I got up and said—"I will not interfere with the Tariff for a few years ;" but honorable members will see at once the absolute unfairness of the adoption of such a course, on my part, to the manufacturing industries of Australia. How can I as a man who possesses at least the rudiments of a desire to be fair, even to those who are not with me—how can I as a public man, in view of an impending election, postpone an attempt to interfere with that Tariff until industries have been affected by its operation ? It would put me in an absolutely unfair position. I want to interfere as little as possible with flesh and blood. Undoubtedly, one of the hardest tasks of financial reform is when it takes the aspect of unfairness of that

sort. I do not want to multiply those difficulties by standing by and holding my hand. If either the original or the amended Tariff had been before the people at the last election I should have felt absolutely bound by their decision. But our position is that the Prime Minister conveyed—I do not say intentionally—a wrong impression to the people of the character of the Tariff which he intended to introduce. I make that statement and I appeal to the electors either to justify me or to justify him. If they justify him, then I can fairly and honourably leave this question alone. Then the tribunal which I acknowledge, and to which I have appealed, will have pronounced against me, and I shall feel it a matter of honour to respect its decision. When people build upon the faith of such a decision, I should be very slow, indeed, to raise the question again. That is the position occupied by the representatives of Victoria, but it is not my position. I feel that I have no right to twist the policy of Australia merely for the purpose of assisting those who have been parties to a protective policy in any one State. But other men who have been parties to that policy are in a very different position, and I make full allowance for them. I wish it to be distinctly understood that that is the policy of the Opposition. I suppose I shall meet with the general assent of honorable members upon both sides of the House when I say that I have no desire to hold back and keep my opinions upon important subjects until the Government have, perhaps, made a mistake, although in the matter to which I intend to refer, I do not say they would have done so. But it is only candid on my part, before the Government have announced their intentions upon the subject, to express my view with reference to the appeal to the people, which cannot be very long delayed. I do not think there are many honorable members who would allow any personal feeling or private interest to interfere with the public convenience. I feel absolutely sure they would not. Knowing that, I strongly put it as a matter for consideration on the part of the Government, that it would not conduce to the public convenience to have two great political contests within a comparatively short space of time—that it would be a glaring breach of every sound principle of economy to spend £50,000 twice in three months when one expenditure of that

amount would suffice. There is no necessity to dissolve this House until the proper time. But I do say that since the Senatorial elections must take place in December—and I am now merely expressing my own opinion—it would be well if members of this Chamber went to the country at such a time as would enable the two elections to be held simultaneously. I do hope that that is the decision at which the Government will arrive. I wish to add as a corollary of that statement that if there is to be an election in December it would be grossly unfair to honorable members who are compelled to remain here attending to their parliamentary duties to keep the House sitting at a time when they have a right to be appearing before their constituents for the purpose of explaining their conduct and justifying their actions. It would be the reverse of just to allow other candidates unlimited opportunities for opposing them at a time when they were tied to attendances in this Chamber. From what I have said it follows as a matter of fairness to their constituents as well as to honorable members themselves—because if there is one right which constituents have more than another, it is to demand at the hands of their representatives a proper account of their stewardship when they seek re-election, and that cannot be forthcoming in some electorates in any brief space of time—that the prorogation should take place early in October. I have absolutely no desire to display any sort of factious opposition during the interval which must elapse before the close of this session. So far as the last prolonged session is concerned, I may fairly say that except as to matters of vital principle about which we were very seriously concerned, the Opposition did not show any venomous or factious spirit. Honorable members on the Government side will make great allowance for the Opposition when we are fighting principles in which we keenly believe, and which we think are closely and vitally associated with the interests of the country; and if occasionally, under the circumstances of last session, the Opposition got to a pitch which might seem undue, I feel sure that will not be remembered against us by any fair-minded man. I wish most earnestly to co-operate with the Government in passing some of the measures which have been mentioned. It is only fair, however, that I should venture to ask the Government to be instructed by the experience of last

session. The Government must admit that it is a failure of the grasp of parliamentary business not to make up a proper programme at the start, and to adhere to and carry that programme. There are circumstances in which, I admit, unexpected events may cause some alteration in a Ministerial plan; but there is absolutely no excuse for a Ministry taking up a large measure such as an Inter-State Bill, a Judiciary Bill, or a Defence Bill, and, after wasting several nights in its consideration, dropping it for the rest of the session. That is sheer waste of time—of effort. It is effort which may be useful in the sense that honorable members become advisory clerks to the Ministry as to how a Bill should be drawn up on another occasion; but that is not a use to which Parliament should be put. The Ministry should frame a policy clearly and sensibly, and put the most important measures in the forefront of their programme, keep them there, and pass them. If the House shirks the measures, the Government should compel the House to deal with them; and I hope the Government will not repeat the mistakes of last session, but will definitely make up their minds—and adhere to their plan—as to the Bills to be passed in the limited time at our disposal. In reference to the Judiciary Bill I heartily approve of the course which the Government are taking—late in the day as it is—of placing the Bill in the forefront for the session; and I ask the Government to act fairly by the House. It is of no use putting this Bill in the forefront of the speech of the Governor-General, and after beginning its consideration at the commencement of our labours, allowing it to drift away until the end of the session. This is a Bill which Australia in every direction is demanding.

MR. A. McLEAN.—I have not heard any demand for it.

MR. REID.—That is because the honorable member has no grievance. If the honorable member felt that the Government had been wronging him he would desire such a tribunal to be established; nobody seems to want a High Court except those who are wronged. But this Court was intended as a vital part of the Constitution—as vital a part as the existence of the Ministry; and I do not think any one could take up any other position. I have to refer to one or two questions of administration which have arisen during

the recess. In the first place, I want to deal with an important matter in which, again, I think both sides of the House are equally interested—that is, the necessity for careful, prompt, and efficient work in connexion with the Electoral Act. And in this connexion I have a serious charge to make with reference to the conduct of the Government. Honorable members will admit that it is very necessary the head of the Electoral department for all Australia—on the creation of such a department for the first time—should be a thoroughly competent man. I am sorry to say that the appointment which the Government has made has excited in my mind a feeling of astonishment; and for this I shall give my reason. I do not wish to repeat newspaper gossip, but it is stated that some other gentleman was recommended for the office by the Minister of Home Affairs, and that a minute went to the Executive Council, but was sent back.

SIR WILLIAM LYNE.—That is not correct.

MR. REID.—I did not wish to make a statement of the kind until I was in a place where it could be answered at once; it is of no use making a statement, and then allowing a day to elapse before it can be answered. I am very pleased to hear that the statement is wrong, and I now come to the officer who has been appointed. I wish it to be clearly understood that I speak with every feeling of respect for the individual—for the personal character and standing of the gentleman concerned, my observations being based entirely on official experience. This gentleman, Mr. Lewis, was retired on a pension in New South Wales about twenty years ago.

SIR EDMUND BARTON.—I do not think that is so.

SIR WILLIAM LYNE.—It is not half that length of time.

MR. REID.—My authority is better than that of either the Prime Minister or the Minister for Home Affairs; it is so absolutely sufficient for me that I cannot at this moment accept a correction. Of course, I may be willing to accept it afterwards, but my authority is such that it justifies me—

SIR WILLIAM LYNE.—The right honorable member is making some very wild statements.

MR. REID.—I take the responsibility for my statements, and I took pains to get the

information before I spoke. The pension of the officer I speak of was decided, and he was to have retired from the Lands office during the Premiership of Sir Alexander Stewart, who held office twenty years ago. After the pension was fixed, Mr. Lewis was employed in some other capacity ; and during the long period since—and perhaps this is where the Minister for Home Affairs may be mistaken—his pension has been held in abeyance subject to certain work he was doing in the public service of New South Wales. Mr. Lewis was for many years a draughtsman. He had been in the Lands department, and it happened in some way that he was made an officer in connexion with the administration of the Local Government Act. When Premier, I was repeatedly brought into official contact with Mr. Lewis in connexion with a Local Government Bill which I tried to pass through Parliament ; so that it will be seen I am not speaking lightly, but from absolute personal experience, and, I may say, without any feeling of unkindness to the officer. But I must say that I regard him as absolutely unfit for the position to which he has been appointed under the Commonwealth Electoral Act.

Sir WILLIAM LYNE.—Mr. Lewis has done his work very well.

Mr. REID.—I do not think my honorable friend is a judge in some matters.

Sir WILLIAM LYNE.—I am a better judge than is the right honorable member.

Mr. REID.—The attitude of the Minister for Home Affairs is that which he usually assumes in regard to the individuals whom he appoints or tries to appoint. Mr. Lewis was Chief Electoral Officer in New South Wales, and was absolutely retired several years ago by the Public Service Board—the members of which may, I suppose, be considered to have some knowledge of the officers of the service—and a subordinate promoted to his place. Yet we find Mr. Lewis appointed as Chief Electoral Officer for the Australian Commonwealth. It is the most singularly bad appointment the Federal Government have made, and I express that opinion without the slightest feeling of unkindness to Mr. Lewis. The mere fact that this gentleman was finally retired by the Public Service Board from a similar position, is surely pretty good proof that he is not the person to solve the great electoral problems which now face him. Of course, I admit that the Minister is

equal to working anything, and perhaps, with his assistance, Mr. Lewis may do remarkably well. But the man I should like to see associated with a vital matter like this is one with the requisite vigour and strength of purpose—one who could talk even to his Minister when it was necessary to do so. Mr. Lewis, however, has passed the prime of life, or, at all events, if he has not done so, he has passed that phase of energy and vigour which are absolutely required in such a department. He would not have been retired from the office which he held in New South Wales if he had been efficient. Surely, if he was not considered to be efficient enough to be kept in office in New South Wales—and the New South Wales Government paid him a pension in order to get him out of the service—this is not the way in which the Commonwealth should begin in such a matter as the appointment of its chief electoral officer. It is a bad beginning for us. I come now to a matter which the Prime Minister has anticipated would be interesting by laying on the table of the House to-night the papers referring to it. It brings up once more the Immigration Restriction Act. I take all the blame which can be fairly attachable to me if I happened to be away from the House when the Bill was being discussed. I ought to have been here, and Ministers can say that if I had been here I could have pointed out these things. But Ministers will admit that they often become wiser after the event. I do not know whether I shall express the opinion of the House in reference to paragraph (g) of section 3 of the Immigration Restriction Act, under which the trouble arose with the six hatters ; but I am not bringing the question forward as a matter of political capital against the Government in office. I do not desire any political controversy. I am prepared to leave it to the electors to deal with by-and-by. I wish, for the time we have left at our disposal during this session, to deal with the matters that are before us. Honorable members will recognise, however, that I am entitled to refer to these questions on this occasion. To do so clears the atmosphere in every way, and this is the only proper occasion on which to deal with them. I desire to say, with reference to the paragraph in the Act to which I have referred, that I do not believe there was any considerable number of honorable members in this House—certainly not a majority—who

intended the section to work as it was supposed to work in the case of the hatters.

Mr. WATSON.—Question?

Mr. REID.—We shall see. It is a matter of opinion. I desire to define my position, and it is much better that I should do so now, and publicly. This is the first opportunity we have had to consider the matter in Parliament, and I wish to say in the strongest terms that if that Act was intended to prevent such men in such circumstances from landing in Australia, it should no longer stand on the statute-book of the Commonwealth.

Mr. PAGE.—Why not?

Mr. REID.—I am going to give my reasons, and I desire to be perfectly plain and clear in stating my position. Even those who differ from me will thank me for doing so. I absolutely believe in a provision of this kind which will prevent deceptive, fraudulent representations being made to people in other countries. I am not at all averse to a provision which would prevent the introduction of any sort of undesirable labour under any circumstances.

Mr. HIGGINS.—How would the right honorable gentleman draw the line?

Mr. REID.—I shall tell the honorable and learned member. Under this Act, if an agreement of the kind contemplated is entered into, it ceases to have any force the moment the man who comes here under it lands in Australia. Honorable members should not forget that fact. I do not speak of the man who is specially exempted. He is all right. I mean that, taking the case of the man who lands here, and who has not been specially exempted by the special proviso, by operation of law his agreement goes. The only question is one of deception—of a man going round the world and endeavouring to obtain cheap labour by false pretences. To keep any honest English, Irish, or Scottish artisan out of Australia in the way the hatters were treated is a disgrace to our national character. Let me tell my honorable friends, whose main principle is one which I am just as keen about as they are—I have been associated with it as long as they have been—that when you have great principles that you fight for, it is often as well not to expose those great principles to unmerited abuse and prejudice by going to a fanatical extreme in matters of detail. I assert that it shocked the conscience of the British Empire that a man who came out under

perfectly honorable conditions, with his trade union introduction in his pocket—

Mr. THOMSON.—Accepted by the Sydney unions.

Mr. REID.—Yes. The papers which the Prime Minister has laid on the table of the House show that the hatters each brought a certificate for admission to the Australian union.

Mr. TUDOR.—They did not do so.

Mr. WATSON.—They were simply asked to show their *bona fides*; that was all.

Mr. REID.—One moment. I have the papers here. I know that the honorable member for Yarra, as a gentleman who is a hatter, takes a keen interest in this matter, and probably took a keen interest in it when the trouble arose, although his name does not appear.

Mr. McDONALD.—It is an extraordinary thing that six men were discharged from the factory in question.

Mr. REID.—That is a branch of the question with which I am not now dealing.

Mr. WATSON.—But the right honorable gentleman will not inquire into that point.

Mr. REID.—How can the honorable member say that I will not inquire into a matter of which I never heard before?

Mr. WATSON.—Because the right honorable gentleman objects to inquiry being made by the Government. I understand that is all the Government did.

Mr. REID.—I think the honorable member had better wait a moment.

Mr. WATSON.—I read the right honorable gentleman's Maitland speech.

Mr. REID.—I am glad that the honorable member did so.

Mr. WATSON.—I had to do so in view of what the right honorable gentleman said.

Mr. CONROY.—If those men had been coming to a Melbourne factory, would they have been stopped?

Mr. TUDOR.—Yes; the unions would have stopped them.

Mr. REID.—A copy of the introduction to the unions to which I referred is to be found in the papers just laid upon the table of the House by the Prime Minister. The certificate is headed—

Amalgamated Society of Journeymen Felt Hatters.

Then follows the motto, and the words—

Established at Denton—

That is in the old country—

March, 1872. Amalgamated June 14, 1879.
Re-organized at Denton, February 16, 1884.

Then follow these words—

This is to certify that the bearer, William Gee, is a member of the above society, and entitled to be asked for.

I do not know what the words "asked for" mean. The certificate is signed by "John Bennett, Secretary," and the following words are attached :—

This ticket must be presented to the National Secretary on arrival abroad, without delay.

Surely that is a quittance from one trades union to another trades union in Australia.

Mr. HIGGINS.—At what stage was that certificate shown?

Mr. TUDOR.—After they were found out.

Mr. REID.—I do not want the honorable member to misunderstand me. I have no desire to deal with two things at the same time. I am not considering that aspect of the question at the present moment, but I shall do so later on. I am dealing with a statement which I made, and which was contradicted, that the men were trades unionists, who came out with an introduction from one trades union to another. The papers which the Prime Minister has laid upon the table show that to be the case. They include a copy of the certificate which was given to them in England. The wage at which they were engaged was £3 per week, and I suppose that even in Australia £3 a week does not represent a fraudulent offer. I shall deal now with the matter to which an honorable member opposite has referred. Before doing so, however, I repeat that I am responsible for this provision, because I am a member of the Parliament that passed it. If I was not here when the Bill was before the House, and did not think of it as I ought to have done, I must take my share of the blame. But I wish to say that I refuse to be a party, now that I see how the provision operates, to the policy of that paragraph in the Act. That is all. That is a clear declaration.

Mr. TUDOR.—The right honorable gentleman was present when the Bill was read a third time.

Mr. REID.—The honorable member knows what third readings are. We do not generally touch Bills at that stage. Moreover, this was a minor matter. We were not considering the sub-sections so much as the broad question involved in the main provisions in the Bill. That overshadowed everything, but if I had had a

technical trade knowledge, I might have thought more about these matters. I desire to say, in the most open way, that I will not be a party to the continuance of this provision, in its present shape, on the statute-book of Australia. I come now to another point, and it is a very proper one to consider. Men who are familiar with these official documents will be able to read between the lines. If honorable members, when they have these papers placed in their hands, will look at the documents dated 3rd, 4th, and a number of other documents of about the same date, they will see this. It is no credit to an Australian trades union—and I do not believe the unions are responsible for it—but it is not a credit to Australian unionists that when these Englishmen were landed here, they should be driven round about and treated in a hospitable way, that a copy of their agreement should have been got from one of the men, and that it should have been sent to the Prime Minister, in order to secure the exclusion of these men from Australia. I say that no labour man believes in a sneaking course of that sort. Not one member of the labour party would do that. If he wished to keep a man out of Australia, he would not take him by the hand and get a copy of his agreement from him in order to do it. It is a contemptible thing, even for a hatter to do.

An HONORABLE MEMBER.—Who did it?

Mr. REID.—I do not know; no one can tell. I do not believe the hatters' union is to blame for it, because it was the act of an individual man; but it is a contemptible thing, and that it was done is shown by these documents. Listen to this: The secretary of the union writes to the right man, the Right Honorable C. C. Kingston. I suppose he thought that this English subject was a species of goods and chattels imported into Australia. Here is a letter addressed to the Right Honorable C. C. Kingston, and dated, Trades Hall, Melbourne, 4th December :—

Dear Sir,—Re my memo. of yesterday's date, I have the honour now of forwarding to you a copy of agreement supplied by one of the men who has come out to work at the Sydney Hat Mills.

That is from the secretary of the union. That agreement forwarded to the union in Melbourne was used against them. Surely that is not the way that working men stand by one another? It is not in our

part of Australia, at any rate. It is a contemptible feature in this matter.

Mr. CROUCH.—How does the right honorable and learned member know that the hatter was not a party to it?

Mr. REID.—That is worthy of the honorable and learned member for Corio. The suggestion is that a man having come all the way to Australia under this agreement desired to get himself treated as an objectionable person, to be bundled out of Australia and back to England again. I cannot take up time by further references to these papers. I shall only make this general observation, that the subsequent action of the Prime Minister himself showed that these men were entitled to be admitted to Australia, and that the interval between the time this was brought under the notice of the Government, on the 4th December, and, I think, the 13th, the date when the order for release was given, was an unjustifiable delay in settling a matter which ought to have been settled with lightning despatch. It was a cloud resting over Australia all that time.

Mr. PAGE.—It was a cloud that the newspapers made—nothing else.

Mr. REID.—I tell the honorable member that these papers show the communications to be of a character quite other than that which he suggests if he means to disparage them. There are communications from persons in the highest official position representing the injury done to Australia by this very act. There are representations from the Premier of New South Wales in response to a communication from the Agent-General of New South Wales.

Mr. PAGE.—The Prime Minister only did what the honorable and learned gentleman told him to do by passing the Act.

Mr. REID.—What I told him to do in passing the Act? Which Act?

Mr. PAGE.—The honorable and learned gentleman admitted being here on the third reading of the Act.

Mr. MAUGER.—And there was a special resolution and amendment.

Mr. REID.—I take all the responsibility involved in that extraordinary state of things. Why, the Denton Hat Mills contended that these men were absolutely entitled to land here. Surely that is a sufficient authority for the honorable member for Melbourne Ports. Is it not an extraordinary thing that while these six hatters were kept all this time in a ship at

Sydney, twelve boilermakers—and surely there will be no suggestion that they are geniuses in a professional line—were openly imported into Western Australia by the Railway department of that State under contracts made in England? Advertisements were published in English papers for twelve boilermakers, who were to enter into agreements to come out to Western Australia. Every man in Western Australia knows now that they came out under agreements, but no one dares to put a finger upon them, though they have incurred certain penalties, I think, under this Act. It only shows the extraordinary sort of administration we have when the Government of Western Australia can import twelve men under contract and the Federal Government will not say a word about it, whereas, in the case of the hatters, the hatters' society and the Cabinet were evidently cheek by jowl for days over the matter before those men could land upon Australian soil. I say that if there is any intention to shut out men who come out at union wages, good unionists, coming from one union to another, I shall be no party to it.

Mr. WATSON.—Nor will anybody else.

Mr. MAUGER.—Let them come out as free men, and they are welcome.

Mr. REID.—Free men! They were free men, according to these papers.

Mr. TUDOR.—Were they? Let the right honorable and learned gentleman ask them now.

Mr. SPEAKER.—I must ask that these repeated interjections should cease. One interjection while an honorable member is speaking may not, perhaps, be objected to; but when a number of interjections are fired across the chamber they become most disconcerting, and are most disorderly.

Mr. REID.—I desire to refer to another ridiculous light in which this Act is being put. Surely honorable members who are concerned for the main principles of the Act do not desire that those principles, which are of magnitude, should excite opposition and reproach throughout Australia? Surely they do not desire that a good thing should be discredited by bad management? The men who are responsible for this change in the law are surely interested in seeing that things are done with a certain show of discretion, at any rate, at the beginning. We should remember that these things are all new, and great allowances

must be made until the provisions of the law are thoroughly well known. Three Maoris came from New Zealand for three months, I understand, in connexion with an entertainment being given in Sydney at Fitzgerald Bros.' circus, and it was made a matter of State as to whether these three Maoris were to land. A few instances like that would expose Australia to the utmost ridicule. Now, I come to something worse as to these matters of administration. I come now to the administration of my right honorable and learned friend, the Minister for Trade and Customs. I do not know whether my right honorable friend appreciates the logical abilities of the members of this Chamber. If he thinks there is a logical faculty in them, as I am sure he does, I ask him to remember that I do not wish him to vindicate his severity in cases of fraud against the Custom-house. There is not a hard hand which he can lay upon an act of fraud for which every man in this Chamber will not heartily applaud him. I want to avoid that aspect of the question. His is a painful position, we all must admit. We must make allowance for the Minister in that respect, because no matter who is at the head of the Customs department, the position is a most painful and difficult one. I never questioned in all my life the thorough honesty of purpose of the Minister; but still I do think that matters have gone to such a length that even he might consent to look at them in a reasonable light. Let it be understood that I find no fault with the Minister for what he has done in the case of any man who has tried to rob the Customs of a single penny. I am coming to another matter altogether, so do not let us waste time in dealing with a question concerning which there is no dispute. But I say that the action of the Customs department in showing its own inability to understand the Tariff ought to lead the Minister to show a certain amount of consideration to other people; because the fact that two or three thousand separate decisions have been given by the Customs Minister does lead us to believe that it does not know what the Tariff really means.

Mr. THOMSON.—The decisions are contradictory.

Mr. REID.—I quite expect that. In so large a number of cases the best decisions would be so. But I want to point out to

my right honorable friend that if, as he knows is the case, the department itself has discovered so many perplexities and difficulties about the Tariff that they have had to issue more than a thousand decisions with reference to the meaning of it —

Sir EDMUND BARTON.—I thought the right honorable member said two or three thousand?

Mr. REID.—At any rate there is an enormous number; and that should lead the Minister to be a little more reasonable with people whom he does not even suspect of a desire to defraud the Custom-house. He does not seem to think that there is a distinction between a police court and other courts, but he scarcely does the situation justice there. It should be the policy of the Customs department to work hand in hand with the merchants whom it trusts. If it trusts no one it can work hand in hand with no one, but if my right honorable friend would join with anybody with the object of preventing the sort of competition that is effected by fraudulent conduct on the part of certain merchants, he could have no stronger allies than the honest merchants. Is not their interest the same as the Minister's? My criticism of his general administration is that it does not create that distinction which should exist between the great mass of honorable merchants and the fraudulent merchants. I would not put an honest man in the police court for anything, except, perhaps, his criminal negligence. Now, I come to something worse than that. The Minister for Trade and Customs knows that this House insisted on certain articles being admitted free of duty. I am coming to a case where the Minister set himself against the law and against Parliament.

Mr. CONROY.—What firm benefits from it?

Mr. REID.—That is a wrong observation.

Mr. CONROY.—I shall give instances later on.

Mr. REID.—If my honorable and learned friend wants to insinuate anything dishonest against my right honorable friend the Minister for Trade and Customs, I absolutely repudiate it.

Mr. CONROY.—Wait until the House hears the instances I shall give.

Mr. REID.—There is no man in this Chamber—and I have a number of friends

here—in whose integrity I have more absolute confidence than I have in that of the Minister for Trade and Customs.

Mr. CONROY.—I hope that the right honorable member will wait and hear me before he makes that statement.

Mr. REID.—I shall have to hear the honorable and learned member a long time before I alter my opinion in that respect. It is one of the gratifying features of my parliamentary life in this federal sphere that we are able to get on in such a way as to observe the ordinary courtesies of life, to say nothing of the privileges of friendship. At the time when I came into this Parliament I had been in rather stormy seas, and it took me some little time to adjust myself to the altered position. But it has been a source of the greatest possible pleasure to me to preserve those courtesies of life of which I have spoken, and I think that honorable members will admit that I have endeavoured to do so. I do not want to touch upon a matter that is *sub judice* at present, but at the same time I cannot be deprived of my rights as a Member of Parliament in this matter. There was upon the Tariff a line called cartridges. The Government decided that instead of being dutiable cartridges should be free. The members of the Senate sent down a suggestion that a duty of 10 per cent. should be put on cartridges. The Minister for Trade and Customs moved in the House of Representatives that that suggestion should be rejected. Cartridges, therefore, on the Tariff to-day are free. But in every cartridge there is a certain proportion of shot, and because there is a duty of 5s. per cwt. on shot, the Customs department actually insists that people who import cartridges should pay 5s. a cwt. for the shot contained in the free cartridges. It is one of the biggest curiosities in customs administration that I have seen. My right honorable friend must be a perfect genius in getting revenue if he will not stick at that. But actually the Federal Government has gone to the expense of resisting an action at law in another State—which makes me more free to allude to the matter—brought by an importer who maintains his right to have his cartridges brought in free.

Mr. KINGSTON.—The right honorable member will recollect that the point was raised, and I promised to look into it. I took the advice of legal advisers of the Crown in reference to it.

Mr. REID.—That accounts for everything the Minister has done! But if I learn that the Attorney-General expresses the opinion that such a charge should be made, I admit that it must be a matter that is arguable.

Sir EDMUND BARTON.—Does any one suppose that the shot should be dutiable out of a cartridge and free in it?

Mr. REID.—In other words, if whisky is dutiable outside of a man it is dutiable when it is inside of him! That is a novel idea! Even the Minister for Trade and Customs could not follow whisky then! It is the funniest thing I have ever heard. Then there is the case of an unfortunate cook who had not the advantage of the flood of light which has been thrown upon the Customs laws of Australia by the Attorney-General. He was an humble cook in a foreign ship, and he had an humble perquisite. That was, that the slush in the slush cask of the vessel was his; and in an unhappy hour he became a criminal by selling his perquisite to a man on shore. The Customs department decided that the slush went under the heading of unrefined tallow in the Federal Tariff.

Mr. KINGSTON.—Fat.

Mr. REID.—Unrefined fat! This slush was brought, by the genius of our friend, under the item of unrefined fat! This cook was not a fraudulent importer, but an honest working man.

Mr. KINGSTON.—He seemed to live on “the fat of the land.”

Mr. REID.—Only when he was in gaol. He was fed on “the fat of the land” there, I suppose. It seems to me that when the attention of this Federal Government, instead of being directed to matters of high State importance, is devoted to dealing with the sale of slush and things of that sort in foreign ships that come alongside, the science of Government has assumed a comical phase. It brings the law into disrepute, and surely our gaols were not intended for servants on foreign ships who make such a fearful mistake as did this cook! Now I come to a still worse case than that. It is the case of a sailor who was intrusted with some silks and a Bible as a present to some people in New Zealand. They have such ideas at home as that New Zealand is next door to Australia. This young sailor was intrusted with these presents for people in New Zealand, and when he was going on shore he

arranged for sending them to their destination. For that he was arrested and taken to the lock-up. He was accused of having committed a fraudulent act in defrauding the customs of duty, and was fined. The law places the magistrate in such a position that he had to fine the man £5, an amount representing a month's wages, or perhaps more than that. He was fined for trying to send on to New Zealand something which would not pay a penny to the customs of Australia.

Mr. THOMSON.—Who fined him?

Mr. REID.—The poor magistrate, as his duty is: he cannot help himself. Your innocence is a fact against you under the Kingston administration, not in your favour. When you say you did not know you were doing a certain thing, the inference now is that you are guilty, and you are fined £5. It is a most extraordinary sort of legislation. When the Bill was before the Senate there was an assurance given that such cases would never occur, that they would be dealt with otherwise than by the police courts. I appeal to the Minister to endeavour to avoid such occurrences as these. They tend to bring into discredit not only the Government—I do not mind that—but the whole community. Here is another instance of the eccentric way in which our government is administered. The Prime Minister thought the matter was of sufficient importance to make some observations at a very large meeting in Sydney.

Sir EDMUND BARTON.—I did that because, in a letter in the morning's paper, Senator Pulsford challenged me to say something about it.

Mr. REID.—It was very fortunate that my right honorable and learned friend arrived at last in order that he might take up the challenge. In his observations he condemns his own colleagues for once. I do not know that it will lead to any trouble between them.

Sir EDMUND BARTON. — The honorable and learned member cannot suppose that it was my colleague who did this?

Mr. REID.—No; I am sure of that. If the Minister had every desire in the world, according to the view which the Customs authorities take, he could not help himself: the law compelled him to do it.

Sir EDMUND BARTON.—It was the policeman who acted in the beginning.

Mr. REID. — When my right honorable and learned friend puts the thing in such a

clear way—that it was a sheer mistake—the House will be considerably amused to find that days after he assured the people of Sydney that the goods would be returned and the fine up to 80 per cent. would be returned to the man—

Sir EDMUND BARTON.—I said that I would give directions, and I did.

Mr. REID.—I think it would take up a lot of time at a public meeting if the right honorable and learned gentleman had to refine in that way.

Sir EDMUND BARTON.—I have already corrected that matter in answer to a question put by, I think, the honorable member for South Australia, Mr. Poynton.

Mr. REID.—I would like my honorable friend to remember my object in making these remarks. At a public meeting in Sydney he said, with reference to the case of that unfortunate young sailor—

It would have been better if he had been summoned instead of arrested.

There is a reflection on the Customs authorities. Of course the poor policeman will be brought into the matter; but that sort of thing will not do. A policeman does not arrest a man for carrying a Bible. Surely even the Customs authorities do not cause the police to do that.

Sir EDMUND BARTON.—We shall not attempt to get behind the policeman, if that is what the right honorable and learned member means.

Mr. REID.—I am sure that Ministers do not wish to do that. A policeman acts on the instruction of a Customs official to arrest a man. We may be sure that he does not do the thing for fun. It is only Customs officials who do these things for fun—

It would have been better if he had been summoned instead of arrested. Under the whole circumstances of the case—

I assume that the Prime Minister knew what they were when he spoke—

there was not sufficient evidence of guilty knowledge to warrant even the maximum fine.

This sailor who had been prosecuted by the Customs department had been in gaol, and the Prime Minister says to the people of the country that there was not sufficient evidence to cause him to be fined. Is it a matter of indifference that His Majesty's subjects are imprisoned and charged with offences when the Prime Minister himself asserts, against the action in this case, that

there was no ground for inflicting any punishment? He goes on to say in his speech—

I have now given instructions that the goods seized shall be returned to Tingey, and that the penalty shall be reduced by about 80 per cent. The only thing we can do when we find that the Act has been administered—

You see, it is the administration of the Act—

with a little too much severity—

When an innocent man is put in gaol, he is treated with a little too much severity. That is quite in a line with the genius of Customs administration. We are getting quite used to it—

notwithstanding our efforts to be lenient—

I think that the Prime Minister had better not go near Sydney again after making that statement—

is to modify the penalty or remit some of it, and that is what we intend to do.

The Prime Minister spoke in Sydney on the 30th April, and on the 15th May the Comptroller-General of Customs sent to the person representing the sailor, who in the meantime had gone away in his ship, a letter in which he said—

I am directed by the Minister for Trade and Customs to inform you that the forfeiture of the goods will not be enforced, but that the penalty cannot be remitted.

Sir GEORGE TURNER.—That is my doing.

Mr. REID.—My right honorable and learned friend is getting infected by the example which he is following. Was that deliberately done?

Sir GEORGE TURNER.—Done deliberately on the facts of the case.

Mr. REID.—The poor sailor! I am glad to get a poor man into this business, because, so long as the accused is a big importer, there is no mercy for him. People forget that the merchants are a sort of advance agent for the Government. Any man might remember that they have to plank down £9,500,000 for the Treasury. That is a fact which might be mentioned to their credit. I only wish to show that the department which has branded men who make simple little mistakes in complicated entries as criminals make the most egregious blunders, the most silly mistakes. The Prime Minister makes a public declaration that he intends that 80 per cent. of the fine shall be remitted, and fifteen days after that his colleague says it cannot be remitted.

Sir GEORGE TURNER.—I dealt with the question on the papers without knowing anything of what the Prime Minister had said.

Mr. REID.—Exactly. Of two Ministers, both lawyers, one says the case shows that the man should never have been prosecuted, and the other says that the fine should not be remitted. Here is a galaxy of legal talent in the Ministry! A little consideration might be shown for men who make mistakes, when the gentlemen who put them into gaol make the most egregious blunders over the same matter. It is not a very edifying thing that one Minister of the Crown should tell 5,000 people in Sydney that the man had been wrongly treated, that the fine should never have been inflicted, and that 80 per cent. of it would be remitted, and that then the Deputy Minister for Trade and Customs should state officially that the fine cannot be remitted. That meant that the man had been seriously to blame. But who expects these people to know the laws of Australia? Fancy punishing a sailor, travelling round the world in his ship, for trying to do a kindly action for a friend. There is one matter referred to in the speech of the Governor-General which I desire to notice in passing. The paragraph is a very long one, but I cordially agree with the statements it contains in reference to railway communication with Western Australia. My only regret is that the Government did not feel themselves justified in at least making a trial survey of the line without incurring all the delays involved in appointing commissions and obtaining State legislative authority. I am not an expert, but I understand that a trial survey is not an expensive affair, but is, on the other hand, a very practical proceeding, and the importance of the proposal requires that we should at least have a trial survey before any scheme is finally decided upon. The effect of the course now being adopted by the Government will be that after a number of difficulties are overcome a trial survey will have to be made, but it seems to me that that is a step which the Government might well take without waiting any longer.

Mr. WATSON.—Has not a trial survey been made?

Mr. REID.—No, I understand not. A flying survey has been made, but there has been no trial survey in an official sense.

Mr. FOWLER.—The State Government are putting down bores for water.

Mr. REID.—It seems to me that the project is one which at least deserves the test of a trial survey. I have made my views upon this subject pretty well known, and, as I said before, my only regret is that the Government have not been able to move a little more rapidly than they are doing. I observe that the Governor-General is made to congratulate us upon the state of the federal finances. We are told that in spite of the drought—perhaps it might be because of the drought—the finances are in a very satisfactory condition. Now, that statement affords one of the strongest justifications I can conceive for the action which the Opposition took in connexion with the Tariff. The Government stated that they did not expect to receive more than about £8,900,000 in a normal year from the duties levied under the Tariff as introduced. They complained that by our alterations we reduced the revenue they might have expected by £1,000,000 or £1,500,000, and yet the Tariff as reduced by us is yielding a larger amount of revenue than the Government estimated to be required. Instead of receiving £8,900,000—I suppose we can consider last year as a normal year—the revenue amounted to about £9,250,000. I am stating the figures very moderately. That gives the Government from £200,000 to £300,000 more than they expected from a Tariff which we reduced by from £1,000,000 to £1,500,000. Could there be any stronger justification for the attitude of the Opposition? We had not the great advantages enjoyed by the Government in their officials and the manifold opportunities of obtaining information; but, in spite of all these drawbacks, we were able to forecast the effect of the Tariff with far greater accuracy. If their statement as to the effect of our reductions had been accurate the Tariff would have yielded something like £1,000,000 less than they required. This statement in the Governor-General's speech is a thorough justification of our refusal to vote unnecessary revenue. I notice that the Government look for an expansion of our industries in consequence of the better seasons which are returning to the country. A singular state of affairs prevails at the present time. The Government admit that the Tariff is not a proper protectionist Tariff. They acknowledge that it is not satisfactory from their

point of view, and yet they say—"We will not allow it to be altered or to be improved, even by honorable members on our own side." That is a clear-cut attitude and an easy attitude to assume. All people who have that "tired feeling" naturally lean towards a policy of leaving things alone, but, from a protectionist point of view, I cannot understand that attitude. If the Government believe in a protectionist policy they cannot believe in the Tariff, because it is admittedly neither one thing nor the other—it is a mixture of both free-trade and protection, and bad at that. I can understand a man who really believes that a Tariff can bring prosperity and provide employment fighting for his policy, and, if he is defeated in the Parliament, going to the country, and saying—"We must have revenue. We are disgusted with what Parliament has done. They have mutilated our policy, and we ask this great democracy of Australia, which believes in it, to give us the strength to put matters right in the new Parliament." Instead of taking this stand, however, the Government are so afraid of the result of adopting such an attitude that, as at the last election, they curry favor with the free-traders of Australia by putting forward their policy in the aspect which will be least offensive to that section of the community. Now, I can appreciate a straight-out protectionist or revenue tariffist, but I have no kind of admiration for men who try to obtain position and power by currying favour with both sides at the same time. That is the attitude of the Government over the Tariff. I have never had much good to say of a certain leading Australian newspaper published in Melbourne, but I must at least admit that if it has been true to one thing it has been faithful to the protectionist policy of Victoria. It may be, as I think, utterly mistaken; it may adopt the most questionable means of advancing its views; but the fact that it has been true and faithful to the protectionist cause is undoubted. Now, what does this organ of public opinion say this very morning? It declares that the Federal Tariff is ruining Victorian industries, that in the year 1902, the first year of the operation of the Tariff, the importations of goods which used to be manufactured in Victoria rapidly increased. I do not, as a rule, and I do not now, accept as facts any figures which that newspaper publishes, but

it cannot complain if I accept its figures in order to deal with its policy ; and I must invite the attention of the House and the people of the whole continent to the statement made to-day in that newspaper.

Mr. O'MALLEY.—What is its name ?

Mr. REID.—It does not need an advertisement, because, according to the sign-boards, it is read by about 5,000,000 people every day. It is called the *Melbourne Age*. This newspaper has been distinguished by its clever and earnest advocacy of the protectionist policy. Now what, according to the *Age*, is the result of this very Tariff which the Government say must not be altered—which must stand without alteration ? That newspaper selects about a dozen articles which were largely produced in Victoria under the State Tariff. Take boots, to begin with. The manufacture of boots is a very large industry everywhere. The *Age* points out, I suppose truthfully—I do not know, but it may be so on this occasion—that from 1899, which is considered by the Treasurer, and I think very properly so, to be the last normal year before the effects of the federal financial arrangements were felt, till 1902, a period of three years, the importation of boots into Victoria has doubled despite the operation of a 30 per cent. duty under the Federal Tariff. It will be remembered that the Government brought down a sort of twin-screw duty which taxed boots at so much a dozen besides imposing upon them an *ad valorem* rate. They thus concealed duties ranging up to 80 per cent. It was a very clever piece of manipulation, but I now see that such duties were really required. No human being, save an expert, could tell what their original proposals meant. But we now see that they were necessary, because under the operation of the 30 per cent. duty imposed by the Tariff the *Age* points out that twice the quantity of boots is imported that was imported three years ago. Upon hats another twin-screw duty was submitted by the Government ranging up to 150 per cent. *ad valorem*. Upon these goods there is a duty operating of 30 per cent., despite which the importation of hats has increased by 50 per cent. within the same period. Similarly the quantity of furniture imported has increased by 200 per cent., notwithstanding the effect of a 20 per cent. duty, together with very expensive freight charges. Let us take the industry of

agricultural implement making, which was represented as the glory of a Victorian protective policy. We were told what a magnificent industry had been established here by means of the adoption of that policy. Yet, what do we find—that in the three years indicated in spite of the operation of a 12½ per cent. duty, there has been an increase of 30 or 40 per cent. in the quantity of these implements imported. Similarly the imports of machinery have increased by 75 per cent., and those of woollens by about 30 per cent. There has been a decrease in the quantity of blankets imported. In the case of apparel, however, there has been an increase of 130 per cent. in the imports, despite the operation of a 25 per cent. duty, whilst the quantity of brushware imported has increased 70 per cent., notwithstanding the effect of duties ranging from 15 to 25 per cent. In earthenware goods there has been more than a 20 per cent. increase in the imports. The *Age* points out that, in spite of the federal duties, the imports in respect of these dozen articles have increased enormously. Surely that proves every word which has been uttered by this side of the House to the effect that these industries after 30 years of this peculiar method of intoxication were reduced to such a precarious state that they required an exceedingly strong stimulant to keep them on their legs at all. The stimulus afforded by the Federal Tariff is evidently not strong enough, and consequently they are going down at an alarming rate. That is the strongest justification for anything which honorable members on this side of the House have said.

Mr. WATSON.—Has any allowance been made for re-exports ?

Mr. REID.—The *Age* does not make any. I have not time to follow out all its figures, but occasionally when it suits me I take them upon trust. It suits me to take them as they are upon this occasion, and I believe there may be about 50 per cent. of truth in them.

Mr. McDONALD.—Question.

Mr. REID.—I admit that it may be a question. However, that is the position taken up by the *Age*. Let honorable members recollect what was predicted when the Tariff was under consideration. All the fences have been down since 1902. In New South Wales we were told that for 30 years past Victorians had been equipping their

factories under a protective system, and that the moment their market was extended by the adoption of Inter-State free-trade, the grand manufacturing industries of Victoria would sweep the continent, and New South Wales industries would be heard of no more. Yet now that all the fences are down the people are leaving Victoria, and still its importations are growing bigger than ever. The people have been going out and the goods have been coming in more than ever. That is an extraordinary result for the magnificent descent which the Victorian system was to make upon Australian simplicity. The Ministry will have to turn round upon this point, because the *Age* is evidently determined to compel them to go to the people upon a straight fiscal issue. The policy of leaving the Tariff alone will not suit the *Age*. In defence of the infant industries of Victoria, which that journal has been affectionately nursing for so many years, the protectionists of this State must renew the fiscal struggle. How can the honorable member for Melbourne Ports—it is a remarkable thing that he is the representative of a port, but still the fact remains that he is—view this 50 per cent. increase in the importation of hats with any sort of philosophy? It seems to me a personal insult to him as one of the great triumphs of this policy that, in spite of my honorable friend's pre-eminence in that particular line of industry, the importation of these odious foreign articles is steadily increasing whilst the population is steadily vanishing. Of course I can understand a protectionist saying—“This Tariff represents nothing. It does not give my policy a fair chance. How can my policy stand well with the people of the Commonwealth when it is so mutilated that the moment it comes into force, in spite of an all-round Australia for Victorian enterprise, there are these calamitous figures?” The Ministry will have to change its attitude upon this question. I could understand them declaring—“We will not allow the Tariff to be touched because it is a good Tariff,” but I cannot understand them going before four millions of people and saying—“We want this Tariff untouched because it will take a little time to remedy its deficiencies.” If we can spend months upon trivial matters, surely we can spend a few days in adjusting a Tariff which affects the whole of Australia. The Government will

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not be able to continue its nebulous attitude upon this matter. They will not be able to conciliate the people of Australia by declaring that the fiscal question is all moonshine. That would not go off this time. I do not think that protectionists will allow the Government to stand before the electors and say that the present Tariff is one of which they are proud, and which they will stand by.

Mr. McDONALD.—They say that it is the very best they can get.

Mr. REID.—That is what impotence always says. It takes the best that it can get, but that is not the attitude for the great men in the Ministry, to say nothing of their supporters at the back, to assume. This “tired feeling” will not suit the progressive life of Australian democracy, and the people will not allow such an attitude to prevail. Although I differ so much from the *Age*, I can well understand its position upon this matter. If this Tariff is ruining Australian industry then it ought to be improved. Personally, I think it is interfering in every way with the well-being of Australia, and I wish to put it upon a sound footing. Now, I come to matters of a wider range than those of party politics—matters which are suggested to us by several references in the Governor-General's speech. There are only two other subjects with which I wish to deal, but they are of very great importance, not only to ourselves, but to the people of the Empire generally. I hope the House will pardon me if I deal with those questions. In the first place the Government intend to ask us to adopt a naval agreement which was arrived at in conference in London. I confess that that agreement is not in the shape which I should like, but after giving the matter the most careful consideration—after fully informing myself of the nature of the additional strength which is involved in the agreement—and upon a view of the whole of the circumstances of the case I feel that the Parliament of Australia cannot, with any sense of fairness or justice, refuse to make the slight concession asked for by the Imperial authorities. No man has a stronger desire than myself to see the beginning of an Australian navy, and I do not mean any support which I give to this agreement to be interpreted as hostile to that view. But it appears to me that we cannot justify a refusal to subscribe £200,000 a year to the burdens of the Empire in connexion

with defence. I should be glad if our opportunities were greater, and we were in a position to take a larger share in connexion with the burden of Imperial defence. I feel that so long as we think it right that Australia should remain within the bounds of the Empire—and I hope that time will always remain—we must, so far as our means allow, do all we can to recognise our share in the duty of defence. If we were independent, I do not believe that we could get the present defence for anything like the amount I have mentioned. Our own system of defence would, in my opinion, be infinitely more costly, and perhaps not quite so efficient; and, on review of the whole of the circumstances, I have come to the conclusion that it is our duty to accept the proposition which is made. Another matter, which the Government propose to postpone till a later period—practically until after the elections—is one which was discussed in the Imperial Conference with reference to a modification of our trading relations. I think the Government have acted wisely in not pressing this matter on the House this session. I have always expressed the view that if there is to be a revenue-tariff policy, such matters become insignificant, but that if on the other hand there is to be a policy of protection, and the people of Australia declare for a protective tariff, then the least that a protectionist self-governing State in the British Empire can do, if it is determined to shut the door against the mother country to a great extent, is to leave the door a little more open to the mother country than to foreign countries. Therefore, if the decision of the people of Australia is in favour of a protectionist tariff, or of the maintenance of the present tariff, in either event I shall be prepared to give my support to a measure distinguishing between the industries of the motherland and the industries of other countries; but only on that basis. It would not be my act; it would be a corollary of the act of those who believe in a protective policy. What is the essence of a protective policy? It is the interfering with the industrial expansion of every other country in the world, in at any rate a certain number of lines of industry. Related as we are to the Empire, it always has seemed to me to be one of the proofs of the majestic generosity of a great people that they should not only hand over to us rights which enable us to treat this

as our own country and our own independent property, but that in doing so they should also hand over to us the right to shut our own doors in the face of the country that has made us what we are. It is one of the most majestic proofs of generosity that the world has ever seen. Where would such countries as Australia be if they were under the flag of Germany, France, or the United States? I cannot forget the development of Imperial policy in the history of the British race. There was a time in the history of Great Britain when the protectionist doctrine was not only fashionable, but when it permeated all the laws of the mother country. What was the colonial policy of England then? It was an odious phase of the protective principle, so odious that none of the British colonies could import a single article made outside Great Britain unless it had first been landed on the shores of England and exported in British ships manned by crews which were three-fourths British. No colonial possession could sell one pound's worth of produce to a man in a foreign country unless that produce had been laid down on the shores of England and re-shipped to the foreign country. That was the colonial policy of the Empire in the protectionist days. But we have had a marvellous expansion since then, and the people at the heart of our marvellous Empire have formed more enlightened opinions. The time was when these protectionist laws were thought to be essential to the stability and security of the United Kingdom. The time was when the navigation laws were considered to be so vital to the stability of the Empire that brilliant men like Disraeli—some of the keenest intellects the mother country ever had—denounced the change from protectionist legislation as one of those disastrous steps which would lead to the immediate ruin of the British race. But we have had 50 years of this expansion of a generous policy. As the great Mr. Gladstone said, the self-governing colonies were left to buy their own experience in whatever market they chose. If the colonies thought protection a good thing they were left free to adopt the policy. Under the policy of giving freedom, and of minimizing the ties of trade and business which existed between the central power and the dependencies of the Empire, the singular phenomenon developed that just as every official

tie was removed—just as every artificial means of preserving Imperial trade was removed—just as, according to all the theories of a certain school of political economists, the whole Empire was in danger of dissolving by the mere looseness of the bonds which kept the different parts together, never was the Empire stronger in point of fact, and never was loyalty more practical. We see now that whatever may be the history of other countries, that policy which is suited to the genius of the British race, whether in the mother land or in her great dependencies scattered throughout the world, is such that the more the freedom and liberty the grander has been the union, the greater the loyalty, and the more unassailable the strength and stability of the Empire. On theory, all those statesmen of the past would be aghast at the spectacle of the parts of this majestic system revolving in independent orbits without any visible tie or control to keep them in their places. But still they do revolve without collision or collapse. Day after day in spite of loose ties, and in spite of discordant policies, the Empire has grown stronger and stronger. With all respect to Mr. Chamberlain, whom I consider one of the greatest patriotic statesmen of English public life, and who, I believe, is not a man to advocate great changes in the Empire merely from suggestions of political convenience, I cannot help thinking that, when upon his return to England from South Africa he made the significant remark that he found the people of Great Britain engaged so much upon matters of domestic concern, and so little upon matters of Imperial policy, he was unconsciously endeavouring to make them forget the things which are threatening the downfall of his Government and of his party. The secret of the greatness of the Empire has been the loyalty and devotion of the people of England to their own affairs. It is the municipal instinct within the British race rather than the Imperial instinct of high policy which have made it great. High policy describes magnificent curves, but it may lead to great disasters. It is from the steady, practical common-sense of the race, which has developed with all its might the things near at hand and within its power, that we get the grand results of the British Empire to-day. In a certain sense we are responsible for the burdens of the Empire, but we forget that

this Empire, with most of its burdens, has been constructed upon principles and policies with which we have had nothing to do. When Mr. Chamberlain appeals to us on behalf of an Empire which is staggering under its burdens, we cannot forget that, for good or for evil, he is one of a party of statesmen who within the last fifteen years have added 4,000,000 square miles of territory to the burdens of the Empire, and have increased by 50 per cent. the area for which the flag is responsible. Under a similar policy the expenditure which the British taxpayer has to meet has been increased in six years by £54,000,000 per annum, the expenditure in the year 1896-7 being £75,000,000, and the estimated expenditure for the year 1903-4, £129,000,000. Who is responsible for the enormous increase in the territory of the Empire? Are we? When people talk of the burdens of the Empire they must remember that, whilst we are strong in the defence of the Empire, if it comes to large money contributions we must be regarded as being in the position of pioneers. Australia is a pioneer of the Empire. Australians, by their enterprise, are making this great continent the source of renewed health, strength, and prosperity for the whole British race. That is our task in the building up of the Empire. If you measure our loyalty by the amount of money we contribute, we must occupy but a very humble and insignificant place. But true statesmanship does not look at young, struggling communities in that light. Amongst the marvels of patriotism displayed by such communities were the great sacrifices of our busy peoples when the mother country was in difficulty in South Africa. It is not in money contributions that Australia can help the Empire; it is in the maintenance of a spirit of thorough accord, loyalty, and affection. Those things are not to be got by business adjustments. They are not promoted by the multiplicity of self interests which you endeavour to invent. It seems to me that in trying to invent new ties, we are very apt to invent fresh sources of disaffection and trouble, and that when in those dark official days we were bound by a thousand ties to Downing-street, there was a feeling of disaffection, distrust, and dislike which in these days is not heard of. In carving out a place for ourselves, as our fathers did before us, we are doing that which is right by the parent.

land and the parent race. We cannot help the Empire much with money contributions, but we are prepared to help it in every conceivable way which will be beneficial to the mother country and to ourselves. No one has a keener desire than I have to turn the back upon unjust foreign systems of trading such as the mother country has suffered from in the past. I am not a believer in free-trade because I think it helps the enemies of my country, but because I think it helps my country. I would hit Germany and any other country which competes unfairly against us, if I did not fear that in trying to hit them I might hurt our own people. When I was Premier of New South Wales, I opened the doors of that State to the people of Victoria, without the slightest symptom of a generous response. Why did not I retaliate? I should have retaliated had I not felt that in so doing I should expose my own people to suffering and loss. If I had to choose between Germany and the mother country, I would have very little of Germany. I would come to the rescue of the mother country in the matter of trade as in anything else. But I do not wish to see the mother country, after she has emerged from artificial methods of protection, go back to them. Must not such a course make one fear that the indomitable spirit of the race is beginning to fail? What chance has the mother country on the hostile paths of commerce abroad if she cannot fight the foreigner at her own door? What method of preserving the majestic strength and development of the Empire is it for her to shiver on her own hearthstone? If Britain cannot master these problems of competition and unfairness by other methods her day has passed. It is a false policy which seeks strength behind barricades. A barricade is a grand thing for a weak force, but not for a force which is going forth to conquer. Where would the majestic achievements of Great Britain be if that had been her policy in the past? In spite of hostile Tariffs, in spite of attempts to shut the doors of the world against her, she has a trade infinitely larger than that of her competitors. She has a trade about twice as large as that of Germany. Her export trade, small island as Great Britain is, is 20 or 30 per cent. larger than that of Germany. I speak of Germany because public men are not insensible of the advantage of singling out obnoxious individuals as a means of advancing an

argument. But what is the competition of Germany to the competition of the United States? German commerce is a mere incident compared with that of the United States. There is a trade of £140,000,000 a year between the United Kingdom and the United States; but the exports from the United States to the mother country are worth £120,000,000, while the exports from the mother country to the United States are worth only £20,000,000. Out of £140,000,000 of trade only £20,000,000 is sent back to the United States. In regard to Germany, the balance between our exports and imports is trivial. I do not like the method of solving vital questions upon which the welfare of this great Empire depends, by appeals to prevailing passions. Do we not know that if there is a wrong in this kind of thing the great author of that wrong is the United States? Surely a customer that buys £120,000,000 worth a year from the United States might receive some show of generous treatment in return. If we will make this British Empire a close corporation, if we will have this doubtful Imperial spirit the vital principle of our Empire, we had better begin to establish a system of universal conscription. The countries which shut their ports have millions of soldiers behind them. If those little countries, mere spots on the face of the earth, have this backbone of military power in carrying out their selfish and unfriendly policy, then, if we are going to establish similar lines of public policy, we must consider the enormous amount of reserved power we must have. I do not say for a moment that I would not do anything. Make any departure you like. I agree with Mr. Chamberlain. Let us cast aside phrases. Let us cast aside the terms free-trade and protection. If this thing were a good thing for the Empire I should be one of the foremost to urge the change. One is open to conviction. I am only addressing these remarks to the House because I feel that I ought to make some contribution to an investigation of this kind. I have felt it more respectful to do so in this Chamber than through the columns of the press, and I feel that when such matters are brought to our attention it is our duty as members of an important part of the Empire to consider them. I hope the House will pardon me if I occupy a little time upon this subject. I admit that it is

against all the theories of the world as they are understood, but still it is a fact that when the navigation laws of England were in full force—when they were of the kind I have described—the foreign shipping that entered and cleared the ports of protectionist England represented the proportion of 30 per cent. In the dark days, when all these artificial restraints were put upon foreign shipping, the shipping from abroad that still came into the shut ports of the United Kingdom constituted 30 per cent. of the total shipping entering and leaving the United Kingdom. That was in 1840. Sixty years have passed. The British ports have been defenceless. The ports of the other countries have still been shut against them, and enormous subsidies have been paid to French and German lines of shipping to enable them to fight this helpless rival. And what is the result? After 60 years of open ports and of this open policy, the proportion of foreign shipping that now enters and clears the ports of the United Kingdom is only what it was then. Some people make England responsible for decay if she is not able to resist the law of development in other countries. It is the greatest absurdity in the world. The greatest calamity that could happen to England will occur when these other countries open their ports. The great opportunity of British manufacturing genius and enterprise is secured when the manufacturers of all the other countries of the world have to pay toll on their raw material, whilst the British manufacturer can buy all over the world, and bring the raw material of all the world into his own factory upon the cheapest possible terms. There is no magic in these marvels of industry. Let us consider the matter for a moment. If we put all England under wheat to-morrow; if we revived the glories of agriculture in England to-morrow, how much would all the wheat of England come to? We are dealing with a people who upon that little speck of earth are earning, either in the country or from foreign sources, an annual income of £1,700,000,000. That is the country which

opes to improve its strength by artificial methods. I am open to be convinced. If I could believe that there was any sort of contrivance which would enable us to help the mother country against unfriendly nations, I should be prepared to support it. But it is a singular thing that no practical

M. Reid.

scheme was submitted to the conference. Mr. Chamberlain invited the Prime Ministers of the Empire to meet him in conference upon these matters. Had not our Prime Minister a right to expect that that great practical statesman, with his enormous acquaintance with the problems, not only of Empire, but of trade—with all the resources of the British Government behind him—would have some sort of scheme to submit to the conference? The greatest difficulty must come in the case of the mother country. The imports of the mother country are nearly all composed of two lines—food, and raw materials for manufactures. Those are the two vital elements to the British people to-day. It does not pay them to grow wheat; they make too much in other directions. Food and raw materials! Put duties on food? It was done under the glamour of that great patriotic outburst when the British Government was so miserably opposed by a very able man, no doubt, who missed the greatest opportunity in the history of the British liberal party when he did not loyally go behind the Government in the hour of England's trouble, reserving to himself the right to deal with her failures as a leader of a loyal party. I attribute the position of the liberal party in England to-day to the unfortunate attitude which its leader took in a time of great national trouble. There is one thing the people of no country will stand, and that is, when it is engaged in a bitter war, to find its leaders critics, instead of friends and allies. The time for criticism comes afterwards. I consider that we are in a critical stage now in connexion with the British Empire. There are times when our attention may well be devoted to a subject which covers the whole range of the Empire—one that is not bounded by Melbourne and suburbs. The British Government, at a time when they were powerful enough to do anything, imposed a duty on wheat. That was hailed as a proof that the British Government were determined to begin a policy of protection. The answer is shown now. The same British conservative protectionist Government is taking the first opportunity of removing that tax, and the Chancellor of the Exchequer, in announcing his intention to take it off, intimated that it had been proved a disappointing and inelastic tax. Thus the first little

experiment which had even the suggestion of a protective motive had not been on the statute-book for two years before the old Tory party of England removed it. What is the use of one member of a Cabinet talking about readjusting the fiscal system of the Empire one day, and the next day the Prime Minister or the Chancellor of the Exchequer announcing that the Government would not tamper with protectionist suggestions until the heart and soul of the people were roused? In this matter, as I said, believing in the policy which has prevailed for so many years, which perhaps will not stand analysis by the academician, but which, in the actual development of national life, has made this a greater and a stronger Empire than it ever was before, I feel so deeply concerned for the stability and strength of this Empire that I think most people will follow my example in requiring the most absolute proof of the wisdom of a change before the change takes place. As you will have observed, I have not been talking about Australia. Australia is a young country. It can afford to make mistakes, and can recover from them. But, speaking of this mother country of ours, this majestic heart of the great Imperial frame, if in the great powers which Imperial statesmen use, some new and daring departures of policy come on, we do not know into what difficulties they may land us. There is a strong presumption in favour of the state of things that has produced such marvellous results as those to which I have referred, but I say that so long as Australia persists in a protective tariff there is absolutely no reason in the world why we should not give the mother country a preference over other countries. If you will shut the door upon her, as I have said, I should be prepared to shut it harder upon other countries. But all these projects are alien to my view of the sound relations which should exist in governing countries. I believe in a power of taxation which is used only for the legitimate necessities of the State, and I feel so strongly the danger to which the Empire is exposed that I have felt it to be my duty upon this occasion to mention fully and frankly to this House the sentiments which I entertain.

Sir EDMUND BARTON (Hunter—Minister for External Affairs).—In dealing with the attack which my right honorable friend has made upon the Government, I should like to point out

that unless his comments upon the six hatters' case, which I shall refer to presently, are to be taken as an exception, none of the legislation passed by the Government in the last session, nor a particle of that which can be reached according to the Governor-General's speech in the present session, has been the subject of his criticism. So that so far as our legislation and its policy are concerned, always, of course, excepting the Tariff, the right honorable gentleman has found no point of attack. That is a significant commentary upon the whole of his speech. Not that I take the speech altogether too seriously, because having listened carefully and attentively to it, I am not honestly able to credit the right honorable gentleman with having said anything which in any sense seriously weakens the position of the Government. He has alluded to the fact that the High Court and the Inter-State Commission Bills were two of the measures included in the programme of the Government before the last session began. That is true. They occupied prominent positions in our speeches, and though neither were promised as first measures, I freely admit that they occupied equally prominent positions in the Governor-General's speech. Any one who thinks for himself will be able fairly to come to this conclusion at any rate : That however necessary it was to pass a High Court Bill, it was necessary in the first instance to carry out such measures as the regulation and amalgamation, so far as we could during the bookkeeping period, of the post-offices of all the States. It was necessary to regulate the public service of the Commonwealth. And as we had to bring in a Tariff during the first session, lest by any chance we should be outside the limitation of two years imposed by the Constitution, it was necessary to bring down along with it a comprehensive Customs measure. Honorable members know that the Tariff was not out of hand for a period of just about eleven months. That, with such business as could be by any chance introduced whilst the Tariff was not under immediate consideration, occupied two-thirds of the session. The measures that I have mentioned with those for the establishment of a white Australia policy were measures which were not only necessary, but which were urgent. The carrying out of the white Australia policy was a subject of this prime

consideration. You may talk of legislating for your people how you will, but your first care, I think, should be to take care what your people are. And though they may be in some cases very efficient in industry, if you do not wish to be in a continual course of legislation for races which are in one sense or another, according to our notions, inferior to the race to which we belong, it will be your prime consideration to take such steps as will preserve the national characteristics which we hope to be everlasting in this part of the world.

Mr. REID.—The right honorable gentleman did not legislate for races, but for people who could not pass an educational test.

Sir EDMUND BARTON.—I shall come to that educational test and to my right honorable friend's part in it before I sit down. The right honorable gentleman may be sure I shall not blink it, because he has made references to it to which I find it quite proper that I should make an answer. But I claim, as I think I shall be able to show by the returns, that the measures passed for this purpose are working out their end and doing it satisfactorily. I am not at one with those who think that legislation of that kind could well and properly have been postponed until the second session. It would have been a matter of very great gratification to the Government indeed if time could have been found in that very prolonged session for the passing of the High Court Bill. But we must not forget the circumstances which surrounded us. Some of them I have already detailed. Let us now come to others. Has not my right honorable friend constantly represented during the recess that, for fear that we should make appointments to the Bench during the recess—and he claims by inference some God-given right to be the monopolist in these appointments—he and his friends prevented us from carrying the High Court Bill in the first session? Has he not, in speeches here and there, stated that he, with the patriotic assistance of his friends in the Opposition, took care that we should not pass a Bill—earlier or later in the session does not matter—that would give us the right to make appointments in the recess, while Parliament was not sitting? Well, if we had passed that Bill so late in session that appointments could only have been made in the recess, we should have

had the onus of doing that, and should have done it with this knowledge—that ought to be constantly before our eyes, and before the mental vision of every Government—that if we did wrong in making this appointment or that we should be subject to the censure of Parliament immediately it met. That is a responsibility which we were not likely to shirk, and could not have shirked if we wished to do so. So that all this talk about these motives for delaying or keeping back the High Court Bill—or, rather, these motives for saying that we could not pass it in the first session—vanish into moonshine when once we recognise that the perennial responsibility of Ministers would have attached to them whatever they did under that Bill. My right honorable friend has given that reason, and he has also given another. The difficulty of his position is that the two reasons cannot stand together. Let me read to the House what he said in an interview or a speech—I forget which—during the last recess. The right honorable member speaks of what he deems an unworthy turn of mine, which I shall come to directly.

Mr. JOSEPH COOK.—What has the right honorable gentleman got there?

Sir EDMUND BARTON.—Some cuttings, some of which will grow into very thriving plants directly. The right honorable gentleman has charged the Government with neglect over the creation of the High Court, and has, at the same time, posed as though we wanted to pass the Bill, but he would not let us. Now, as reported in the *Argus* of 8th May, he charges us with neglect, and those two points cannot stand together. He said—

It was generally believed that Senator O'Connor would go on the High Court Bench. There was no one in Australia but would applaud the appointment of such a distinctly able man, but the Government had no right to play fast and loose over it. Senator O'Connor was the one man who stood out for the conspicuously able and business-like way in which he had discharged his duties in the Senate.

None of that praise is too much.

He was too valuable to the Government, and it would have been inconvenient for them to lose such a good man in the middle of the session, so they selfishly put the Bill aside.

So that the Bill was kept back for three causes—first, because the right honorable member would not let it be passed; next, because the Government was neglectful; and thirdly, because they wanted to keep

Senator O'Connor, and therefore did not want to pass the Bill until they could dispense with his services. There is a variety of reasons. If any honorable member can find any one of them that will stand together with the others, he is welcome to come and take the place which I occupy, because he has far more ingenuity than I credit myself with.

Mr. REID.—I referred to the matter of the delay in not going on with the Bill.

Sir EDMUND BARTON.—The right honorable member referred to delay in not going on with it, but he knew full well that that delay was inevitable. He knew full well of the measures which occupied this House, including the Tariff, the debates on which did not suffer in the way of length for anything which he and his friends did ; he must have been aware, when he made that charge, that the pendency of the Tariff, and the pendency of the other measures which it was absolutely necessary to pass in that session, had been such that the hope of passing the Bill was much less than we had expected. Did the right honorable member prevent the Government from passing the Bill, because he could not trust them to make appointments in the recess ? If that be true, it cannot be that the Government sacrificed the Bill for the selfish motive of retaining the services of Senator O'Connor in the Senate. I have often during last session given answers to questions which ought to have saved the Government from that unworthy insinuation. Again and again I have stated that the Government have refused as a Ministry to consider appointments under the High Court Bill, the Inter-State Commission Bill, or any other of those great measures under which offices must be created, until those Bills were either passed or as good as passed. And for these reasons—that wherever in the effort to pass such legislation you allow these matters to be too closely discussed beforehand, and a set of people outside, we will say, are on the alert for the purpose of securing offices for their friends, you may create an undercurrent of feeling which renders it difficult to pass your legislation in the impartial form which it should assume.

Mr. REID.—Surely that would not happen in connexion with the Judges of the High Court ?

Sir EDMUND BARTON.—I say that it is a general principle of legislation that the Government upon whom it devolves to make appointments should not make known beforehand who are to be appointed, but should wait until the legislation is practically secure before it mentions names in that connexion ; and I have repeatedly said—and this applies to Senator O'Connor as well as to any one else—that not a name has been allowed to be mentioned in Cabinet in connexion with any one of those appointments. Therefore, so much for the alleged delay with respect to the High Court Bill. The Inter-State Commission Bill stands much in the same position. But we must recollect this with regard to both of them—that there was an amount of opposition displayed towards them in the early stages of the session. But now that events have developed in the Commonwealth, and that their nature has been more closely examined, they stand in a different position. We approach these questions now in a much cooler temperature, and both of them have a much better chance of passing as satisfactory measures. But we were told that while we failed to push on these two measures, about one of which my right honorable friend has given forth three such remarkably variegated opinions, there were two others which we unduly hastened. That was, the taking over of the two transferred departments which have passed into our hands in addition to the Customs department. Our view on that subject after full discussion in Cabinet was this : The question was—was it better to pass Bills regulating the transferred departments before assuming their administration, or to take over their administration as a prelude to passing the Bills ? We decided, after having fully considered the question—and this has been explained over and over again, but the explanation seems to have been forgotten or lost sight of—that it was rather futile to expect to have a sufficient knowledge of the working of any transferred department unless some Federal Minister were in the position to administer it, and to gain a practical knowledge of what was required in the way of legislation. I take it, that in doing that we have acted upon a sound and wise principle, and that in the case of departments involving considerable study, such as those of the Post-office and Defence, it was right and just to take them over and investigate their

working before bringing forward any measure that would afterwards stand or fall by its application to the needs of the community.

Mr. JOSEPH COOK.—That is what the Government did not do.

Sir EDMUND BARTON.—That is precisely what we did do. The honorable member forgets that, although the Post and Telegraph and Defence departments were taken over on 1st March, 1901, it was months afterwards before measures were introduced to deal with those departments, and they were not introduced until the Ministers had endeavoured to satisfy themselves of what was required. Although we got no further than passing the second reading of the Defence Bill without a division, still there was a valuable discussion of its provisions—a discussion which elicited opinions which were an additional guidance, no doubt, to the Minister, superadded to that which he could gain from administering the department; and perhaps one is not sorry that the opportunity of further consideration has been gained. But if that is so, it again emphasizes the wisdom of a Minister being permitted to familiarize himself with a transferred department from six States before he begins to legislate about it.

Mr. THOMSON.—Will the same thing apply to patents?

Sir EDMUND BARTON.—It may not apply to patents, because the determination of the principles to be laid down in such a measure do not involve the same amount of actual daily experience in the working of the department, which needs much less administration than the others. But it does involve the laying down of certain broad principles under which inventors may beneficially exercise their talent and their ingenuity. The Customs department was automatically transferred by the Constitution. It was possible to take over before legislation for other departments—Post-office, Defence, Quarantine, and Light-houses, with their adjuncts. Patents are not included in that list, and it is impossible to effect a transfer of the Patents department without legislation. That, therefore, places the Patents department in a totally different position from the others to which I have been alluding. If we wish to take over any other department besides the Customs and the four others named in

the Constitution, we can only effect that transfer by legislation, and until then we cannot administer the department in any shape or form. That is the clearly understood line of demarcation between what was possible with the transferred or transferable departments, and those which can only be transferred by legislation. I am indebted to my honorable friend for calling my attention to that point, because it helps to make matters clear. The leader of the Opposition has made some references to my speech in Tasmania, which, out of fair play and by way of balance, I have already counterpoised by making reference to one speech of his. He says that I charged the Opposition with having caused the loss of the tea duty. What I pointed out was that a large number of members of the Opposition voted or paired against the tea duty, although according to their tenets it was one of the most legitimate duties which could be imposed.

Sir EDWARD BRADDON.—Did not the right honorable and learned gentleman say that the leader of the Opposition, in combination with the labour party, threw out the tea duty?

Sir EDMUND BARTON.—I said that a number of the members of the Opposition voting with him, combined with the labour party, for that purpose, and that that was the main reason why the tea duty was defeated, and so it was.

Sir EDWARD BRADDON.—That the leader of the Opposition combined with the labour party to defeat the tea duty?

Sir EDMUND BARTON.—Undoubtedly. I do not mean to say by any treaty or compact. The air is full of accusations against us of combining with the labour party, when we had neither compact, nor treaty, nor negotiation with them; and in the same sense we can charge the right honorable and learned member and a number of his supporters with combining in the same way, and that is—to put it politely to them—taking their opportunity whenever they found it to defeat the opposite party by such a combination of votes.

Mr. SYDNEY SMITH.—The acting leader of the Opposition made a strong speech in favour of the tea duty.

Sir EDMUND BARTON.—Who says not? He could be relied on.

Mr. SYDNEY SMITH.—Then what is the use of saying these things?

Sir EDMUND BARTON. — I have not the slightest doubt but that the honorable member for Tasmania, Sir Edward Braddon, will always vote for a tea duty. It is put before the House that it was by the defection of a number of our own supporters that the tea duty was lost. Let us look and see what element had the stronger effect in producing the result. I am now quoting the names of gentlemen who are not in the third party so as to show what the result was as between the Government and the direct Opposition. Of the members who voted against the tea duty, and who belonged to the protectionist party, counting pairs, there were eight. Of the members of the direct Opposition and acknowledged free-traders who voted against the tea duty, counting pairs, there were ten.

Mr. O'MALLEY. — How many of the steerage party?

Sir EDMUND BARTON. — I do not know, and I have only one remark to make about the question of steering from the steerage—that, judging from some of the things we have seen in the press in the recess, and a little of that which we have heard to-night, there is a more malodorous part of a ship than the steerage, but from which the other ship can just as easily be steered, and that is the bilge. I have shown that the number of votes and pairs coming from the direct Opposition against the tea duty was larger than the number of defections from the Government side, so that their action was more than counterbalanced by the action of the right honorable and learned member and his friends. But he admitted that it was a legitimate duty. If it was a legitimate duty, and his desire was to adopt legitimate duties, and try to knock out what he called illegitimate duties, why did he not vote for the tea duty and redouble his efforts to knock out the illegitimate duties?

Mr. SYDNEY SMITH. — The night before the Treasurer came down with a statement to the effect that the Government were going to receive under the Tariff £475,000 more than was originally estimated, and that is the reason why the Opposition voted against the tea duty.

Sir EDMUND BARTON. — That is a totally unnecessary interruption, because it does not affect the argument I am addressing to the House.

Mr. SYDNEY SMITH. — It is true all the same

Sir EDMUND BARTON. — I notice that the honorable member becomes peculiarly lively in interruptions whenever he is disconcerted, and he is following his usual policy to-night.

Mr. SYDNEY SMITH. — I only know that you tried to rob the people by imposing taxation.

Sir EDMUND BARTON. — Is that a parliamentary expression, sir?

Mr. SPEAKER. — The honorable member for Macquarie will have an opportunity of speaking later on.

Sir EDMUND BARTON. — I do not make charges of that kind. I do not even say that anybody in the House who makes certain unworthy and disgraceful references to a political opponent is trying to cheat the people.

Mr. SYDNEY SMITH. — I did not wish to say anything offensive to the right honorable and learned gentleman. What I wished to imply by my statement in regard to his robbing the people was this—

Mr. SPEAKER. — The honorable member can only offer an explanation when there is no honorable member addressing the House.

Sir EDMUND BARTON. — We are told that I made that reference in my speech in Tasmania because tea is a strong line in that State. It may be a strong line there. I know that Tasmania has a very considerable shortage of Customs revenue having regard to what she requires. That shows very strongly that the present Tariff is not higher than that formerly in operation there.

Mr. THOMSON. — That has nothing whatever to do with the matter.

Sir EDMUND BARTON. — Then the Tariff revision phrase has no application. Now if tea is a "strong line" in Tasmania, the railway is a "strong line" in Western Australia, and I shall show honorable members what the right honorable gentleman, who has attacked the Government, has had to say about the Western Australian railway project. If I recollect aright, he said that he had always spoken in favour of this railway, and yet I remember a time when he expressed certain other opinions to an interviewer of the Sydney *Daily Telegraph* as reported in that newspaper on the 15th January, 1901. Before any Ministerial manifesto had been largely discussed, but after I had made some statements to an

interviewer, this report appeared in the *Daily Telegraph*—

Mr. Reid regards Mr. Barton's assurance that the Government will shortly consider the question of building a railway from Western Australia to South Australia as nothing but a political trick intended to influence the Western Australian vote.

That was a splendid way for the right honorable gentleman to express himself in favour of the project.

Mr. REID.—I believe there is a good deal of that element still. I should like to see a little less talk and a little more work.

Sir EDMUND BARTON.—We can understand the right honorable and very disorderly member when he says before this matter comes into the Ministerial manifesto, that any mention of it is a trick to deceive the electors of Western Australia. We can understand him and his sincerity most perfectly when, after this matter has been made the subject of a Ministerial pronouncement, he goes to Western Australia, and accuses the Government of not being sufficiently expeditious, at the same time telling the people that he would build the railway, engineer or no engineer. His utterances on this subject are even more variegated than his statements regarding the High Court Bill. One day the mere mention of the matter is a political trick to deceive the electors, but when the right honorable gentleman goes to Western Australia, where the railway is, to quote his own words, a "strong line," he represents that if he had anything to do with it he would build the railway without reference to engineers or any one else. This is the gentleman who talks about a political trick. Now I can reply to the right honorable gentleman in his own words—"Why should he forget facts so far?" In reference to the tea duty, the right honorable gentleman charges the Government with subservience to the labour party because the honorable member for Bland said he would divide the House against the Government on the question of the recommittal of the duty. The answer to that charge is that the Government considered the question for themselves. They considered whether they had a reasonable chance of securing the recommittal of the duty during the then current session.

Mr. SYDNEY SMITH.—What about the salt duty?

Sir EDMUND BARTON.—The honorable member can talk to the honorable

member for South Australia, Mr. Solomon, about that. The position of the Government regarding the tea duty was that they very carefully examined the whole question. Although a statement had been made by the Treasurer as to the probable results of the Tariff, the honorable member for Macquarie, if he looked into federal questions as federal questions, would soon comprehend that the revenue raised under the Tariff must be relative to a large extent to the financial needs of the various States. With a tea duty the financial positions of Queensland and Tasmania would have been very largely improved, and, although the duty would give much larger returns to some of the States which did not need revenue, it was the anxious desire of the Government to so adjust the revenue with duties like that on tea and other articles, that the more necessitous States would receive a greater financial return, and be relieved to a large extent from the effects of the shortage that would otherwise ensue. The Government were very anxious to recommit the duty with this object, and I now frankly confess, as I did at the time, that when we came to consider the matter, we thought that it would take a very long time, and that it was very doubtful whether the recommittal would be agreed to. What the Government felt, therefore, and what I then stated, was that we should wait until we could see whether the revenue returns showed any necessity for the duty. We were prepared to await the result of the operation of the Tariff without the duty for some months. Our intention, therefore, was not to bring it up again during that session, but to observe the working of the Tariff. If it showed, as we were afraid that it might after a time, a diminished revenue, we could then ask the House to reconsider its determination. The Tariff returns, however, as the Governor-General's speech has shown, are very satisfactory.

Mr. SYDNEY SMITH.—That shows that we were right after all.

Sir EDMUND BARTON.—It does not show that the honorable member was right. The Tariff receipts have turned out very satisfactory, and it is anticipated that sufficient revenue can be secured and that unnecessary financial embarrassment to the States can be avoided, although we were very much afraid that without the tea and

other duties such embarrassment would ensue.

Mr. SYDNEY SMITH.—That shows that we had a better knowledge than had the Government.

Sir EDMUND BARTON.—I do not think so. The honorable member for Macquarie is one of the best oppositionists of whom I know. I never knew him to neglect an opportunity of embarrassing the other side, irrespective altogether of financial forecasts. I am not sure that it may not transpire at any time that there are occasions when a gentleman who may be absent from this House, and who does not quite know what questions may turn up in his absence, acting in full reliance in the sagacity of the whip of his party, allows that whip to decide how his pair shall go. In reference to the Immigration Restriction Act, the honorable member for East Sydney has fallen foul of a passage in the speech which I delivered in Sydney about a month ago. The right honorable gentleman has purported to quote from the report in the *Sydney Morning Herald*. I shall give honorable members the full quotation of that part of my speech as it was reported in the newspaper referred to. I stated—

The attempt to defeat the Immigration Restriction Act was no attempt on behalf of the labour party—

I think I said “no insidious attempt,”

because they acted on what they thought was a just principle.

As far as they were concerned, they were always in favour of direct exclusion. I then went on to say—

But the Opposition tried to defeat the Act, because they were leagued with those who want cheap labour throughout the Commonwealth.

The phrase which I have quoted is the right honorable gentleman's subject of attack, and it is supposed that I am accusing him of entering into a combination—

Mr. REID.—An unholy combination.

Sir EDMUND BARTON.—I do not find the words “unholy combination” in the report.

Mr. REID.—I saw them there yesterday.

Sir EDMUND BARTON.—It is very strange that I do not find them. However, they may be there, and in the meantime I will allow that they are there. What I wish to say is that it was as easily understood by my audience as it will be easily understood by those who sit around me,

that one constant ground of opposition by protectionists to the policy of free-trade is that the industries and the manufactures of a country cannot be well carried on without cheap labour unless there is a Tariff to protect them. With such a Tariff we could do without cheap labour, and in the absence of such a Tariff we could do without cheap labour; but in the latter case we should not have the manufactures which our country desires and needs. There is a choice of two things—protection, at a reasonable rate of wages, and free-trade, with cheap importation, which must necessarily drive wages down. In this connexion nothing could have been better expressed than was the utterance of the Secretary of State for the Colonies the other day, when he referred to the fact that it was immaterial whether the people of England could secure goods cheaply, if their workers had not the money with which to pay for them.

Mr. REID.—The workers were never in a better position than they are to-day.

Sir EDMUND BARTON.—Against the conclusion of the right honorable member I prefer to take that of the Secretary of State for the Colonies. I hope he will excuse me for making the preference, because I do so in no disrespectful spirit. Every protectionist regards the free-trade party, unless its members are false to its tenets, as being anxious to obtain the benefit of cheap labour. With cheap importations endangering their manufactures, how can they carry them to a successful conclusion without importing a class of labour which enters too cheaply into competition with their own, and which, while it enables their manufactures to be carried on for the benefit of the manufacturers, does not in any sense allow their own working people to participate in those benefits? That is the position of the protectionist as against that of the free-trader. When I speak of the right honorable and learned member being in league with those who desire cheap labour throughout the Commonwealth, it is because I cannot conceive of a free-trade policy being carried out in this country without its necessarily having the effect of decreasing the rate of wages in manufactures to such an extent that it is impossible to carry on those enterprises with our own people, and only possible to do so by importing those below our own standard. That may be a wrong view to take—probably it is, in the opinion

of my right honorable friend—but it is honestly my view, and one which I took leave to express. If my right honorable friend thinks it conveyed any personal imputation, I can assure him that no such thing was intended, and if it had that effect on the minds of my hearers I should be very sorry indeed.

Mr. REID.—If it was merely a protectionist wheeze I do not mind a bit.

Sir EDMUND BARTON.—A protectionist wheeze is sometimes better than a free-trade gasp. What I was saying of the right honorable and learned member was this—that he had really allied himself in speech and division with those who, honestly enough on their part, proposed an amendment which he, from his own experience, must have seen would have endangered the passage of the Immigration Restriction Bill. I wished to pass an effective measure. I knew that the passage of any measure in which the colour line was sharply drawn—that is, a measure the object of which was direct exclusion—would, if we could place any reliance on the statements made to my right honorable friend and the other Premiers who were present at the Imperial Conference in 1897, be endangered, and that even if it were passed it would be only at the price of embarrassment to the Empire in its internal and external relations. That was my honest opinion, as it was also that of my right honorable and learned friend, because when he went to England in 1897 he had already submitted to the New South Wales Parliament a Bill containing a distinct provision for the exclusion of coloured races. I think that he had actually passed the measure, and that it was reserved for the Royal assent. If my recollection be correct, it had not been distinctly disallowed by the Home Government when the Imperial Conference met. At that gathering, however Mr. Chamberlain made a speech to the assembled Premiers pointing out that the internal and external relations of the Empire would alike be embarrassed by the passing of any immigration restriction measure which drew an express colour line. He referred to the Act which had been passed in Natal—unfortunately too late for many practical purposes—and suggested to the Premiers from the self-governing colonies that upon their return, if they wished to pass any measure of the sort, it should be

upon the lines of that Act, instead of containing provision for the direct exclusion of coloured races.

Mr. REID.—He never made any such remark to me.

Sir EDMUND BARTON.—That does not matter if what I have stated is the substance of that which the Secretary of State for the Colonies declared and published for the benefit of the Australian Premiers.

Mr. REID.—He never said that an Act would not be passed unless we did what he told us.

Sir EDMUND BARTON.—No. But that the right honorable and learned member himself entertained grave doubt whether any such measure would be assented to is evidenced by the fact that upon his return to Australia he introduced and passed a Bill upon the lines of the Natal Act, despite the fact that he had previously carried in the New South Wales Parliament a measure containing provision for the direct exclusion of coloured races, and one which had not been assented to by the Imperial authorities. That the right honorable and learned member apprehended what the fate of that measure would be unless he acted upon the advice which was tendered to him is perfectly clear from the fact that he came back to Australia and passed a Bill on the lines of the Natal Act.

Mr. REID.—As a mere makeshift.

Sir EDMUND BARTON.—The right honorable and learned member says that he did so because New South Wales was too weak to insist upon the passage of a Bill containing provision for the direct exclusion of coloured races, whereas the Commonwealth could have insisted upon the passage of such a measure. But I would point out that if the effect of such action on the part of the Commonwealth was likely to embarrass the Empire within and without, that was not a laudable ambition. After what the right honorable member has said to-night about the Empire; after the glowing periods in which he has praised its progress, and offered up his deepest vows and wishes for its integrity, is it conceivable that in the face of an assurance from Mr. Chamberlain of the nature I have indicated—an assurance which did not depend upon Mr. Chamberlain's strength or weakness, but upon the internal and external relations of the Empire—he should, having done one thing when he was Premier of New South Wales, be ready to do another as leader of the

Opposition in the Commonwealth Parliament? Surely that position could not be justified. When I hear talk about "Yes, Mr. Chamberlain," who was it, I ask, who said "Yes, Mr. Chamberlain" in 1897? Who was it that came back to Australia and passed the very measure which the Secretary of State for the Colonies had advised? If that was not a case of "Yes, Mr. Chamberlain," then from what mouth does such a statement proceed? The right honorable member said—"Yes, Mr. Chamberlain" in practice, but when an amendment was moved from the Opposition, it was then "Yes, Mr. Watson" came in. When the right honorable member was near Mr. Chamberlain it was "Yes, Mr. Chamberlain," and he was very close to Mr. Watson when it was "Yes, Mr. Watson."

MR. REID.—I often say "yes" to the honorable member for Bland; he is a very decent fellow.

SIR EDMUND BARTON.—No doubt the right honorable member would like to see a little more of the honorable member for Bland. Of course there was no compact; it was only that the right honorable member and the honorable member for Bland fortuitously and extraordinarily happened during five years to vote the same way. That, of course, was not "steering from the steerage."

MR. REID.—No, it was not.

SIR EDMUND BARTON.—It was not, because what the right honorable member calls "the steerage," he had cheek by jowl with him in the saloon.

MR. REID.—That is where labour ought always to be.

SIR EDMUND BARTON.—Then why call the labour party "the steerage?" However the right honorable member tries to change about, it only means that every further reference causes another wriggle.

MR. REID.—Oh, that is evident.

SIR EDMUND BARTON.—It is true, and cannot be denied. So much then for this attack on the Immigration Restriction Act. We all know the right honorable member's history in relation to this matter. It is like all other parts of his history—and I say this in all kindness—in that it is absolutely consistent and true to the prevailing description of his acts and policy—it is a "Yes-No" policy.

MR. REID.—I have done more in two years in a straight line than the Prime

Minister could do all his life. I have done something for the country to which I belong.

MR. SPEAKER.—I must ask honorable members not to so frequently interrupt speakers. I have called attention to this breach of order once before to-day, and do not wish to have to do so again.

SIR EDMUND BARTON.—I should not mind the interruptions so much if they did not take up time. We are told that the Government acted in subservience to a British Minister—that we adopted the policy we did in this Act because of an intimation received from that Minister. But it was conclusively shown by the Attorney-General last session that this charge was absolutely unfounded, and I am more than astonished that it should be renewed. The right honorable member was told, and it was proved—I believe the draft was brought to the table—that before the despatch was received from Mr. Chamberlain the Bill was in draft containing this clause.

MR. DEAKIN.—It was in print.

SIR EDMUND BARTON.—And when the proof is in cold print and the right honorable member has been confronted with it, what excuse is there for renewing a charge of this kind?

MR. REID.—I did not make any such charge. The Attorney-General is quite right in what he says regarding the facts. What I said was that no Government should come to this House to discuss a Bill, having previously submitted themselves to the Secretary of State for the Colonies for his approval of the lines on which it was to be carried out.

SIR EDMUND BARTON.—The answer to that is that the Government had committed themselves in one if not more drafts of the Bill long before Mr. Chamberlain's despatch came. The Government had thinkingly and deliberately adopted the policy before the despatch, which was supposed to have influenced it, was ever penned. That, I think, is a complete answer to the charge. As a matter of fact, the right honorable member based his criticism on a note which I had written on the margin of the despatch, and which I showed him. That note was made on the receipt of the despatch, and it was to the effect that the Government did not contemplate in the intended Bill to lay down any lines other than those mentioned in the

despatch. But why did I say that? Because the Bill was there in print, and when we had already adopted a policy which was in consonance with the despatch, it is too bad to renew an accusation which has already been refuted in clear and set terms by a Minister of the Crown. Reference has been made to what Senator O'Connor said as reported on page 127 of *Hansard*; and his speech was correctly quoted. All I have to say is that that speech was made on the 10th of May, shortly after the beginning of the session, and at that time, as I have stated, the Bill was already in draft and in the same form as now. Senator O'Connor, in replying to a question, seems to have made a mistake in saying or implying that there would be a direct exclusion of aliens, while there would be an educational test applied to coloured people who were British subjects. That was not the policy of the Government as laid down in the Bill; and the matter escaped my attention, or I should have pointed out the provisions to Senator O'Connor. We all know that a Minister in the opening days of the session may, in the same way as an oppositionist, have a somewhat confused idea of a measure which he has only once read. At the same time I can repeat the assurance to the House that the policy of the measure was actually settled before the session began. I come now to my right honorable friend's utterances in reference to the Tariff. It is rather peculiar how as time goes on the policy of the right honorable member undergoes the "sweating process"—how intended devastation is expressed in lurid terms at the beginning, how the policy is whittled down a little as it is seen to be unpopular, and how at last, when he comes into the House, and when he has probably reflected that he has no more chance of carrying a policy of the kind here than he would have out of doors, it becomes attenuated. What has the right honorable gentleman said previously on this matter? When he came back from Western Australia on the 12th of January he gave an interview to a representative of the *Sydney Morning Herald*. In that interview he said—

He was going to make free-trade his battle cry.

That does not mean a reduction of some of the protective duties, but means free-trade.

Mr. REID.—It means a revenue Tariff.

Sir Edmund Barton.

Sir EDMUND BARTON.—No; free-trade is the wiping out of protective duties, and this is what the right honorable member for five years in New South Wales constantly defined as free-trade. While the wiping out went on merrily employes began to think, "It is a good thing because it makes goods very cheap; but I wish we had a little more money to buy what we see in the shops." In the course of the interview the right honorable member went on to say—

He was going to make "free-trade" his battle-cry, and from that policy he had resolved to make no deviation, not even if it cost his party defeat at the next general election. He did not want to get into office by any side issue.

There the right honorable member was like the policeman in the *Pirates of Penzance*, who sang—

We find the wisest thing
Is to slap your chests and sing—
Tar-an-ta-ra.

Then in reference to the Tariff the right honorable member said—

If returned to power at the next elections, my object will be to disturb the Tariff as little as possible.

That is very nice!

But there are so many duties on the present Tariff which are clearly imposed in order to destroy the revenue, that drastic alterations would be necessary.

Does the right honorable member mean to assert that what he has said to the House to-night implies that there will be "drastic alterations" in the Tariff if he has the chance of making them?

Mr. REID.—Absolutely; that is to say I should bring the Tariff down to a revenue basis.

Sir EDMUND BARTON.—It is a good thing that I have read those extracts, because the right honorable member did not venture to say anything like what he has just now said until he was challenged by the printed testimony to his two attitudes.

Mr. REID.—It is the same thing.

Sir EDMUND BARTON.—It is not the same thing. If duties in the Tariff are to be deprived of their protective effect, we shall surely have the assertion from my right honorable friend that he will be consistent. Let him carry out his policy if he gets a chance, though I do not think that that is coming yet. Then the first thing he would have to do would be to balance the import duty on sugar by an excise duty of £6 per ton. That would be a splendid

thing for the revenue. All the sugar that would be used would be imported sugar, and would pay the import duty. But not even the kanaka would be able to grow sugar-cane then. If the sugar-growing industry would not be a white man's industry, it would also be too poor to be a black man's industry. There would be plenty of revenue coming in from the import duty upon sugar, but there would be no utilization of the cane fields, which were surely destined by nature to be of use to us, unless, perhaps, the right honorable gentleman thinks they may be turned into dairy farms. Under his system, there would be no chance of carrying out a white Australia policy unless the perennial and eternal barrenness of the cane land was coupled with the exclusion of coloured aliens. As a free-trader, he must make his excise duty equal to his import duty, and to do such a thing would put an end to the sugar industry. Of course, it would have this advantage, which should not be readily forgotten, that the cane fields could not be utilized for sugar growing by black labour, since not even the black man could then live by sugar growing. We have taken different measures—measures which secure the employment of our own people and the exclusion of those whom it is not thought desirable to have in our country. We have found that the only effective way to do that is to allow a margin between the excise and the import duties, which will give an opportunity to our brothers and fellow countrymen to ply their avocations and receive a profitable return for their labours. Now we are asked to adopt, by the revision of the Tariff, a policy which, if carried out with the smallest spark of honesty, would reverse what we have already achieved, and destroy the sugar industry. When the right honorable gentleman next addresses the House upon the subject of free-trade, let him definitely state his position upon this matter. He may be inclined to say that he would justify what he proposes on the ground of high policy. Those words are often used to cover a multitude of sins. I heard them used a little while ago in Tasmania, when a certain distinguished gentleman from that State, who sits upon the opposition benches, and consequently supports free-trade to the best of his ability, was asked whether, if his party came into office, they would remove the duty upon

New Zealand potatoes and oats. His reply was—"No. We should be against the removal of that duty from motives of high policy." So the farmers of Tasmania are compelled to derive their notions of "high policy" from the prohibition of the importation of potatoes and oats.

Mr. PAGE.—Who said that?

Sir EDMUND BARTON.—No doubt the statement will be owned by the right honorable gentleman who will probably follow me.

Sir EDWARD BRADDON.—Is the right honorable member referring to me?

Sir EDMUND BARTON.—It is "only a little one." We and those who support us shut out New Zealand potatoes and oats from this market, and we do so because we say that that is part of our policy. But when the free-trader is asked if he would shut them out he says "Yes"; and when asked "Why?" he answers, "From motives of high policy." That is not protection! We have this policy applied to potatoes and oats in one State, and to sugar in another. No wonder theirs is a three-legged policy, which has not the virtues even of a quadruped. The right honorable gentleman who made the utterance to which I refer was not asked any further questions; but he might have been asked whether, if they grew potatoes and oats in a place as far off as Buenos Ayres, he would shut those productions out of the Commonwealth. Perhaps if he had been asked that question he would still have replied "Yes." The "high policy" on the Tasmanian coast is the interest of the farmer there. He is to be protected on that ground, while every one else may be left to starve. That is not my view of an Australian policy, though my notions on the subject are pretty high. However, we can leave these excuses to be dealt with by the operation of the opposing acids and alkalies which they contain, which may form new chemical combinations, but will not lead to a successful political combination. Referring to the Tariff question, the leader of the Opposition said that—

They proposed to take items in the Tariff which were intended to destroy revenue, and reduce them so as to raise revenue.

He was reading certain figures from a protectionist journal, at which he is obviously not afraid to laugh, so that it cannot have the terrors for him which he supposes it to possess for others. There is no doubt a high moral courage about the right honorable

gentleman which is apparent sometimes when he wants to gird at a political opponent, but is not so apparent when he wishes to enter into a combination which may be of advantage to his party. Leaving that matter alone for a minute, he wants to raise the fiscal question, because it was not a fair issue at the general elections, and he raises what he has dignified by the title of an "old wheeze" with reference to my utterances at Maitland. I have remained silent long enough in this House on the subject of my Maitland speech, because I did not want to join in an absolute saturnalia of waste of time. Those utterances were before the public, and the assertion that I have deceived the public required no refutation from me. But let me go back to those utterances to see whether it is not true that the issue was fought out, and fought out fairly, at the general elections. Take one of the utterances which have been most quoted—

Revenue we must have—that is the all-important consideration—because without that revenue the State will not be advantaged but cursed by federation.

That we must all admit—

The Commonwealth must pay its way, help the States to pay their way, study their every detail, distribute the burden justly, and do no mischief. That is the task now before my honorable friend, Mr. Kingston. He is capable of performing it. But it cannot be performed with any such notion of revenue Tariff as we have been hearing of in all the capitals of Australia. The situation forced upon us can be forced upon any Government. Do not mistake me when I say that the situation forces itself upon us. I am a protectionist, and so are nearly all my colleagues. But if we are to raise a great revenue for the security of the Federation, then we cannot be prohibitionists, and our protection must be moderate, because prohibition or exclusive protection would lead to a prevention of that access of revenue which is necessary for the proper government of the country.

It is the constant cry of my honorable friends opposite that the operation of the Tariff, reduced as the duties have been, is to raise a revenue sufficient for the needs of the country. If, as they say, protection prevents the raising of revenue for the needs of the country, how can they assert that this is a Tariff the revenue from which would be increased by great reductions in the rate of duties?

Sir EDWARD BRADDON.—May I ask which of the right honorable member's colleagues are not protectionists? He says that "nearly all" of them are protectionists.

Sir Edmund Barton.

Sir EDMUND BARTON.—I say that nearly all of them are so, more or less. I have already shown that the right honorable gentleman and the leader of the Opposition are free-traders only more or less, and decidedly less when local interests are concerned. I know at whom the shaft is aimed, because it comes from an old rival and political opponent of one who was sometimes a Ministerial colleague of my right honorable friend, Sir Edward Braddon. The right honorable member for Tasmania, Sir Edward Braddon, believes in a duty on potatoes and oats, only against New Zealand of course, because that is a matter of high policy. My honorable friend and colleague, Sir Philip Fysh, believes in the Tariff which we brought down, because as it was introduced it fulfilled the proposals of the Maitland speech in providing for the necessary revenue without destruction of industries. How can any one argue for a moment that a man who lays down a policy of obtaining sufficient revenue, coupled with moderate protection, is not putting before the country the fact that he intends to bring in a protectionist tariff? Let me read a few lines more from my Maitland speech:—

But if we are to raise a great revenue for the security of the federation, then we cannot be prohibitionists, and our protection must be moderate because prohibition, or exclusive protection, would lead to a prevention of that access of revenue which is necessary for the proper government of the country. Australia has known tariffs for many years in all the States. There has been more or less protection even in New South Wales, and there is still £3 per ton on sugar. Who left it there? What is it there for? Are we to abolish that protection now, and begin the prosperity of the union by ruining our northern farmers?

The policy that was laid down was this: In the first instance, it was pointed out that direct taxation would be no part of the policy of the Government, because it professed its desire—and very sincerely professed it—that the States, as far as possible, should be left the opportunity of imposing direct taxation to make up any shortages which might occur in their own finances. It was not that direct taxation was an undesirable thing, but that it ought to be a reserve and resort for the States to make up any shortages that might occur under the Tariff. The Government also laid down the principle that it would not only try to raise all the revenue that the Commonwealth required for its own government and for the necessary returns to the States out of the

Tariff, but that it should couple with that a policy of refusing to destroy industries which had grown up in the States. It must be remembered that, with diverse tariff policies in half-a-dozen States, it must happen that industries have grown up in one State which under a different policy have not grown up in another. If it were possible to make six tariffs, it would be possible to maintain an industry in the State where it existed. When we have, however, to make a policy for the whole six States, it follows as a matter of course that, while maintaining protection to an industry which has grown up in one State, we are giving the very opportunity for its creation in another State where it has not previously existed. That must necessarily be the result of any tariff which pursues the two objects of revenue with protection, and the refusal to destroy an industry in one State must mean the encouragement of a similar manufacture or production in the others. From this it must have been perfectly obvious to any one with any degree of fairness in his composition who read my speech, that we intended a protective policy, and that we, being protectionists, did not desire to see that policy operating in one State and not operating in another. The Tariff must be uniform, and the things which could not be produced in a State owing to its former Tariff may, in the future, constitute new industries in that State, although not new to other parts of the Commonwealth. That was the course of reasoning which lay behind all the argument to which reference has been made, and an assertion that the Tariff, even as it was brought down by the Government, was in any degree in opposition to that course of reasoning, is not only unfair, but is one of those many statements which people try to convince themselves and others are true by the frequency with which they make them.

MR. SYDNEY SMITH.—Why did the right honorable gentleman's chairman give up his policy?

SIR EDMUND BARTON.—Because he was not as intelligent as he might have been.

MR. REID.—He resigned from the right honorable gentleman's committee.

SIR EDMUND BARTON.—He was the only member of my committee who left it, and therefore, with one exception, the whole committee understood the speech

which I made, and adopted the principles laid down in it.

MR. SYDNEY SMITH.—But the chairman of the right honorable gentleman's committee resigned.

SIR EDMUND BARTON.—Has the honorable member never lost a member of his committee? He has had from time to time a good many of them on the committees of his opponents. The honorable member voted against federation, and he lost his constituency. We can leave it at that.

MR. SYDNEY SMITH.—I won back my constituency, notwithstanding the right honorable gentleman's opposition.

SIR EDMUND BARTON.—No imputations of motives, if the honorable member pleases. Having read that passage from my speech, it now remains for us to consider whether those who, with their leader, cried out, were ever misled. Let us find out whether they were.

MR. REID.—I was not misled.

SIR EDMUND BARTON.—I shall utilize that confession in a minute or two in a way that the right honorable gentleman may not like. My right honorable friend, on the 7th March of the same year—after this speech had been delivered—said—

But look at the unscrupulous attitude—

I do not like to say that this is a case of Satan reproving sin—

which the Prime Minister of Australia adopts. He chooses a red-hot protectionist Ministry to carry out protection to the bitter end—if they are strong enough—and yet he is constantly trying to persuade the free-traders that really if they support him everything will come out in the end just the same as if they supported me.

I did not attempt to persuade the free-traders; but I do say that a policy such as I laid down, and such as was embodied in the Tariff which I introduced, might well have commanded the support of those who desire to see the union of this country continued with justice to the history and the future of the several States. This was the object with which I brought forward that manifesto. It was equally the object with which the Tariff was brought down, and that Tariff as introduced was lower than any other known protectionist Tariff in the world. Honorable members of the Opposition said, "Why don't you do as Canada does? There is a free-trade Premier in Canada. He has carried out free-trade in that important

Dominion. Why do you not follow in his footsteps in this Federation?" We published our Tariff side by side with the Canadian Tariff, and one was about twice as high as the other. Suddenly, after that publication, all the talk about Canada ceased. Up to that time the free-trade Prime Minister of Canada was being belauded to the skies because he had adopted a policy which was practically the only policy that could have held that State together and protected it from destruction. Free-trader as he is in theory, he is that sort of protectionist; and I am that sort of protectionist. The passage which I have quoted shows that the leader of the Opposition knew that a protectionist Tariff would be brought down. The right honorable gentleman did not mistake my words, and my words convey no other implication than that. The right honorable gentleman said much more—as he generally does—than I have quoted. He made this statement—

Mr. Barton is still half-hearted—

I do not know how he found that out—

but his position is unmistakable, if his language is not. He figured at the protectionist gathering at the Australia Hotel the other day, and witnessed the large subscriptions handed in by protectionist manufacturers in support of the campaign, and surely he did not take those moneys other than as a contribution tax in support of a protectionist campaign.

Why, in every speech in that campaign I said that the policy of the Government would be a protectionist one—

The manifesto of his own association has now been published. It is the manifesto of the association formed by Sir Edmund Barton at the Hotel Australia, an association of which he is the president.

That manifesto was a protectionist one and I claim as I have claimed all the time from the day of its utterance, that the Maitland speech was a protectionist one. But what is more to the purpose is this: That the honorable gentleman was not misled, as he said the issue must be free-trade and protection. Now what does that involve? On the 9th January, 1901, before any of these utterances, and even before my manifesto, the right honorable gentleman used these words in an interview at Launceston, and we shall see how they contrast with the attitude he has assumed this afternoon—

It was the desire on all hands, and it was in the interests of every one connected with industries, that the fiscal question should be settled as soon

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as possible, and settled finally now. If it was not made the issue of the first election, the defeated party could claim that the matter had not been fought out, and could keep up an incessant feeling of unrest that would seriously affect commercial interests. The general desire is to fight the question out once and for all, and so leave future sessions free for such matters of pressing concern as may come up for consideration.

What was the right honorable gentleman's opinion then? Even before I made my speech it was that the clear issue was free-trade and protection, and after I made it he raised the same issue, and in another speech, which it is, perhaps, unnecessary to quote, he said that any free-trader would be a traitor who did not vote against the Government. Did he expect, then, any other policy than that which was brought down? From his own confession he did not. How, then, do the right honorable gentleman and his friends stand with reference to their charge against me of having deceived the country? They knew, from my references to the composition of the Ministry and to the fact that there must be protection, though it must be moderate—and it was moderate to the extent of being lower than any other protectionist Tariff we know of—they knew from these facts that while there would have to be a large revenue collected, the Tariff must be a protectionist Tariff, and from that position from that day to this neither I nor any of my colleagues has ever wavered. How, then, can it be said that the issue was not before the country? And if the issue was fairly before the country, what is the answer to be made by any one, including himself, to the words of the right honorable gentlemen, when he said that if it were not made the issue of the first election, the defeated party could claim that the matter had not been fought out, and could keep up an incessant feeling of unrest that would seriously affect commercial interests. It has been made the issue of the first election, the defeated party cannot claim that it has not been fought out, and the members of that party are, therefore, not justified, in the words of their leader, "in keeping up an incessant feeling of unrest, which will seriously affect commercial interests." I say, therefore, that to talk of making this Tariff the issue of the general election over again, and to talk of making alterations, which will be drastic, no matter how the right honorable gentleman tries to whittle away his words, is a policy which stands condemned in the extract which I have quoted from his speech. The right-

honorable gentleman said enough in that interview to show that it would be a most injurious and improper thing for this country to have to go through the fiscal struggle again. He has shown in what he said there, and from his own confessions at this table to-night that he cannot complain that he was misled or that he understood the issue in any sense other than that in which it was raised and fought out ; and having been so raised and fought out, he will deserve every condemnation which he has stated if he attempts to raise it again at the next election.

Mr. G. B. EDWARDS.—It is the people who will raise it, and not the right honorable gentleman.

Sir EDMUND BARTON.—The honorable member has got into a very bad habit. He makes so many speeches, many of them very interesting ones, in this House, that he has got into the habit, which persons get who are talking all the time, of thinking that he is the people. Now I may leave that question of the Tariff issue, except to point out that it is not a justification for saying that the country should be torn asunder again by the fiscal issue being raised at the general election, to admit that this Tariff is not all that this Ministry could have wished it to be. There are some of the duties which have been reduced which we could have wished had not been reduced. Some duties have been abolished which, for the sake of some of the States, the Government could have wished not to have been abolished. But it is still a Tariff which raises a large revenue. It might be more beneficial to one or two of the States if it raised something more—

Sir EDWARD BRADDON.—Hear, hear !

Sir EDMUND BARTON.—My right honorable friend cheers me very properly, but it is a Tariff which combines, although not so fully as the Government could have wished, the double principle of revenue without destruction. We find it in accordance with our policy to that extent, and we are therefore perfectly consistent with that policy in refusing now to allow it to be disturbed. As the honorable member for South Sydney has said, the people can make a revision and they can enforce it. The whole question may be raised at the general election, when that comes, if the people wish it, but those who raise it impropvidently, and those who raise it to the injury of the country, and against the fair meaning of their own

utterances, will be judged by the people, and I have no fear of the result. My right honorable friend was, if I may use an every-day simile, “barking up the wrong tree” with reference to the gentleman named Mr. Martin. It is enough to say that neither is Mr. Martin nor was he ever a chief electoral officer. He never was proposed as a chief electoral officer, and Mr. Lewis is acting so far in that position only temporarily. Mr. Lewis is in receipt of a pension from the Government of New South Wales. He receives only a very slight addition to that pension, and for the work he is doing for the Commonwealth he is certainly not overpaid. The Commonwealth pays him, I think, some £300.

Mr. O'MALLEY.—That is sweating.

Sir EDMUND BARTON.—No, it is not, because he is in receipt of his pension, which amounts to about £300. I fully admit that it may be necessary in making a permanent appointment to this position to grade it somewhat higher and to give a little higher salary, but taking things as they are no one can say that this gentleman is being pampered.

AN HONORABLE MEMBER.—Do you give him an allowance?

Sir EDMUND BARTON.—Nothing but the ordinary travelling allowance—actual expenses. I need not, I think, make any further reference to Mr. Lewis, but I may say that it does not follow that he will be permanently appointed Chief Electoral Officer. He is, however, a man of long experience in dealing with these electoral questions, as well as with questions of local government. He has had wide experience in that respect in New South Wales, and his services have been found to be very useful in his present temporary capacity.

Sir WILLIAM LYNE.—He was acting in that capacity in New South Wales just previously.

Sir EDMUND BARTON.—He was recalled, I think, to the New South Wales service to render services in that capacity. Now I come to the all-absorbing topic of the six hatters. My right honorable friend says that he takes his share of the blame. It is interesting to know whether he was in favour of the section as passed. I give him whatever credit is due from the fact that he was absent from Parliament when the clause went through. But it is interesting to inquire whether he was against that clause when he saw that it had gone through,

because he was here in subsequent stages of the Bill before it went to the Senate—and at not one of those stages did he take exception to it.

MR. REID.—I never observed it.

SIR EDMUND BARTON.—From which remark it follows that my right honorable friend spoke about it though knowing nothing as to what was in the Bill.

MR. REID.—It was a subservient matter.

SIR EDMUND BARTON.—The proviso was one of the longest provisions in the Bill. However, we will take the assurance of the right honorable member that he did not read the Bill. Although it was "swellin' wisely" before his very eyes, like the fat boy in *Pickwick*, yet he did not observe it. But there were others who did observe it. The honorable member for Wentworth gave it something which I can scarcely call opposition or support, but I think he expressed the opinion that it was too drastic. The honorable member for Macquarie gave it his whole-hearted support, and it was carried without a division. I do not think that, except in what I have mentioned, there was any word of disapproval from the opposition benches. It went through in the Senate and came back to us; and from the first to the last, after that clause had been implanted in the Bill, it did not provoke—except the comments which were raised against it in the Senate—any opposition from Parliament, and certainly it provoked none from this House. Consequently that clause may be regarded as not being the work of one side or the other. It was not the work of one side or the other, being a proposal not originally contained in the Bill, but in an amendment emanating from the Opposition side of the Chamber.

MR. REID.—Was it not in the Bill originally?

SIR EDMUND BARTON.—No.

MR. REID.—That is how I missed it.

SIR EDMUND BARTON.—Now we have got it! My right honorable friend is in this habit—which accounts for the inaccuracy of some of his statements—that he only sees what exists in a Bill when he reads it as laid upon the table; and if he bestowed a little more care upon measures, he would, according to his way of thinking, read them in the original draft!

MR. REID.—It is enough to look at them once.

SIR EDMUND BARTON.—Now we find this position—that the right honorable member and his party are in the same boat. The amendment came from that quarter. There was no more subservency in this quarter of the House in voting for it than in that. I do not accuse any party of subservency in voting for it. I explained at the time that the amendment was quite in consonance with the opinion expressed by me in the Legislature of New South Wales, and when I was afterwards spoken to, in an interview with the press, I gave the very quotation from the New South Wales *Hansard* that showed that I expressed that opinion ten years before. So that I cannot be accused of any sudden conversion in this respect. Whatever my right honorable friend may say, I have been reasonably consistent in my opinions. When I do change them it may be at intervals of something like fifteen years or so, like my change to protection, but it is not on the same day, and it is not caused by a visit to England.

MR. SYDNEY SMITH.—The right honorable gentleman changed in about seven days on one occasion.

SIR EDMUND BARTON.—That is not a fact, as I have explained over and over again. But it is natural enough, coming from the lips of gentlemen who never read anything except from their own side. Now, amongst prohibited immigrants under this measure—that section having been passed with the common consent of the House—is placed—

Any person under a contract or agreement to perform manual labour within the Commonwealth.

Then comes this proviso—

Provided that this paragraph shall not apply to workmen exempted by the Minister for special skill required in Australia or to persons under contract or agreement to serve as part of the crew of a vessel engaged in the coasting trade in Australian waters if the rates of wages specified therein are not lower than the rates ruling in the Commonwealth.

Now, referring to this particular case, the position arose in consequence of a telegram which I received from the Sub-Collector of Customs in Sydney, Mr. Baxter. He intimated to the secretary of the department that there were six felt hatters landing under contract. They were bound for Sydney, and were about to arrive under contract to perform manual labour. There was not a word then about any special skill. I gave the usual direction. It was to

exclude them, because such persons must be excluded under the law until special skill required in Australia is proved. The fact that that applies to artisans and workers of skill, and not to mere manual labourers, is clear, because if the condition applied only to persons of special skill, there would have been no occasion to insert the proviso that it should not apply to them. That is enough to show that persons of some degree of skill were aimed at under the proviso in this section of the Act if the English language means anything. That law being in existence, it was my duty to administer it, not from any party aspect, but as carefully and impartially as though I were a Judge on the Bench. That is what I did. I could not let the hatters come in until they or those with whom they had agreed were prepared to show that they possessed special skill which was required within the Commonwealth. That assurance could have been furnished as soon as their employers knew that the vessel had arrived at Fremantle. It was not furnished; and it appears that when they landed there they were examined as to whether they were under any contract or agreement, but the Customs-house officers examining them could not find out that they were. They came round, and this telegram came from the Sub-Collector of Customs before they reached Sydney. I gave the necessary order that, being under contract to perform manual labour, the hatters should not be admitted. At that time I had no knowledge whatever of those applications or suggestions from outside quarters to which my right honorable friend refers. A letter was written to the Minister for Trade and Customs by one of the labour organizations. It was dated the very day I gave that order, but I did not see it for some time after. It was sent to the department of my colleague, and a note appears upon the papers to that effect. There is a note of mine on the papers, which I put upon them soon after I saw the letter referred to. The note was to this effect—

Not before me at the time I directed that the men, being under contract to perform manual labour within the Commonwealth, must be regarded as by law "prohibited immigrants" until it was shown to me that they possessed "special skill required in Australia." At time of decision to that effect no representation was before me, except an official one from Customs, Sydney—namely, Mr. Baxter's telegram.

That disposes of the suggestion that the Government were influenced in any way in excluding these men by any outside representation. What an absurdity it would have been—if it were true that the Government were influenced by outside representations to shut them out under any circumstances—that nevertheless they afterwards admitted them. If those outside representations had their influence as suggested, the men would not have been admitted afterwards. That is enough to show how absurd that outcry is.

Mr. THOMSON.—It is more than an outcry.

Sir EDMUND BARTON.—If the honorable member says that the Government were so influenced I give the statement my distinct denial, and I wish that he would be more accurate in future. Whether in pursuance of the outcry or not will be plain to every unprejudiced reader of these papers, and if it is not plain to the honorable member after reading them, he is not unprejudiced. I have, as I have said, administered the Act as if I had been a Judge on the Bench, and when the honorable member knows the facts of the case—which it is obvious he does not now know—he will agree with me. What I did then was this: I gave that direction consequent upon a telegram from my own officers pursuant to information which of course came from a private quarter. Afterwards—some days afterwards—an application was made to me. There was a note from my under-secretary to say that he had been waited upon by the president and the secretary of the Felt Hatters' Association, who informed him—that was, on the 5th December, whereas my decision was given on the 4th—of a telegram having been received stating the names of men on the *Orontes* in possession of agreements to work for Mr. Charles Anderson—the names of the men follow—and that other men were to follow in the next Orient steamer. They said that they had reason to believe that the men were under a similar agreement. A protest was handed to me undated, but received on the 9th, by the Victorian branch of the Australian Association of Felt Hatters, giving reasons why, in their judgment, these men should not be admitted. Two days afterwards—that is to say, eight days after the telegram came from the Collector of Customs in Sydney—there was an application in

writing from Mr. Anderson, the employer, for their admission. That was the first application for the exemption of the men. It was impossible to exempt them until some evidence was brought before me that they were entitled to an exemption by reason of possessing special skill required in Australia. The reason why I waited was that I had to wait. How could I, without the necessary evidence, admit them when *prima facie* they were within the law, and so must be excluded? I had to exclude them until the evidence was brought before me. But that evidence could have been submitted on that day or the next day; and if there was delay which resulted in inconvenience to the men, at whose door does it lie? Does it lie at my door, when I had not the opportunity of finding out anything, or at the door of those who knew the facts and did not bring them before me? The employer knowing the facts at last made an application in writing to me, and it was supported by statutory declarations. Again acting from a sense of impartiality after considering those declarations, I wrote to those who had protested against the admission of the men, and pointed out certain questions upon which I wished them to give me information so that I might have the full facts on both sides. They answered the queries I made and produced certain other papers. I considered the statutory declarations and other evidence brought before me by Mr. Anderson, and with the same open mind the representations which had been made to me by the Felt Hatters' Union here, and having given full consideration to both, I decided that, under all the circumstances, these men were possessed of special skill that was required in Australia; and after writing a long memorandum in which I explained the whole of my opinions, I gave orders, by telegram, for their admission to Sydney. I submit to this House that it was impossible for me to have given those orders before that date. I venture to say, from all that went on at the time, that the noise which was made about this thing originated from some party source, and was got up without regard to the interests of this community by those who wished to gain a party advantage. One would think that those who dealt with matters of this kind coldly and impartially were deserving of the support of all sections in the community and of both sides in this House. But I found to my bitter experience

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it was not so. I found that a turmoil was got up here, followed by another turmoil got up by some men in England, and obviously arising out of telegrams which were sent, which caused the Agent-General for New South Wales to write to Sir John See that it was affecting Australian credit. Whose fault was it if it did affect Australian credit? That the exclusion of the six hatters brought down the value of our debentures by about 10 per cent. is a kind of fiction which exists in the imagination of those who act in this manner. But if it did seriously affect Australian credit, it could only have been owing to the guise in which the facts were sent to England by those who were interested. If the facts, as I have detailed them, and as they appear in the papers, had been telegraphed to England—I tried to counteract the inaccurate reports afterwards, but my telegram was too late—there would have been no talk from Mr. Copeland or any one else about an injury to Australian credit. The idea of saying that because we require that persons who come here should be free men absolved of contracts which they might have entered into in other lands, and free to make their own arrangements, we wish to shut out reasonable and decent immigration, is as wicked a fabrication as ever was invented against a Ministry. Now, at last, I have had the opportunity of defending myself in this House. The attack is a disgrace to those who uttered it, and one which, when the whole of the facts have sunk deep into the public mind, will bear its refutation and its retribution. The right honorable and learned member who has challenged me on this subject says that he would have legislated in a different way. Well, he did not try to legislate in a different way when he had the opportunity. He says that he did not read anything about this matter, that he preferred the Bill in its antiquated form to its up-to-date form. If he is going to draw up an amendment to put the provision on what he deems the right footing, why did he not suggest the form of it in his speech? Will he sit down at the table on any day of this week, before the debate is closed, and draft the form in which he would put the provision so as to do justice in a fairer form than it now does? I wish to assure the House that I am the last man to be accused of any attempt to shut out any reputable European from these shores. But when I find that from a good and correct

motive a provision of that kind has been passed, even if men ultimately turn out to be entitled to come in, I must, if they are under contract, refuse to allow their admission until they prove their title. The proof of the contract, the admission of it—and they did admit it—was *prima facie* evidence that they could not come in. That evidence could be entirely rebutted by proving that they were possessed of a special skill that was required here. In the interval, before that proof was given, *prima facie*, they were not entitled to admission. The moment it was given, and given to my satisfaction, I was bound to let them in, and I did, and on similar evidence I let in six of their successors. But what is the reason for all this hubbub if it is not a party move? Let my right honorable and learned friend attempt to draw out the clause which he says he will draw out, and then do not let him talk any more of this. Let him try it on 60 or 600. That is the way to test it. This is not a question of six hatters ; it is a question of whether men are to enter Australia free, or whether they shall be stopped if they are under contract to perform manual labour, with this one exception, that if they are possessed of a certain degree of skill which is required, they will even then be entitled to admission. That is the point of this law. I submit that the law is reasonable, and if the case came before me again to-morrow, I should act in the way I have done, and in no other way. If the case occurred 50 times in a year I should act in that way. And to prove that I was right in so acting, when the six successors of these men came forward in a fortnight, what happened? The necessary proof was given before they reached Sydney, and I was enabled to allow them to land without obstruction. Does not that of itself show that if a right course had been followed under the Act in the first instance by others than myself, the men, having their title proved, would have been admitted just as their successors were? And, therefore, is it not clear that the whole blame of this transaction rests upon those who could and ought to have done that which was necessary in the circumstances, and brought forward the requisite information? Without that it was absolutely impossible for me to act. I reiterate that I shall administer the Act irrespective of clamour, irrespective of pressure from one side or the other, in the future as I

have done in the past, and I shall do that even if it causes half-a-hundred of these telegrams to go to England, of which it may be said, as Tennyson says, that—

A lie which is half a truth is ever the blackest of lies.

Now, with regard to the question of the boilermakers. In a day or two I shall lay upon the table some papers which will save me the necessity of making any further reference to this matter, and show that the Government have acted quite rightly in what they have done. Although it is unfortunately a fact, if I recollect rightly, that these men did slip past the inspection of the officers appointed for the purpose, it is nevertheless a fact that they were imported at a time when it was impossible to get other persons to do the work ; not under strike conditions, but under conditions in which it was reasonable that men with their special skill should be admitted. But there is another point in connexion with the matter. The Supreme Court of New South Wales has decided that to tax the imports of the State is to tax the King.

Mr. O'MALLEY.—That is foolishness.

Sir EDMUND BARTON.—I do not propose to criticise the decision of the court, although I may be permitted to remark in passing, that I could understand it if there were seven kings instead of one. There is no doubt, however, that if the law as laid down by the Supreme Court of New South Wales—and it is the possible diversity of decisions in different States that constitutes so strong an argument in favour of the establishment of the High Court—is good, the point might be raised that we were stopping the King by stopping the boilermakers from coming into the Commonwealth. However, I shall leave this matter and pass on to that of the three Maories, regarding whom almost as much fuss has been raised as in reference to the boilermakers.

Mr. TUDOR.—Was exemption applied for in their case?

Sir EDMUND BARTON.—I am not quite sure, but I shall lay the papers on the table, and honorable members will then be able to see for themselves. The Maories were detained only pending reference by the man who saw them arrive, to his superior officer. It is not a fact that any instructions from the department over which I preside had to be awaited, but the moment the matter was explained to the Collector of

Customs in Sydney, it was quite obvious that the men were not intended to be affected by any section in the Immigration Restriction Act, and therefore they were granted exemption for three months. I do not think that there is anything in the Immigration Restriction Act that is intended to apply to persons, whether they be coloured or not, who come here under short engagements as members of a theatrical troupe, and who do not intend to stay in the country. I do not regard as immigrants persons who come here under such conditions, and who remain here for perhaps three months, but the term applies to those who come here for the purpose of settling permanently, and making their living here. I do not intend to refer to the diversity of cases connected with the administration of the Department of Trade and Customs to which my right honorable friend devoted attention. I am of opinion that the administration of my right honorable colleague in the Customs department—whatever criticism is passed upon it—is open to this justification: That it at any rate forms an exception to some of the administrations that we have seen, because it is absolutely and sternly just to all alike, and that whatever my right honorable colleague does for the protection of the revenue against one class of people he does against all. It is not a fact that the Customs Act is intended to allow gross blunders and gross negligence to escape punishment. The first object of the Act is the protection of the revenue. There are two things against which protection is required—one is fraud, and the other is negligence. Negligence may exist in the employment of a dishonest clerk, or a smart one—I prefer to use the latter term. It may exist in the employment of an incompetent clerk, or in the employment of one who, though competent, is careless. It was not intended, I take it, that revenue prosecutions were not to be entered upon against any persons except those who were believed to be guilty of crime. Revenue prosecutions bear on their face the traditional usage that they are applicable alike to those who commit crimes, and those who are guilty of breaches of the law, although such breaches may not be criminal. As to the remarks which have been made with regard to respectable merchants and traders being dragged to the police courts and being compelled to sit “cheek-by-jowl

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with criminals,” and to “hob-nob with drunkards,” the experience of our courts is sufficient to show that there is no ground for the suggestion. The proceedings are conducted in two divisions. There is the summons court for those cases in which no criminality is imputed, and the charge court for those who are brought up for drunkenness and criminal offences. The suggestions that have been made are intended only as a little kerosene kindling to brighten the fire of discontent.

Mr. GLYNN.—What the right honorable gentleman has stated does not apply to all the States. In South Australia all offenders have to appear in the same courts.

Sir EDMUND BARTON.—Not at the same time.

Mr. GLYNN.—At the same sitting.

Sir EDMUND BARTON.—Not “cheek-by-jowl with criminals.”

Mr. GLYNN.—I do not say that.

Sir EDMUND BARTON.—That is the charge. Those who are prosecuted by the the Customs authorities are brought up in accordance with the law, and although I know that hardship may sometimes be caused when persons devoid of criminal intent are punished for breaches of the law, it would be very difficult for the Minister to discriminate. It would be very difficult to administer the Act so as to secure that accuracy which is necessary for the protection of the revenue, without exposing the authorities to charges of unfair, if not dishonest, discrimination. I am not disposed to enter upon an inquiry into the matter of the shot in cartridges referred to by the right honorable member. I only wish to say, regarding the distinction he drew, that the Attorney-General determined that while shot was dutiable and cartridges were free, if cartridges contained shot that was dutiable, such shot did not become divested of its dutiable character by being passed into the cartridges. My right honorable friend suggested that on the same principle if there were a duty on whisky before it was drunk, it should also be subject to duty after a man had swallowed it. The answer is that a man's digestion will pass away whisky, but a cartridge has no digestion to enable it to pass away shot. That is where the difference lies. Now I desire to refer to the case of the man Tingey, whose youth was amongst the pathetic considerations urged, not on his behalf, but against the Government. Tingey is a quartermaster

employed upon a mail steamer, and I need only remark that the shipping companies do not usually appoint boys as quartermasters. There is a constant practice which compels much vigilance on the part of the Customs officials. I refer to that habit which prevails—it may be innocently sometimes—amongst people who come off ships in the harbors of bringing parcels with them. It may be, in some instances, that a present is brought ashore with instructions to have it passed on, say, to New Zealand, as in the case under notice. Again, we have many cases of men who are charged with receiving uncustomed goods, and who say that they do not know the people from whom they received them. What happened in the case under notice was this: A strict watch having to be kept, a police constable saw the young man Tingey—we call him young in order to satisfy honorable members opposite—coming ashore with a suspicious-looking parcel under his arm. He was taken by the constable to the Customs officer on the wharf, and the parcel on being opened was found to contain some silk, braid, linen and other dutiable articles, of the value altogether of about £5. To the eternal condemnation of the Government, there was also a Bible. That, of course, ought to have consigned the Government to everlasting perdition. The Customs officer, finding that the goods were dutiable, acted as he would in any other case. He laid a charge against the “young” man, the charge was investigated, and the minimum penalty was inflicted, the goods being forfeited. On the morning of the day on which I spoke in Sydney, Senator Pulsford, through a letter in the newspapers, challenged me to make some reference to this case. I sent for the Collector of Customs,—there being no Minister connected with the Customs then in Sydney—and I read the papers. I saw that this young man was liable to prosecution for the offence of bringing ashore—not actually smuggling—dutiable articles without making any declaration, and that, of course, he had been rightly prosecuted within the law. I was of opinion, however, that it would have been better not to lock him up pending the hearing of the charge, as the officials did. I am sorry that they did so, but of course the Ministry have to bear whatever burden attaches to their action in that connexion. As they knew that the young man had come off a mail ship, it would have

been better to have summoned instead of arresting him upon discovering that the package contained dutiable articles. Therefore, I said that the goods should be returned to him, and not forfeited, and that the penalty should be reduced by at least 80 per cent. At that time I had seen only a portion of the Customs papers relating to the case, but they were enough for the purpose. It is my principle in matters of this kind—as, indeed, it would be that of any Premier who values assistance from his colleagues—to refer them to the department to which they properly belong, and I therefore intended to communicate with the gentleman who was administering the Customs department upon my return to Melbourne. Unfortunately, owing to the delay of a day or two, the Treasurer, who, with sublime confidence in his leader, had not read my speech in Sydney, had, in the meantime, directed that the parcel should be returned—thereby revoking its forfeiture—but had declined to remit the fine. However, I had formed the opinion that it would be right to remit four-fifths of the fine, and as the Treasurer's instruction was given in opposition to what was on my part a virtual promise, I will see that the latter is given effect to, and I have no doubt that the Minister for Trade and Customs will cheerfully acquiesce in carrying out my direction. Of course, cases will sometimes occur in which officers exhibit a little over-zeal. These cases cannot be avoided. They occur in every port in the world, and under every Customs law in the world. Sometimes there are cases of remissness, and sometimes of over-zeal. This may have been a case of over-zeal, but inasmuch as the action of the officers who took part in it was a natural one, I do not think that any punishment should be awarded them. They erred in an honest endeavour to prevent the petty evasion of Customs which is rampant in every port in the world. So far as the case was before them, the young man was treated only in the ordinary way. They had before them facts which led them to believe that the Customs were being deliberately deceived, and consequently I can make an allowance for their action in having the young man locked up over-night. I admit that it would have been fairer to have summoned him instead of arresting him, but I cannot find it in me to pass any harsh criticism upon the officers for the part which they played. Therefore I take

the whole of the responsibility for their action although I was not present. These are the whole of the facts connected with the arrest of this young man Tingey. Those who desire to attack the Government upon petty matters are so eager in the hunt that while they have been spending months, perhaps years, in attempting to show that my right honorable friend the Minister for Trade and Customs is making a dead set at the well-to-do importers, the moment they can make a charge against the Government they assert that the directions of the Minister had brought a poor young quartermaster to grief. In the case referred to the offender was a poor man, but they are so hot in their desire to pull my colleague down for what he does to men of much more substance and means, that they forget he draws no distinction between rich and poor, and that when a poor man brings himself under suspicion it is equally incumbent upon him to clear the matter up. I think I can leave that case at the point to which I have brought it. Now, I wish to utter a word of hearty commendation of my right honorable friend for having, after giving his close consideration to the naval agreement, come to the conclusion that it deserves to be passed by this House. Time is running on, and I have no desire to detain the House till a late hour. It is not my purpose to make a speech in defence of that agreement to-night. It was arrived at after long and careful consideration as the best that could be made under the circumstances, having regard to our position financially and otherwise. It is of a temporary character only, and may be terminated at the expiration of ten years, when the financial conditions of the Commonwealth will be vastly different from what they are to-day, and when certain provisions in our Constitution will have ceased to exist. The whole field will then be open for the adoption of any policy which the Commonwealth finds itself strong enough to undertake. In the meantime, if no other consideration prevails, I am convinced that under the present constitutional limitations, our financial resources will not allow us to obtain any such adequate defence as is proposed. When I reflect that there are few, if any, in this House who would wish to sever our connexion with the Empire, while it continues and while our financial and other conditions remain as they are, I think that this agreement embodies a reasonable adjustment of

the relations between us and the old country in the matter. I am not one of those who believe that we should pay exactly the same proportion to naval and military defence as do our countrymen at the other end of the world. There are conditions surrounding us in our development, and conditions consequent upon the numerous functions of government that we undertake, which place us in a totally different position from that of countries where much is carried out by private enterprise. These things render us unable to contribute as much as do our countrymen at the other end of the world. But I would point out that the cost to the Commonwealth of the existing naval agreement is only about 6d. per head. If the proposed agreement be carried, our contribution will be a little less than double that sum. In other words, there will be an addition of less than 6d. per head. The £106,000 which we already contribute represents a little over 6d. per head, and the proposed addition of £94,000 represents a little under 6d. per head, so that the total cost will be about 1s. per head. When we compare that with the burden which rests upon our countrymen in the United Kingdom and other parts of the Empire, it will be recognised that whatever objections can be urged against the agreement, from the point of view of principle—and upon that I hope we shall have a good debate—the objection as to cost will not hold water.

Mr. CROUCH.—Has not Canada the same financial difficulties, and has she not refused to join in the agreement?

Sir EDMUND BARTON.—Canada has many similar financial difficulties. I am not here to criticise the policy of Canada, although it may be said for that possession that it is more contiguous to the scene of operations in past warfare, while we are nearer the scene of operations which may be expected in future warfare. There is, therefore, not much to choose between the positions of the two countries. I could, however, wish for myself that Canada would recognise some responsibility in the matter of naval defence, and it is my honest belief that she will do so. I have very little to say to-night on the question of preferential trade, mainly because the interruptions to which I have been good-humouredly subject have spun out my speech to some length. I do not agree with the leader of the Opposition that,

because it is not possible to deal with the question this session, our disagreement for the time being is somewhat academical. But I do believe that the time has come, or is rapidly coming, when the Empire will have to consider whether its cohesion will not be promoted by trade arrangements which, as between the goods of our countrymen of the Empire and the goods of foreigners, will give the preference to the goods of our own kith and kin. I am not affected by vague threats of retaliation, or by that dread of retaliation which some public men express. The leader of the Opposition objects to the intrusion of the passions into this question. I have no desire to see that intrusion, but I say that the Empire was never made by too much concession to the views and opinions of those who already do their best against us, and it will never be held together by too much fright. It was not by any cowardice that Britons won the Empire, of which we have helped to win our share. It will not be by cowardice or fear of the opinions of others that the Empire will be held together. It is not only, though largely, the interests of the component parts, but the interests of the Empire as a whole, which we are bound to consider in the future unless we mean to leave the Empire. If we do not mean to leave the Empire, the general and common interest must not be ignored. That need not prevent us looking after our own interests. It may be a moot question for this part of the Empire or another whether preference should be given by reducing the Tariff in favour of Great Britain, or by increasing it as against the foreigner, while leaving the duties as they stand to operate in reference to the mother country. This is a matter affected not only by considerations of policy, but is also affected by considerations of revenue. So far as I can see, considering the position of the States as they stand under federation, it would be more possible for us, while doing our duty to our own country, to give a preference by raising the duties against the foreigner, while not raising them against our own kith and kin, than by the converse process. But it must always be recollected that these questions are entirely relative. If a country has an average 10 per cent. set of duties, and it is considered that the financial needs of that country are no more than met, she can increase her duties by 5 per cent. That

would be called an increase of 50 per cent., but nevertheless the duty is only one of 15 per cent. In the same way another country may have 30 per cent. duties and reduce them to 20 per cent., showing a decrease of 33 per cent. It will be seen that all these matters are wholly and solely relative. We may turn a 15 per cent. duty into a 20 per cent. duty, or *vice versa*, and so long as the proportion is the same it does not matter whether we call the basis on which we operate free-trade or protection. It is better to keep the words "free-trade" and "protection" out of connexion with this matter, for the reason that the cohesion of the Empire is a question far away and beyond that of any fiscal theory. I do not think there is any free-trader in the country, or at any rate in this House, who would rather sacrifice the Empire than sacrifice free-trade, or run any danger of sacrificing the Empire. I do not think that at a pinch there is a protectionist who would not say that the safety and cohesion of the Empire are above all considerations of fiscal policy. But we have to work in accordance with existing conditions. Our first duty is to our own people—to raise the requisite revenue, and if possible to see that our people obtain reasonable opportunities of employment. When we have done that we can take into consideration the question of preferential trade. If the day arrives soon—I shall be very glad to see it, because I think that common action on the part of the various divisions of the Empire in this direction might possibly be come to without too severe a battle between fiscal theories—and if the necessities of the Empire require it, we shall be gratified and delighted to see that consummation. If it is not possible to do this by agreement, those who are for Imperial cohesion will sooner or later have to do it in spite of disagreement. The strongest Minister that England has, perhaps, seen in recent years is of opinion that it is a higher consideration for people to have money to pay for what they want than to see goods cheapening day by day and find them further from their reach when they are cheapest. That is an utterance coming from a free-trade source. I do not profess to give the words with extreme accuracy, but that is at any rate their meaning; and when an opinion of that kind is expressed from a free-trade

source, it is premature to judge the statesman who makes it as having joined the ranks of the protectionists. I do not profess to say that the Minister has joined the protectionists, but at any rate the utterance gives reason for hope that in considering this Imperial problem some common ground of platform may be come to whereon, even at the expense of some of the academical opinions we have expressed in speeches, we may do that which would help us to remain "one and indivisible."

Mr. FISHER.—That Imperial Minister's chief said the very opposite at the conference.

Sir EDMUND BARTON.—I do not think that the Minister's chief did say the very opposite. If the two utterances are carefully considered, it will be found, I think, that they are not in disagreement. If two Ministers like Mr. Balfour and Mr. Chamberlain were in entire and irreconcilable disagreement on a question of this kind, it would not be in accordance with British practice for them to remain in the same Cabinet. Finally, I would ask honorable members in regard to the Naval Agreement to which I have alluded, to be kind enough not to make up their minds until they have heard the whole of the facts. The leader of the Opposition was not at first entirely inclined to adopt the agreement, and it is only on closer consideration and with a fuller acquaintance with the facts which surround it, that he has come to the opinion, that under our conditions, it is the best agreement we can adopt. I ask honorable members to wait until the agreement is explained, and all the facts and circumstances are before them. If they will do so, I have every confidence that the agreement will be adopted. I have to thank honorable members for the kindly patience which has allowed me to reach the end of my speech, after the subsidence of the little storm of interruption which went on for some time. I cannot but feel that although the pungency and iteration with which the leader of the Opposition adverted to some topics called on me to make some answer, there has not to-night been any serious attack made on the position of the Government. I cannot think that the attack, such as it is, comes from a gentleman who sees that he has ground on which to displace the Government.

Mr. REID.—I do not want to do so at present.

Sir EDMUND BARTON.—Then I cannot congratulate the right honorable member on his consistency, because I do not think that until the present moment there was ever a time when he did not want to put out the Government to which he was in opposition. The right honorable member has stated in many speeches which I have not quoted that the Opposition would do their best to oust the Government; but, if he has lost that desire, then we may hope he is in the happy position of a convert. That position would be only consistent on the right honorable member's part, because it would in his speech to-night be "Yes" for the Government staying in, while in his speeches outside it is "No."

Mr. REID.—I will try to put the Government out at the general election, which is the proper time.

Sir EDMUND BARTON.—There is an old saying, which, although it may be brought from the nursery for the occasion, is none the less a truth—"Strong words off weak stomachs."

Mr. REID.—I have a pretty strong stomach.

Sir EDMUND BARTON.—I allow that to be so, in regard to some of the things which the right honorable member swallows, mainly opinions. I have been labouring under some disadvantage, because I feel that, notwithstanding the many interruptions—which have caused me to take a longer time than I intended—I have no real and serious attack to which to reply. And so long as the causes of discontent with the Government can be summed up in such a speech as we have had from the leader of the Opposition, I may conclude that the Government retains the confidence of the House.

Debate (on motion by Sir EDWARD BRADDON) adjourned.

SPECIAL ADJOURNMENT.

Resolved (on motion by Sir EDMUND BARTON)—

That the House at its rising adjourn until tomorrow at half-past two o'clock.

ADJOURNMENT.

STANDING ORDERS.

Motion (by Sir EDMUND BARTON) proposed—

That the House do now adjourn.

Mr. REID (East Sydney).—I wish to suggest to the Government that if we

could manage in some way or other, without occupying too much time, to pass our permanent standing orders, it would be of great advantage to do so. I have seen the proposed standing orders, and they do not appear to contain a large number of debatable subjects. I do not suggest that their consideration should take the place of pressing business, but if I can co-operate with the Government in passing them through with a minimum consumption of time I shall be willing to do so, because I think it would be a proper thing to pass them. We might devote a Friday or two to their consideration.

Sir EDMUND BARTON (Hunter—Minister for External Affairs).—*In reply.* I shall, of course, give consideration to a suggestion made by the right honorable gentleman in so friendly a manner; but, having compared the provisional standing orders with those passed by the Standing Orders Committee, I must say that the points of difference do not seem so many or so great as to justify us at the present stage in occupying time by their discussion, and a conversation which I had on the subject with Mr. Speaker this morning left me with no other impression.

Mr. REID.—Were the standing orders by which we are now governed passed by the House?

Sir EDMUND BARTON.—Yes.

Question resolved in the affirmative.

House adjourned at 10.45 p.m.

Senate.

Wednesday, 27 May, 1903.

The PRESIDENT took the chair at 2.30 p.m., and read prayers.

PETITION.

Senator DOBSON presented a petition from the Hobart Public House Trust Association, praying the Senate to legislate so as to eliminate private profit from the liquor traffic.

Petition received and read.

PAPERS.

Senator DRAKE laid upon the table the following papers:—

Resolutions agreed to at a Conference of Premiers at Sydney.

Papers relating to admission of certain boiler-makers into Western Australia.

Papers relating to admission of certain Maories into New South Wales.

Papers relating to arrival of six hatters under contract.

Ordered to be printed.

Return under the Immigration Restriction Act.

Regulations under the Public Service Act.

The PRESIDENT laid upon the table the following papers:—

Receipts and expenditure for year ended 30th June, 1902, with report of Auditor-General.

Receipts and expenditure for period ended 30th June, 1901, with report of Auditor-General.

IMMIGRATION RESTRICTION ACT.

Senator Lt.-Col. NEILD.—In view of the papers which the Postmaster-General has laid upon the table in relation to matters arising under the Immigration Restriction Act, is it the intention of the Government to lay upon the table such papers as exist in connexion with the refusal to permit the Sultan of Johore to land in Western Australia? They seem to be of as much consequence as the others.

Senator DRAKE.—I know of no such papers.

Senator WALKER asked the Postmaster-General, *upon notice*—

1. Is it the intention of the Government to introduce this session a Bill to amend the Immigration Restriction Act of 1901?

2. If so, is it also the intention of the Government to provide that Maoris, civilized natives of the sister colony of New Zealand, shall not be prevented from landing in Australia merely on the score of colour?

3. And in like manner, and for the same reason, is it the intention of the Government to provide that civilized aborigines of Norfolk Island, Fiji, and New Guinea shall be exempted from the restrictive provisions of the existing Act?

Senator DRAKE.—The answers to the honorable senator's questions are as follow:—

1. No.

2 and 3 answered by No. 1. No Maori has been prevented from landing.

DAYS OF MEETING.

Senator DRAKE (Queensland — Postmaster-General).—I move—

That the days of meeting of this Senate during the present session be Wednesday, Thursday, and Friday of each week, at the hour of half-past two o'clock in the afternoon of Wednesday and Thursday, and at the hour of half-past ten o'clock in the forenoon of Friday, unless otherwise ordered.

It is a copy of the resolution which was passed at the commencement of last session after discussion.

Senator DAWSON.—Is it intended to sit on Friday so as to allow private members' business to be taken?

Senator DRAKE.—Whenever it is convenient to the Senate.

Senator PEARCE (Western Australia).—This, I think, is a fitting time to raise the question of the conduct of business. It is likely to be a short session, and judging from the indications we have had of the intentions of the Government, we are to be asked to mark time while their measures are being dealt with in the other House. During that time the Senate is to sit on only three days in the week while the other House is to meet on four days in the week, and towards the close of the session I suppose we shall be asked to sit on four days, and to rush through the legislation of the other House at express speed. The only Bills to come before the Senate immediately are the Patents Bill, and the Senate Elections Bill, one being a measure of some importance and the other simply a machinery Bill. If this course is adopted we shall witness the same result in the Senate as has been so often witnessed in the Legislative Councils of the States. The Senate, which in this respect, I suppose, corresponds to the Upper House in a State, will be asked at the very last minute to assent to the legislation which has been passed by the other House. We ought to insist that some of that legislation should be initiated in the Senate, and that it should sit as often as the other House. It will not be fair in the last few weeks of the session to ask the Senate to merely assent to legislation which has been framed by the other House. It seems that if we accept the motion we shall practically have nothing more to do than to give our assent to the proposals put before the Senate by the Government. I should like to know whether the Senate is prepared to do that—to take a back seat, and sit formally on three days a week to deal with legislation of minor importance, whilst all the measures of first importance are introduced and dealt with by the other House, and the Senate in the last month of the session asked merely to give a cursory glance at that legislation, and assent to it. We heard a great deal last session about the Senate being the guardian of State rights. Every measure to be introduced

during the coming session will hinge upon the question of State rights. Yet the House which is supposed to be the guardian of State rights is to take a very secondary position in dealing with that legislation. We might have some assurance from the representative of the Government in the Senate as to what is their intention, and as to whether we are to have any of those Bills introduced here at anything like an early stage of the session, so that we may deal with them properly and not in a hurried manner. I think that we might very well meet on four days a week, and that some of the new Bills might be introduced here, so that we could, concurrently with the other House, be dealing with important legislation, instead of having to wait, as we did last session so repeatedly, to enable the other House to send us something to go on with. There is another question which involves the rights of the Senate as a house of legislature. In the ordinary course of events it is impossible for a private member to bring forward any question, because the time is occupied by Government business. On Friday it is proposed that a certain portion of the time shall be set aside for private member's business. It may be argued that a private member will occupy time in introducing debates of a literary debating society character; but we never know when a private member may introduce business of supreme importance to the people of Australia. By allowing this proposed order of business to be adopted, we are depriving ourselves as private members of the opportunity of bringing forward questions of importance. I think that we ought to insist upon the Senate sitting on the same number of days as the other House sits, and we ought also to insist on being given exactly the same opportunities as are given to the House of Representatives of dealing fully with all the legislation that the Government submits to Parliament.

Senator Lt.-Col. NEILD.—I submit as a point of order, that a general discussion at the present stage is not only outside our standing orders, but is opposed to the entire practice of Parliament, inasmuch as we are discussing business that ought not to be debated until the Address in Reply to the speech from the Throne has been dealt with. In the House of Commons the rule is that no

discussion on any topic of general business arises until after the Address in Reply has been adopted, and I believe the same course of procedure is adopted in all Colonial Parliaments. I submit that under our standing orders—to go no further—only formal business can be taken prior to dealing with the Address in Reply. I do not object to the discussion as to the number of days we should sit, but am merely submitting the point that it is only proper and in accordance with parliamentary custom that we should not discuss it until the Address in Reply has been adopted.

The PRESIDENT.—Standing Order No. 34 says—

No business beyond what is of a formal character shall be entered upon before the Address in Reply to the Governor's opening speech has been adopted.

Looking at the motion, it seemed to me to be a formal one, and I did not stop the honorable senator who spoke because his remarks were certainly relevant to the question. But I think it would be well to, as far as possible, carry out the standing order which I have quoted.

Senator BEST.—I wish to ask whether Standing Order No. 34 is in force in this Chamber at all? If I remember rightly, that was one of the eliminated standing orders.

The PRESIDENT.—I learn that that is so.

Senator DRAKE.—I certainly should not have proposed this motion if I had thought that it was going to lead to a discussion. I thought that it was the general desire of the Senate that we should adopt the practice which we followed at the commencement of the last session. The President did not put the question as to whether these motions were formal or not—I presume because it was concluded all round that they would be taken as formal.

Senator DAWSON.—The honorable and learned senator knows that the practice was unsatisfactory last session.

Senator DRAKE.—If the Senate desires to have a debate on the question I shall ask to be allowed to withdraw the motion, so that we may proceed with the discussion of the Address in Reply. But I put it to the Senate that it is desirable that this motion should be carried now, because it will enable the Senate to have a knowledge with regard to our course of business, and

will give honorable senators the advantage of knowing beforehand the days when their attendance here will be required.

Senator Sir JOSIAH SYMON (South Australia).—Whilst I very greatly agree with what my honorable friend Senator Pearce has said—and none of us can be forgetful of the inconvenience that was caused at various times during the long last session, because of the arrangement of business while we were waiting upon the other Chamber—yet I would ask him not to move an amendment now, because the motion permits of any alteration being made at any time to suit the convenience of the business of the Senate. I do not understand that Senator Pearce has any intention to move an amendment.

Senator PULSFORD (New South Wales).—I desire to point out that three days a week for the Senate ought to give us equal debating time with four days a week for the House of Representatives. Therefore I hope that the motion will be allowed to pass as it stands. At the same time it would be a convenience to the Senate if we had an assurance from Ministers that we shall not be kept idle and that we shall have Bills of importance to go on with.

Question resolved in the affirmative.

ORDER OF BUSINESS.

Resolved (on motion by Senator DRAKE)—

That on Wednesday and Thursday, during the present session, Government business take precedence of all other business on the notice-paper, except questions and formal motions, and that private business take precedence of Government business on Friday up to the dinner hour.

That the right be reserved to His Majesty's Ministers of placing Government business in the rotation in which it is to be taken.

DEPUTY PRESIDENT.

Resolved (on motion by Senator DRAKE)—

That it be a sessional order that whenever the Senate shall be informed by the Clerk at the table of the absence of the President, the Chairman of Committees shall take the chair of the Senate as Deputy-President during such absence.

GOVERNOR-GENERAL'S SPEECH : ADDRESS IN REPLY.

Senator Sir JOHN DOWNER (South Australia).—I beg to bring up the report of the committee appointed to prepare the Address in Reply to His Excellency the Governor-General's speech.

The Address in Reply was then read by the Clerk, as follows:—

TO HIS EXCELLENCY THE GOVERNOR-GENERAL—
May it please Your Excellency,—

We, the Senate of the Commonwealth of Australia, in Parliament assembled, beg to express our loyalty to our Most Gracious Sovereign, and to thank Your Excellency for the speech with which you have been pleased to address to Parliament.

Senator Sir JOHN DOWNER.—I beg to move—

That the Address in Reply be adopted.

I always feel that the mover of the Address in Reply is at a great disadvantage, because he is generally supposed to be rather friendly to the Government, and has not the latitude that those who are in a divergent position happen to enjoy. There is a certain sense of tameness in getting up simply to express agreement, when, perhaps, you would like to “contradict a wee.” I ask the hearty sympathy of all my friends on account of the situation. The Government has been very much criticised during the recess—no Government more so. With a new Constitution, new machinery, and unknown results, this was inevitable.

Senator Lt.-Col. NEILD.—And deserved.

Senator Sir JOHN DOWNER.—Oh, it is the duty of people to criticise. I do not say whether the criticism is deserved or not, but every one does his duty in keeping a very acute eye upon institutions that are new, and about the working of which no one knows very much. I claim standing here as one not agreeing with all that the Government has done by any means—

Senator GLASSEY.—But with most of it.

Senator Sir JOHN DOWNER.—Yes. I claim that they have managed during the recess magnificently, and that they have strengthened their position in the eyes of the people of Australia as compared with their position at the time when the recess was entered upon. Although there have been harshnesses—great harshnesses, in my opinion—in administration, that administration, taking it altogether, in spite of six hatters or twelve hatters, or any other number that honorable senators like to mention, has been excellent. I say again that it has been harsh at times.

Senator DAWSON.—But just.

Senator Sir JOHN DOWNER.—I will not say that. Sometimes it has seemed to me to be harsh and unjust, but it was conducted on strong lines and with certainty,

as though the Government had resolved that the only possible way was to be severe, even though they hurt their own friends in the course of their administration. The one subject that has always been discussed during the recess has been the severe administration of the Customs. There were one or two cases to my knowledge that were just about as hard as they could possibly be, in which persons who were perfectly innocent were brought up and punished. At the time it seemed to me to be very cruel and unjust, and I have not altogether altered my opinion on that subject. But at the same time there was a big area to go over. There were big questions to be considered, and above all there was the duty of treating friends and foes alike, and of maintaining the observance of the law. That, I believe, has been the honest attempt of the Government. I am perfectly sure that we should not have given the Government the power they have had if we had known that they were going to exercise it as they have done. But although we should not have given them the power, it does not follow that they have not exercised it well, and that we did not do better than we knew. That is practically my opinion about the whole matter. I think the law has been administered admirably, and in a way that has commended itself to the people of Australia and made the Government infinitely stronger.

Senator Sir WILLIAM ZEAL.—Does the honorable and learned senator believe that? I do not.

Senator Sir JOHN DOWNER.—When we speak about the opinion of the people, we must remember, of course, that the people always like some other fellow to be punished. The Minister says—“I have put down fraud, and done this and that,” and we know that to be the case. At the same time, although there may have been an occasional injustice here and there—

Senator Lt.-Col. GOULD.—Occasional?

Senator Sir JOHN DOWNER.—Yes.

Senator Lt.-Col. GOULD.—Frequent.

Senator Sir JOHN DOWNER.—Although there may have been an occasional injustice here and there, I think the people of Australia generally say that there has been a stern, inflexible resolve to carry out the law, and that it has not been so badly carried out, having regard to the whole. In instances, however, injustices may have occurred.

Senator MCGREGOR.—They fixed up all that they caught.

Senator Sir JOHN DOWNER.—Yes. This question of administration is the principal one. I do not propose to deal with little incidents like that of the six hatters, and of the Maories, who, it seems, were not kept out of Australia, although I suppose my honorable friends from New South Wales vehemently declare, or at least suspect that they were prohibited in some way or other.

Senator PEARCE.—Then there is the case of the Sultan of Johore, who was not kept out.

Senator Sir JOHN DOWNER.—I do not even propose to refer to the case of the Sultan of Johore, who, I think, was not subjected to much inconvenience. He spoke to me about the matter, and he did not complain. His grievances were published in the newspaper, but in conversation with me he made no complaint, although we discussed some very private matters. The great subject of discussion during the recess has been this question of Customs administration. We have had many opportunities of seeing what was done, and how it worked. We have also had to recognise that we have a responsibility for the legislation we passed, and after thinking the matter over very carefully my conclusion is that the work has been very well done, and that the action of the Government in the administration of Customs affairs has been very excellent. I do not propose to make any further reference to that matter. We know, of course, of the visit paid to England by the Prime Minister; and we know of the work that was done there, resulting in the naval agreement which has been the subject of very great discussion throughout Australia. That the Prime Minister maintained the dignity of Australia when in Great Britain we all know. We know, too, that he appealed not only to the intellect, but to the hearts of the people there. I firmly believe that his work was excellent, and that the naval agreement is a most commendable arrangement.

Senator DAWSON.—Not for Australia.

Senator Sir JOHN DOWNER.—I am simply expressing my own opinion, and I repeat that the naval agreement is a most excellent arrangement for Australia.

Senator DAWSON.—Not a naval man in Australia agrees with the honorable and learned senator.

Senator Sir JOHN DOWNER.—We need to consider the views of naval men out of Australia as well as here, in order to arrive at an even balance of opinion. At present we have a number of ships that are quite played out—there is no doubt about that—and we pay £106,000 a year for them. The new proposal is that we shall pay £200,000 a year for many more ships of a much better class—ships which are not merely new, but which are to be kept up to date. Incidentally it is proposed that these vessels shall be training grounds for our Australian men. They are to be manned practically by Australians, and the difference in the expenditure is the difference between £106,000 and £200,000. Under the new agreement the Commonwealth will have a first-class cruiser which will probably be of about 12,000 tons, with a speed of 21 knots; two second-class cruisers, of about 5,800 tons each, with a speed of 21 knots; four third-class cruisers, of about 2,200 tons each, with a speed of 20 knots; and four sloops, of about 1,070 tons each, possessing a speed of 13 knots. These ships are to be of modern type, and are to be kept so. That is a very important point. The armament of the ships to be provided will be immensely superior to that of the ships at present on this station, and the guns are to be of a much heavier and more modern type than those of the existing squadron. The agreement does not mean that this is all which the Imperial Government is to do. It sets forth what they undertake to do, but they will have to provide more assistance if that assistance is required. In addition to the provisions I have mentioned, three ships are to be kept as drill-ships, and used for training a Royal Naval Reserve. One of the second-class cruisers is to be manned exclusively, if possible, by Australians and New Zealanders; and the Royal Naval Reserve, which I have mentioned, is to consist of 25 officers and 700 men. The agreement speaks for itself. Under it employment will be given to a number of Australians in the following ways :—

(a) As crew of the second-class cruiser. This will absorb about 470 to 500 men in permanent employment.

(b) As permanent crews of the three other vessels, used as drill ships, which will require about 350 men altogether (these men will be paid at special rates).

(c) In the Royal Naval Reserve 725 men, as mentioned above.

What possible complaint can there be in regard to the agreement? That is a question which has puzzled me for a long time. It seems to me that it is a most admirable arrangement—entirely the species of agreement that we require. Of course the fleet will have to be under the Admiralty. There must be one head; there cannot be many. But the fleet proposed is one that will meet the growing requirements and importance of Australia, and the agreement which has been made is a most liberal one on the part of the Imperial Government, and one which we all ought to affirm. I was somewhat puzzled at first by a statement published in to-day's issue of the *Argus*, that it is proposed to keep some of the old ships on the station. That at first sight appears to be inconsistent with the agreement. As a matter of fact, however, it is not, because these vessels are to be retained to do duty as drill ships, and they are quite suitable for that purpose.

Senator PEARCE.—The complaint is that the vessels of the fleet can be taken away at any time.

Senator Sir JOHN DOWNER.—That is inevitable, and would have been inevitable under any circumstances. As long as we are under the Imperial Government, the Imperial power must be exercisable when it is necessary. But, whilst the Imperial authorities will be in a position to take these vessels away at any time, we know that we impose upon them the duty of sending other ships to us at any time. We expect them to do far more than is provided for in the agreement. They undertake to defend us, and we say to them—"We are prepared to give you this assistance." On the other hand, they say—"We require the use of these ships if necessary; but we undertake to send you ever so many more if the necessity arises, so that your defence will be assured." The two things must be co-relative, and to my mind the agreement is an exceedingly fair one. I notice that a paragraph in His Excellency the Governor-General's speech promises a Bill to provide for the amicable settlement of industrial disputes. I admit frankly that that is not a class of legislation which has ever recommended itself very strongly to me. There is a man in Victoria at present holding the office of Premier of the State who has managed to settle an industrial dispute in a most amicable way. Every one praises him, and every one asserts that there would not have been any dispute at

all had he been in charge of the department concerned. He never gave in. If we could manage to manufacture a few men of that class and discrimination, we might be able to dispense with beads of conciliation, and allow people to make their own bargains. However, we have not yet seen the Bill referred to.

Senator GLASSEY.—The honorable and learned senator prefers a Donnybrook state of affairs to a condition of peace.

Senator Sir JOHN DOWNER.—I like peace. But what I understand by this term of "amicable settlement" is that it is proposed to make a man do what he does not want to do. That is not quite my view of the term. An amicable settlement is a settlement obtained in a court of law by forced process.

Senator DAWSON.—What is a court of arbitration?

Senator Sir JOHN DOWNER.—Just the same.

Senator DAWSON.—Then why object?

Senator Sir JOHN DOWNER.—If there were better administration, I do not think there would be any necessity for us to bother about these laws for the settlement of industrial disputes. I do not think that they will work well; but I do not condemn the proposed Bill, because I have not yet seen its provisions. I await the measure with anticipation.

Senator CHARLESTON.—It will be similar to the one which the honorable and learned senator passed in South Australia.

Senator PLAYFORD.—The honorable and learned senator opposed it.

Senator Sir JOHN DOWNER.—I opposed it to the best of my ability; let there be no mistake about that. Many subjects are dealt with in His Excellency the Governor-General's speech, first among them being the establishment of the High Court, while next in importance I put the proposal to create an Inter-State Commission. Both are essential necessities of the Constitution, and essential necessities of the Constitution to a greater extent in the case of the Senate than in the case of the House of Representatives. So far as the High Court is concerned, these are things which we have had many opportunities of seeing that the Senate required. I thought the Government were to be reproached for not having dealt with this subject at an earlier stage, and that it

was not a fair thing to leave the Constitution in a defective condition, which those who passed it intended should not exist. But, on consideration, I think that, although the Government did not know they were doing well, they really did well in postponing it, because there was undoubtedly a strong feeling that immense expenditure was going on, that this and that body were being established, and that really there was no necessity for the High Court at all.

Senator Sir WILLIAM ZEAL.—There is that feeling still.

Senator Sir JOHN DOWNER.—That was a strong feeling; and the result of the delay has been to enable the public to know and to declare universally that the High Court is an absolute necessity, and that the Constitution cannot be carried on without it. There is no doubt that throughout Australia the feeling originally was not very favorable to the High Court—people always hate Judges and lawyers—but that feeling is gone, and people now recognise the absolute necessity of establishing this tribunal, without which the Constitution cannot work nor exist. So I forgive the Government for not having introduced the Bill before. I think the delay has turned out well, because I am sure there is now a strong public feeling in its favour.

Senator Sir JOSIAH SYMON.—They did introduce it.

Senator Sir JOHN DOWNER.—Only nominally, as the honorable and learned senator knows. I think that public feeling in favour of the measure will become infinitely stronger as time goes on and the necessity for it has been proved. I do not propose to go into the question of the acquisition of New Guinea, or to take up more time. In my opinion, the Ministry behaved admirably in recess; they have retained the confidence of the people, and the legislation they propose, or some of it, at all events, is excellent. I mean to wait until I see certain of the measures which are mentioned in this speech before expressing an opinion upon them, and, meanwhile, I very cordially move the adoption of the Address in Reply.

Senator Lt.-Col. CAMERON (Tasmania).—I have the honour to second the motion for the adoption of the proposed Address in Reply. I am glad to find that the Ministry intend to place the High Court Bill before us as their first measure, for until the High

Court of Judicature is established the structure of the Commonwealth will be incomplete. Although at one time I considered the expense in connexion therewith unnecessary, and that delay might very well take place, I am now convinced of the need for the High Court, in order that the objects for which the Commonwealth was founded may be fulfilled. Reference is made in His Excellency the Governor-General's speech to the selection of the area for the seat of government. I consider that is a matter which should be decided, in order that the good faith of the Commonwealth may be maintained towards New South Wales; but I am strongly opposed to starting building operations until the Commonwealth is in a financial position to warrant the expenditure. The third matter I shall touch upon in seconding the Address in Reply is the proposed measure for the establishment of Courts of Conciliation and Arbitration. In view of the suffering inflicted upon women and children by reasons of strikes—

Senator PEARCE.—And lock-outs.

Senator Lt.-Col. CAMERON.—And the dislocation of business fatal to the poorer classes, and in view also of the necessity for preventing if possible the bad after-effects of strikes, I shall welcome the establishment of Courts of Conciliation and Arbitration. I now come to the agreement entered into with the Admiralty. I have not had an opportunity of reading that document, but it is really with the principle of the agreement that I purpose to deal. We must view this matter dispassionately, and endeavour to keep before us the facts which have to be considered. First of all, we find that the old colonial policy of making payment for naval protection is being continued. Secondly, we find that, in consequence, we are not proposing to establish or encourage a local seafaring spirit. Thirdly, the Commonwealth has now external duties and responsibilities, and we learn from the speech with which we have been honoured that the Commonwealth is about to increase those responsibilities by the acquisition of British New Guinea. It has been urged that in this agreement we are making an excellent bargain. But I ask, can a bargain be a good one that strikes at the foundation of national life, and by that I mean the responsibilities of undertaking our own defence? It seems to me that we are trifling with our position if we fail to realize that trouble may happen in connexion

with some of our external territory. Is the Commonwealth of Australia, may I ask, in such a case to seek for Imperial assistance when we have assumed the responsibilities of government? We stand upon the threshold of a great future, but that future depends upon ourselves. It depends upon our maintaining the characteristics of the British race, and the greatest of those characteristics has ever been self-reliance. I consider that now is the moment for laying down a broad national policy of defence, so that not only the naval, but the military defence of the Commonwealth may be steadily and efficiently built up. I have purposely avoided discussing what may arise in case of war, but this I shall say, that Australians will be proud to serve either on sea or land whenever the Empire is threatened. I give my adherence to the Ministry for the purpose of ratifying this agreement which has been entered into by the Prime Minister of the Commonwealth with the Admiralty on the distinct understanding that the Commonwealth is never to be pledged again without the assent of Parliament having been first accorded.

Senator GLASSEY.—Parliament has to approve this time.

Senator Lt.-Col. CAMERON.—Quite so. But our faith has been pledged by the action of the Prime Minister.

Senator Sir JOSIAH SYMON.—No, no.

Senator Lt.-Col. CAMERON.—Honorable senators may say so. I quite understand that the position is that the ratification of the agreement is subject to the approval of Parliament, but hopes have been built upon the consent which has been given.

Senator PEARCE.—The Prime Minister was given to understand that.

Senator Lt.-Col. CAMERON.—The right honorable gentleman may have been given to understand that, but I hope that no Australian community will be found willing to repudiate the action of our first Minister.

Senator FRASER.—If it is a wise one.

Senator Lt.-Col. CAMERON.—I have little more to add. I shall wait and reserve my opinion and action upon the various Bills which are to be brought before us. I may say now, that I most thoroughly and cordially approve of the action of the Ministry in their

endeavours to administer without partiality, favour, or affection, the laws which we have passed, although I have personally disagreed with some of them. I must congratulate them also upon the endeavour which they are making to try to improve the service between the State of Tasmania and the mainland. I hope they will not procrastinate in this matter, because it is one of vital importance to the community of Tasmania as well as to the people of the mainland. With these few words I beg to second the motion.

Senator Sir JOSIAH SYMON (South Australia).—This Senate yesterday paid its tribute to the memory and public services of our lamented friend, Senator Sir Frederick Sargood. I think it will not be out of place if I now express my regret—a regret which will, I am sure, be shared by all the members of Senate—that Mr. Ewing, lately a senator for Western Australia, is not with us during this session. We knew him as an incisive and vigorous debater, and if his attendance in the Senate was such that we did not know him as continuously and as frequently as we should have liked, it was owing to circumstances, and not to any lack of interest on his part in the high duties which he had undertaken to perform as a senator—circumstances which probably honorable senators will feel have led to his retirement. I feel personal regret, because Mr. Ewing sat on this side of the House, and always took a very deep interest in all that went on in this Chamber. I congratulate my two honorable friends upon their addresses. Remembering that in Senator Downer we have an old parliamentary hand, we could scarcely have expected less from him than the effort he made in proposing the adoption of the address in reply. However difficult the task may be, he showed us how it is possible to seem to agree when one would very much rather contradict. It has often happened that we are called to curse and we remain to bless, or we are called to bless, and something happening, we remain to curse. In the Bible there was a gentleman who had some experience in that respect, but I am quite certain that no one could have performed that difficult operation with more dexterity and more infinite good humour than Senator Downer did on this occasion. I also desire to thank him for relieving me from the necessity of making any remarks upon the Customs

administration, because when he applied the terms "cruel" and "unjust" to it, although he thought the Government had done magnificently after all. I for one have no more to say. I think he sounded a very excellent note, when he said that in all probability we would not have given these powers if we had known that they were so to be used. I am quite sure that honorable senators will agree that I need offer no further remark in regard to the Customs administration. Senator Cameron has not had the parliamentary experience which we all recognise in Senator Downer, but I think that every one of us will admit that in seconding the motion he gave evidence of powers and abilities that take the place of experience, and that he infused into his observations on the points to which he called attention, a warmth and earnestness of feeling which bespeak his sincerity. Every citizen is entitled to express his views on public questions, whether they take the form of a speech from the Throne or not, so long as he does so calmly and with whatever intelligence he is able to bring to bear upon the question, and it is more incumbent on us here, even if it is distasteful or unpleasant to others, notwithstanding divergence in regard to the views of other people. This speech exhibits a characteristic which certainly is new in my experience. The prolixity of Governors' speeches has been a theme of remark for very many years. It has been a prolixity that many persons have considered to be growing. Hitherto it has been due to what I may call the natural glorification of things that have been done and to a natural diffuseness of statement as to things proposed to be done. But the speech now before the Senate devotes at least three of its longest paragraphs to matters that are not proposed to be done. That is a new experience to me, and probably in a sentence or two I may refer to these paragraphs. I suppose they are really in the nature of safety valves or blow-holes—perfectly innocent things; but they are of some value in this respect, that they refer to matters which might have been the subject of statements of policy, or at any rate indications of what might have been.

A number of other important measures are in preparation. Among these is a Bill to provide a uniform navigation and shipping law. This measure, however, is unnecessarily long and complicated.

There is another matter mentioned to which I shall refer in a minute, but this goes on—

My Advisers will gladly take advantage of any opportunity which may offer of bringing these subjects before you, but they are not sanguine of being able to do so in the course of this session.

Would it not have been just as well to have told us that they had no intention of introducing this uniform Navigation and Shipping Bill, or the other measure relating to the taking over of the State debts.

Senator DAWSON.—Surely it is permissible to state a reason why.

Senator Sir JOSIAH SYMON.—I do not object to the reason why if they will tell us what it is all about.

Senator DAWSON.—Because there is no chance of passing the Bills. One of them contains 700 clauses.

Senator Sir JOSIAH SYMON.—We may then well congratulate ourselves upon being spared that infliction. I should have liked to have some indication of what the policy in regard to this uniform navigation and shipping law is likely to be. My impression is that, during the conference in England, some resolution was arrived at by the Premiers, and with the concurrence, I suppose, of the Secretary of State for the Colonies that there should be some policy offered to protect the coastal trade—in fact, for the matter of that, the whole shipping trade of the Empire—from unfair foreign competition; that it was desired that foreign States should be baulked in their attempts to make inroads upon the shipping industries of the British Empire in cases at any rate where they were heavily subsidized. That was the proposal, but at this end of the world we have always understood—at least, I understood—that the policy of the Ministry, if we are to take their expressions from time to time, was not only to cover foreign shipping, but to bring the P. and O. and the Orient Steamship Companies and other British-owned lines, as we are talking of shipping, into the same boat.

Senator HIGGS.—Why not?

Senator Sir JOSIAH SYMON.—My honorable friend need not ask me why not. Let him ask the Prime Minister, who assented to an Inter-Imperial policy extending only to foreign shipping. What I wish to know is whether this most favoured treatment is to be extended to the companies I named or similar British companies which are trading along the coast of Australia.

Senator PLAYFORD.—As we are not going to consider the subject this session, what is the use of discussing it?

Senator Sir JOSIAH SYMON.—My honorable friend forgets that we have these two beautiful paragraphs in the speech, and the public wish to know for their guidance what is this uniform Navigation and Shipping Bill which we may have brought before us, although naturally enough Ministers are not sanguine that it can be dealt with.

Senator Sir JOHN DOWNER.—They have to find out what that is, too.

Senator Sir JOSIAH SYMON.—I do not know whether that is an authoritative statement.

Senator Sir JOHN DOWNER.—No.

Senator Sir JOSIAH SYMON.—But I should say it is true that they do not know what they are going to do, and although these Bills are in preparation, the whole thing is really moonshine, and it would have been very much better if it had been eliminated from the speech. So also, in regard to the taking over of the State debts, I do not know what the policy is. Perhaps they are still thinking that out, as Senator Downer says.

Senator Sir JOHN DOWNER. — Do not attribute knowledge to me.

Senator Sir JOSIAH SYMON.—I am not saying this in the way of complaint. I thought the honorable and learned senator was in the inner secrets of this matter.

Senator Sir JOHN DOWNER.—Not altogether.

Senator Sir JOSIAH SYMON.—My honorable and learned friend is over the threshold, anyway. As to the question of taking over the State debts, I think that requires a great deal of calm and quiet consideration. I hope I am not introducing any feeling into the discussion. I wish to address myself to the question without any partisanship, but at the same time I wish to make known my views on this and several other subjects. I take this opportunity of saying how thoroughly I agree with some remarks made by the Attorney-General with reference to a proposal emanating from a recent conference of the State Premiers. No one can contemplate the thing for an instant without seeing how ridiculous a wide and unconditional proposal to take over the State debts would be. The public debts of the States

amount to £215,000,000, and if the Commonwealth, without some such precautions as those to which the Attorney-General alluded, were to agree to take over those State debts, what a magnificent thing—magnificently bad thing I should say—it would be for the States. They would start further borrowing to run up another debt of £215,000,000 with a clean sheet, and if these expressions indicate, as I think they do, their views on the subject, the Commonwealth Government are doing a right and patriotic thing in letting it be clearly understood that, before any proposal of the kind is even considered, it must be accompanied by some sort of understanding or condition with regard to future borrowing—with regard to what the States are to do when their emancipation from debt takes place.

Senator GLASSEY.—Surely they would never take over the debts without taking over corresponding assets?

Senator Sir JOSIAH SYMON.—I do not know what they would not do, and I do not know what the States would like them to do; but if that is to be regarded as one of the causes of offence between the Commonwealth and the States, then I am all for the Commonwealth, and I am all for the Ministry that takes an attitude which is one, not only for the protection of the credit of the Commonwealth, but also for the protection of the States against themselves. The next paragraph, in regard to the transcontinental railway, is a very long one. I am glad that it appears in the speech. In the first place, it indicates a less vigorous pronouncement on that subject than the speech with which the first session of this Parliament was opened, and, in the second place, it contains this statement—

They are, however, of opinion that the isolation of Western Australia retards the development of the federal spirit.

I say nothing on that point, but I do say that at the present moment, at any rate, a proposal for the construction of that railway will put a very severe strain on the federal spirit of the State from which I come. That is all. I do not mean to enlarge upon these things, but the matter occupies a very long paragraph in the Governor-General's speech. I do not complain of it at all, because it will be a salve to one of the Ministers, who is no doubt deeply interested in this question.

Senator DAWSON.—The leader of the Opposition wants to build a railway at once, without consulting the engineers.

Senator Sir JOSIAH SYMON.—Perhaps he knows all about it, and that it will be a success. That is more than I know. But I am not responsible for his determination of a great engineering question. Then I take exception to the next sentence, simply to show that at any rate it does not express my view—

It is admittedly desirable to remove so serious a bar to the complete political and commercial union of the Commonwealth.

There are united in that sentence two things which are considerably different. The political union is one thing. The commercial union is another. I do not profess to be an expert in this matter, and do not profess to have full information as to the commercial aspect of it. But so far as I have been able to ascertain, I can see nothing which will render this railway a means of improving much less making complete the commercial union between Western Australia and the eastern States. It may have a political aspect; and I confess that I should like to see all the States within this union linked by railways. That is an expression of what may perhaps be called "a pious hope." But there are other considerations to be taken into account, and I think it right at this moment, without expressing a final opinion one way or the other, to say this at any rate: that so far as I am able to gauge public opinion, it is not favorably viewed in the State of South Australia. The next paragraph to which I should like to call attention is that in which it is said—

The Imperial Conference held during the past year in London may be expected to be far-reaching in its results.

I have seen nothing to justify that. I rather agree with the views of the Prime Minister of Canada, Sir Wilfred Laurier, who at the conference exhibited a great deal of caution and of unwillingness to be drawn by various resolutions into what he described, with great force and eloquence, as the "vortex of militarism." But it is a good thing, it seems to me, that there should be these conferences. With regard to the naval agreement, which forms the subject for another paragraph, I shall offer one or two remarks later on. In the meantime, I may say that I agree with the view which my honorable

friend, Senator Cameron, has expressed upon this subject, although I do not quite see, with him, that the logical conclusion of his views was to support the confirmation of the agreement. This particular paragraph proceeds—

Other matters of great importance to the Commonwealth were discussed, and the conclusions of the conference will be laid before you. The urgency, however, of questions of domestic importance prevents Ministers from asking you to give immediate consideration to the question of preferential trade—

That is a happy relief—

and to other subjects dealt with in the resolutions.

Then comes what appears to me to be really the most extraordinary paragraph of all—at least the most unusual. It is that in which we, a self-governing Commonwealth, are devoting a paragraph in the Vice-regal Speech from the Throne to a commendation of what I cannot regard otherwise than as an electioneering speech by the Secretary of State for the Colonies. The paragraph is this—

My Advisers observe with gratification recent utterances of the Secretary of State for the Colonies advocating the encouragement of trade relations between various parts of the Empire.

In the first place we have not got those utterances about which we are to express this gratification. We have only got a telegraphic summary of them. I take it that that fact first of all ought to discount our going into this reference to the speech of the Secretary of State for the Colonies. In the next place the paragraph is to be discounted by the fact—the notorious fact—that the Unionist Government in England is at present suffering a kind of eclipse. We know quite well that ever since the Venezuelan trouble, and the negotiations which became known in connexion with the Baghdad railway, which was—if I may use the expression—to be "bossed" by German capitalists, the growing fear has been manifested in various ways that every vote given to the existing Unionist Government in England is a vote given to the German Emperor; in point of fact, that the key to the foreign policy of England has been handed over to the safe keeping of Berlin. The result has been, of course, that there has been a great deal of feeling on the subject.

Senator BEST.—Mr. Chamberlain's pronouncements are not in that direction by any means.

Senator Sir JOSIAH SYMON.—In which direction ?

Senator BEST.—In favour of Berlin.

Senator Sir JOSIAH SYMON.—My honorable and learned friend is quite right. Finding that state of things existing, to keep up the falling fortunes of his Government, which were influenced by this state of feeling in regard to Germany, the Secretary of State for the Colonies, who is, as we all know, the most accomplished electioneerer possibly in the world, starts a new idea, and makes it the occasion, as the telegraphic summary of his speech will show, for a defiance, so to speak, of Germany and of everything German.

Senator BEST.—And that has been his policy for several years past.

Senator Sir JOSIAH SYMON.—I am not saying that it has not been.

Senator DOBSON.—The honorable and learned senator stated that he started it recently.

Senator PLAYFORD.—I heard Mr. Chamberlain speak on the subject in 1897 or 1898.

Senator Sir JOSIAH SYMON. — Mr. Chamberlain can read the signs of the times better than anybody ; and Mr. Chamberlain, seeing the signs of the political times in that respect, throws out a suggestion which is another strong beat upon the big drum of imperialism, in order to divert public opinion from those other subjects upon which feeling in England is hostile to the Ministry of the day. I do not say that he is to be blamed for that. I merely say that, in view of these things, we should not jump too hastily at this expression of a new policy laid down by the Secretary of State for the Colonies. We have an excellent illustration of the situation in England when we find a procession of 100,000 non-conformists, whose proceedings are reported in the next column of the *Times*, or of our own papers, marching to Hyde Park to protest against the education policy of the Government of which Mr. Chamberlain is a member, and when we find the force of that nonconformist opinion in England exhibited in the withdrawal of at least one of the objectionable features of the new Education Bill. But I merely mention these things in the hope that honorable senators will see that, at any rate, there is no particular reason why we should jump at this suggested policy and accept it as likely to be carried out, or to be of benefit to us. My

belief is that that policy will never be accepted in England.

Senator DOBSON.—I believe that it will be.

Senator Sir JOSIAH SYMON.—It will be time enough for us to consider how far it is going to affect the people of Australia, and how far it is going to give a basis upon which we can erect some structure of preferential or reciprocal trade, before we talk about adopting it at all.

Senator DOBSON.—How can you have a federated Empire without a system of reciprocal trade ?

Senator Sir JOSIAH SYMON.—I am as much in favour of reciprocal or preferential trade, or of anything that will add to the profits and prosperity of Australia, as any man. But I am not going to be led away by what is manifestly an electioneering speech.

Senator DOBSON.—No ; I do not think it is such.

Senator Sir JOSIAH SYMON.—Well, I am merely expressing my own solitary opinion. I, for one, at any rate, am not going to swallow anything with my eyes shut, or to accept any proposal of that kind until I know definitely and practically what it really means. I am not going to accept it until Mr. Chamberlain—who made the speech referred to, not as Secretary of State for the Colonies, but as member for one of the Birmingham districts—tells us distinctly what he proposes.

Senator DOBSON.—It is an old idea of Mr. Chamberlain's.

Senator Sir JOSIAH SYMON.—It is none the better for that.

Senator DOBSON.—But the honorable and learned senator is arguing that he has just started it.

Senator Sir JOSIAH SYMON. — He started these remarks just as—if I may use the phrase—he “slipped into” Russia on another occasion by saying that “he must have a long spoon who sups with the devil.” I do not want to go into that matter at greater length, but I would point out that it was done at a time when the motive was quite obvious. It was equally to his credit as a politician that he started this idea ; but all I say is that I deprecate our taking it to our bosom until we know something really about what this child is. Then I come to a rather apologetic paragraph in the speech explaining how it was that more legislative work was not done during the last session

of Parliament. My complaint is really not that there was not enough done, but that there was rather too much legislation enacted. We all know, and some of us said so when we had the speech from the Governor-General at the opening of the last session, that there was rather too much of a banquet spread before us—a banquet in fact whose viands it would be perfectly impossible for us to consume. I demur to the statement that legislation was prevented from passing, and that proposals of the most urgent character could not be brought forward, in consequence of the exhaustive discussion on the Tariff. There was a feverish desire, it seems to me, to legislate on subjects which were not very urgent, but which were most agreeable to a section—an influential section—of the supporters of the Government. More urgent measures were set aside until those to which I have generally referred were passed. And with what result? With this result in, certainly, some instances, that there was deep discontent—and in that respect, with great humility, I differ from my honorable and learned friend, Senator Downer—in more than one State. It gave us difficulties of administration which provoked expressions of resentment against the union which made such legislative acts possible. I think I am stating facts, so far as regards the feeling in more than one State. I shall offer three illustrations. In the first case we had postal legislation. I am not going back on the question we debated last session as to the possibility of our postal legislation being postponed and of our proceeding under the Acts in force in each State; but I would point out that the postal legislation passed by us has for its outcome the question of the employment of coloured labour on mail steamers. It has for its outcome, within the shores of Tasmania, the trouble in regard to the local postal arrangements, owing to local legislation which legalizes an institution there that is affected by our Postal Act. Then we have the kanaka legislation which, at any rate, whatever the rights and wrongs of it, has left us an evil, or a difficulty which has to be rectified. We have also the Immigration Restriction Act under which that amusing incident of the six jolly hatters was possible. As to the first of these matters, and in fact in regard to all of them, the difficulties that were pointed out by various honorable senators are coming home

to roost. In connexion with the postal contract we are now faced with a practical difficulty with our co-contractor, England.

Senator MILLEN.—Which Senator O'Connor was careful to point out.

Senator Sir JOSIAH SYMON.—I am bound to say, as my honorable friend reminds me, that the Government in the first instance were averse to the provision in regard to the exclusion of coloured labour. I am not going to stigmatise it in any way, but I hope it will be repealed. I shall be on the side of repealing it at the earliest possible moment. I want no misunderstanding on that score. I am merely pointing out the difficulties into which we have been driven by the legislation which has been described as very urgent. I deny the urgency of it, and I say it was due not to the policy of the Government themselves, but to the power of an influential section of their supporters.

Senator DAWSON.—How did the honorable and learned senator vote on the proposal to exclude coloured aliens?

Senator Sir JOSIAH SYMON.—I shall tell the honorable senator all about that later on. I am not dealing with that matter now. I am dealing with the difficulties created by this extraordinary and absurd—I was going to say disloyal, but I hardly like to use the term; I will say “imprudent”—provision introduced into the Postal Act. I simply wish to point out what the position is, and I desire incidentally to say that so far as regards mere seamanship, there is to my mind no justification for the attitude taken up, and which I will not say is embroiling us, but is creating entanglement with England in relation to our mail contracts. I have not seen the papers on the subject, but I gather from the press that negotiations are going on in regard to the establishment of a Commonwealth service between Australia and Colombo. I hope that the Ministry, in whose good sense I have great faith when they are not overborne by influences which they are not able to resist, will refuse to exhibit themselves for public ridicule by entering into any such arrangement. So far as seamanship is concerned, we know that a century ago there were no men in the world who made more capable seamen than the seafaring population on the west coast of India.

Senator DAWSON.—Absolutely no. They are unreliable.

Senator Sir JOSIAH SYMON.—My honorable friend does not read history. I would ask him to read the history of India about the time of Clive. He should read of the trouble experienced by Britain in bringing to an end the sea power and depredations of those men on the west coast of India. They defeated the Dutch, who I will not say were our equals—my national pride refuses to allow me to make that statement—though their ships on one occasion went up the Thames, with a broom at the masthead of the admiral's vessel. I am afraid that sometimes my honorable friends forget the lessons which history should teach them in regard to this and many other matters. So far as this matter is concerned, I think it is a legitimate subject for debate, but not in connexion with the stipulation that the mail steamers are to be boycotted in relation to the carrying of the British and Australian mails, simply because they happen to employ seamen who are not as white as we are. I shall ask honorable senators to remember—and I trust the suggestion I make will bear fruit—that we must consider who are to replace these seamen on our mail ships, if they are successful in casting them out. How are they to be replaced? Is it English seamen who are manning the merchant service? No; it is the Dutch, the Swedes, Danes, and—

Senator STYLES.—Foreigners. The free-traders employ the cheapest labour.

Senator Sir JOSIAH SYMON.—My honorable friend need not introduce that matter now. I am not going to address myself to that subject. If we cast these coloured men out they will be replaced by foreign sailors. I would rather employ on a British merchant ship a coloured sailor who was a British subject and competent than I would employ those who might become immediately the enemies of England.

Senator DAWSON.—Coloured labour is cheaper.

Senator Sir JOSIAH SYMON.—I am not dealing with the matter from that point of view, but if the honorable senator bases his argument on that ground, then away goes all the large and eloquent talk about race troubles, and the desire to keep our race pure.

Senator DOBSON.—It has been proved that the lascar is not cheaper than other seamen.

Senator Sir JOSIAH SYMON.—I said just now that there was a difficulty in connexion with the kanaka—how does that difficulty arise, and what is our position? It is this: that Queensland, the State which we intended to benefit by imposing a customs duty of £6 per ton—£3 in their favour—objects to lose the £2 per ton rebate in respect of white-grown sugar. What is it that is proposed to be done? It is proposed that the people of the southern States—the people of the non-sugar growing States—shall put their hands in their pockets and make up the loss to Queensland growers who raise sugar by white labour.

Senator PLAYFORD.—And the growers of New South Wales as well.

Senator Sir JOSIAH SYMON.—Yes.

Senator STYLES.—That was understood from the first. I understood that was the arrangement.

Senator Sir JOSIAH SYMON.—It was not understood in that way in the State from which I come, and a very severe wrench will be given to the federal spirit in South Australia, if the people of that State are asked to put their hands in their pockets and pay a tax practically in order to make up that loss.

Senator Lt.-Col. GOULD.—They were the advocates of a white Australia, and they ought to help to pay for it.

Senator Sir JOSIAH SYMON.—I shall be greatly surprised if South Australia agrees to pay the proposed contribution to Queensland. I rejoice that that question is going to be put to the test of the pocket. There is nothing like it. It is all very fine for the people of southern Australia to say —“We are going to expel the kanakas from Queensland,” and it is also all very well for my honorable friends of the protectionist party—who, of course, according to their views, are entitled to do so—to impose an import duty of £6 per ton on sugar. It is likewise very proper from the same point of view to allow a rebate of £2 per ton of the excise, but if the people of the southern States are asked to make up that £2 per ton rebate, as well as pay the customs duty, they will hesitate a long time before they do so.

Senator DAWSON.—The honorable senator believes in the kanaka?

Senator Sir JOSIAH SYMON.—I am not dealing with that phase of the matter. I am dealing with a different question.

Some of the States have suffered quite enough by the heavy duty placed on sugar for protective purposes. Take the case of Tasmania. We know very well—at least I take it as a fact stated in this chamber by Senator Fraser—that the growers of Queensland were competing with imported sugar in Victoria and probably elsewhere before this provision was passed.

Senator FRASER.—In every State.

Senator Sir JOSIAH SYMON. — Whether that is so or not we have agreed, and we cannot back out of it at this moment; to a heavy customs duty of £6 per ton on sugar. The people of Australia have to pay that tax. The excise was to be paid by the grower with a rebate of £2 per ton to those who could grow it by means of white labour. But we find that they are kicking against that arrangement, and will not pay it in spite of all the other advantages they enjoy. They expect the people of the southern States to put their hands in their pockets and pay it for them. If they expect that to be done, it shows how credulous they must be. Just one word about the six unsuspecting hatters. I do not refer to the matter with a view of re-opening the question of administration so far as regards the attitude of the Prime Minister, but it is a curious thing that, according to the papers, these men, when they arrived in Victoria, were not prevented from landing. They landed here, and in a confiding moment—under the influence of the blandishments and hospitable attentions of their fellow unionists of this State—they handed over a copy of their agreement.

Senator DAWSON.—Does the honorable and learned senator know that to be a fact?

Senator Sir JOSIAH SYMON.—I find it in the papers.

Senator DAWSON.—It is not in the papers.

Senator Sir JOSIAH SYMON.—We cannot imagine that these men handed over an agreement in order that it should be sent to the Prime Minister for the purpose of keeping them out, when they had come 12,000 miles for the purpose of getting in and securing employment under better conditions than they had in the old country. But the document will be found in the papers, and it was sent, and sent by a union official, to the Prime Minister for the purpose of keeping out these men of our

own blood, of our own race, against whose honesty there was no imputation, who were unionists, and true unionists bearing credentials from the old country. It was sent in order that after they had been dined, or whatever it was, in Victoria, they should be shut out in New South Wales.

Senator PEARCE.—In order that they should come in as free men.

Senator Sir JOSIAH SYMON.—My honorable friends will see why I am making these remarks in a minute. I said that I was not going to re-open the question of the Prime Minister's administration, or of the course he took. I thought myself at the time that it was a perfect farce; but I recognise the painful, difficult, and, if honorable senators like, the politically perilous position in which the right honorable gentleman was placed. I do not wish to accuse the Prime Minister of not being animated by a desire to do his duty to the best of his judgment and ability in the painful position from which, I think, he was only extricated by the outburst of Australian opinion at the time.

Senator MCGREGOR.—By compliance with the Act.

Senator Sir JOSIAH SYMON.—What I desire to point out is that I hope that the head of the Executive will never again be placed in a position to exercise that sort of judicial discretion.

Senator PEARCE.—Would the honorable and learned senator allow six lawyers to come in?

Senator Sir JOSIAH SYMON.—I shall show honorable senators in one minute, what it all means. We know what the effect of it was. We know from the papers that Mr. Copeland, the Agent-General for New South Wales, wrote out to say that this incident had not only made us ridiculous in the eyes of every English-speaking community, but that it had affected the credit of New South Wales.

Senator DRAKE.—That is on the report that reached them. Who sent it?

Senator Sir JOSIAH SYMON.—I know also that it was stated in the press at the time that Sir John See had said that if he had only the control of the police he would soon see that those men were liberated. My sympathies were entirely with Sir John See.

Senator MCGREGOR.—He had control of the police.

Senator Sir JOSIAH SYMON.—I am not dealing now with the principle. I think it is an absurd one. But the provision that the Minister is to determine whether a workman is to be exempted on account of special skill simply imposes upon the Minister a duty which ought not to be placed upon him. I may tell honorable senators, and Senator Playford will bear me out in this, that if we object to workmen being brought into the State under agreements such as these, under agreements and conditions that are not fair, we have in South Australia another remedy by which anything of the sort can be prevented. You will get no man, surely, who is not a fool, to leave his employment in England and come 12,000 miles to Australia to enter into another engagement, unless you give him a promise of better wages and a promise of an engagement for a definite time? The man would be a madman to do such a thing. On the other hand, how can you expect any employer of labour in Australia to bring out a man unless he binds him by agreement to remain for some definite time in his employment? The two things are reciprocal.

Senator PEARCE.—Let him bind him here.

Senator Sir JOSIAH SYMON.—Does the honorable senator think the men will come here?

Senator MCGREGOR.—Yes; look at all the people who have come out already.

Senator PEARCE.—Did the honorable and learned senator come out under contract?

Senator Sir JOSIAH SYMON.—This simply shows that my honorable friends are running a good principle to death, and let me tell them in all sincerity that by legislation of this kind they are doing their own cause more injury than they can possibly do it good.

Senator CHARLESTON.—The Prime Minister's interpretation of the provision is of such a broad character that it will not affect the landing of men here at all.

Senator PEARCE.—Then let us repeal it.

Senator Sir JOSIAH SYMON.—I hope it will be repealed. I am making these observations with a view, if possible, to secure that it shall be repealed. I wish, however, to offer this consolation to any honorable senator who may think there is no remedy, and that a man may be tricked into an unfair and fraudulent agreement in England: There is a means in our State at this moment of preventing anything of this kind. We have a most salutary law

to which, I think, no one can take exception. Under our masters and servants legislation we have a provision by which no agreement can be set up in any proceeding against a man for not complying with it, if the person against whom it is produced disputes its execution on the grounds of forgery or fraud. If he can show that misrepresentations have been made to him there is an end to the agreement.

Senator DAWSON.—That may be very difficult to prove, and it does not apply to indented labour anyhow.

Senator Sir JOSIAH SYMON.—There is a further provision, and it is this: If a man comes out to South Australia, under an agreement of a most fair and honest character and without any misrepresentation, to work for three years, and if at the end of a year he thinks better of it and desires to escape from the agreement, he has only to go before a magistrate, and the thing can be done under an order of the magistrate upon his repaying simply the actual cost of bringing him out.

Senator PEARCE.—He can always get a magistrate who will do that.

Senator Sir JOSIAH SYMON.—I did not expect Senator Pearce to make an observation of that kind. But if there is to be legislation of this sort, then surely it ought not to be the head of the Executive who should determine questions of this kind, but it should be some court of summary jurisdiction, where the thing can be dealt with, and justice can be done. However, on these and on many other grounds it is a blot upon our statute-book.

Senator MCGREGOR.—Could the honorable and learned senator have administered it in any way other than that in which it was administered by the Prime Minister?

Senator Sir JOSIAH SYMON.—I do not think Senator McGregor could have been listening to me. I said distinctly that I was not re-opening the question of the particular administration. I thought it was a perfect farce, especially when I remember that we have been passing high duties in order to encourage manufactures, native industry, and all that sort of thing, and then in the next breath we seek to exclude skilled artisans who are required to make our industries a success.

Senator O'KEEFE.—Did the honorable and learned senator object to it when the Bill was going through the Senate?

Senator Sir JOSIAH SYMON.—Object to it ! Of course, I always objected to it.

Senator O'KEEFE.—Did the honorable and learned senator object to that specific section ?

Senator Sir JOSIAH SYMON.—What is the use of asking whether I was here ? The honorable senator may hunt through *Hansard* to find out whether I was here, whether I debated the section or moved an amendment. I do not care whether I did or did not, whether I was here or was not here.

Senator O'KEEFE.—If the honorable and learned senator assures us that he did not debate it we shall accept his assurance.

Senator Sir JOSIAH SYMON.—I am much obliged to Senator O'Keefe, but I tell him that if I had supported it 50 times over I consider that the section should be blotted out of the statute-book. It is a most astonishing thing that when we find that Canada is opening her arms to 5,000 British immigrants—

Senator DE LARGIE.—Canada has the same law.

Senator DAWSON.—Farmers.

Senator Sir JOSIAH SYMON.—Farmers ! The section deals with manual labourers. Canada is opening her arms to thousands of farmers, while we in Australia, the proud inheritors of the same blood, the same traditions, and the same history, shut out six hatters. Really, if it were not painful and pitiful it would be the most amusing comedy that has ever taken place in regard to national affairs.

Senator MCGREGOR.—Would the honorable and learned senator administer the law in any other way ?

Senator Sir JOSIAH SYMON.—I know how my honorable friend would administer it.

Senator PEARCE.—A British subject was deported from Canada this year for a breach of the same law.

Senator Sir JOSIAH SYMON.—I refer to this matter only because I think Senator Downer referred generally to the subject of the misguided strike which took place here in Victoria. I saw in connexion with that very sad episode in history, when constitutional government was challenged, that it was stated by one of the leaders of the movement that they relied upon the Commonwealth Government putting in force this particular provision in order to prevent the importation of engine-drivers and stokers to take the places of those who

had struck work. I say that is an instance of the abominable misleading tendencies of legislation of that character.

Senator PEARCE.—We know now why the honorable and learned senator desires to have it repealed.

Senator Sir JOSIAH SYMON.—I welcome the effort that is to be made to remove another source of uncertainty and irritation, and to fulfil a duty which rests upon us under the Constitution. I refer to the selection of the seat of government. A good deal of confusion has been occasioned in connexion with this matter, and especially in relation to the cost involved, to which my honorable friend, Senator Cameron, has alluded. There has also been some misunderstanding as to what took place in America. I wish to set that right now in the hope of removing, if not all, at least some of the objections which certain of my friends entertain on the subject. In America the determination of the question of the locality of the seat of government excited very great controversy and a great deal of feeling, not only between States, but between sections of States. The question there was whether the seat of government should be in the North or in the South, whether it should be in New York or Pennsylvania, Virginia, or Maryland. There was local prejudice to contend against ; there was local pride, if you like, and of course there was local self-interest also to be dealt with. All these influences combining, as honorable members know who have made themselves familiar with that period of American history, inflamed public feeling to white heat. Happily that does not exist here. It is a fortunate circumstance in my humble judgment that, in the wisdom of the Convention, they prevented the possibility of ferment of that kind. They settled that the seat of government should be within the borders of New South Wales.

Senator STYLES.—Not the Convention, but six gentlemen who had no authority from any one.

Senator PEARCE.—It was indorsed by the people of Australia.

Senator STYLES.—Because they could not help themselves.

Senator Sir JOSIAH SYMON.—I am very much obliged to Senator Styles for the correction. It was done at a subsequent conference, but, as Senator Pearce says, it was not done by six irresponsible gentlemen.

It was done by six gentlemen subject to the approval of the people of Australia ; and the people of Australia by the best of all methods—the referendum—put their seal upon it.

Senator PLAYFORD.—They had to say “yes” or “no.”

Senator Sir JOSIAH SYMON.—We have heard all that before, and if it had been vital, of course they would have rejected the Bill. The people of South Australia said—“Well, as to that, we may differ, but we agree to it rather than imperil federation,” just as they did in connexion with certain appeals. I never doubted for a moment that, in relation to this or anything else, people would say—“Well, that is not going to prevent us from agreeing to the union.”

Senator PLAYFORD.—They did not indorse it any the more.

Senator Sir JOSIAH SYMON.—They indorsed this statement as a condition of the Federation.

Senator STYLES.—It was Hobson's choice.

Senator Sir JOSIAH SYMON.—It is in the Constitution. We have to carry it out, and we are happily removed from all possibility of conflict on that score. Yet in the United States, in spite of that condition of things which led to so much feeling, the site was picked, and the corner-stone of the capital was laid on the 18th September, 1793—within four years of the inauguration of the union. We have passed through two and a half years without one of their initial difficulties, and any questions as to the precise locality of the site should be settled. Let us get rid of them. It does not concern any of us in any of the other States, because I feel that even my honorable friends from Victoria do not set up for a moment that the capital can be in Melbourne. Whatever views we may take, there it is in the Constitution. There may be friction within New South Wales. Let it be confined within its borders. Do not allow it to spread to other States. In America it was not until seven years after the corner stone was laid that the Federal Executive was housed in Washington. That is a lesson to us all, and the answer to any criticisms on the question of expense is, let us hasten slowly so far as the building is concerned. Let us not only hasten slowly, but let us proceed modestly. We do not want a marble palace ; we do not want the

building to rise in the night ; we do not want it to rise as did the palace in Pandemonium, like a kind of exhalation. We want the site fixed, and in my humble judgment we want to set about making whatever arrangements are necessary for our accommodation there humbly, not extravagantly, as early as we can. That is my view on the subject. But, in spite of the matters that I have referred to as possibly creating some of the friction or discontent which has appeared, I do not believe that the real spirit of federation is waning in the slightest degree. I have no sympathy with all that irresponsible talk, sometimes influenced and brought about by persons really occupying more or less responsible positions, and who ought to feel a sense of their responsibility. The Commonwealth is really in its swaddling clothes ; it is hardly clothed yet. In spite of some of the matters which my honorable friends have indicated, it is really too early to talk of failure or of disappointment. It is a source of encouragement to us when we remember that the difficulties and discontents in America, intense as they were, were largely due to the fact that the Constitution was wholly the work of the politician, it was never remitted to the people. Here the Constitution is the work of the people, and in my belief it can never come to nought, except by the action of the people themselves. If these causes of irritation do exist, I think that many of them will disappear with the establishment of the High Court. The High Court is the pivot of the Constitution. We may hold what views we please as to its composition, as to its procedure, and as to any detail. The Constitution is really a round table intended to be supported on three legs, and it has only got two of them at present. Senator Downer referred to the fact that it was part of the essential conditions of the Constitution. I am not going into the matter in any detail, but I wish to correct one or two misapprehensions that have been floating about on this subject. The three supports of the Constitution are the legislative, the executive, and the judicial. Section 1 says—

The legislative power of the Commonwealth shall be vested in a Federal Parliament.

Section 61 says—

The executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as the Queen's representative.

Section 71 says—

The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia.

The Constitution establishes that third power in the High Court, and although it is perfectly competent for Parliament to render that provision nugatory by abstaining from making the necessary provision for its procedure and its personnel, but to do so would be a failure to carry out a trust which was committed to its hands. It would be a failure to carry out a duty which was laid upon the Parliament by the Constitution. Section 71 is imperative.

Senator FRASER.—But we passed a short measure authorizing the State Judges to do all that is necessary.

Senator BEST.—But that Act expires at the end of the year.

Senator Sir JOSIAH SYMON.—That would not be carrying into effect the power that was confided to us, the trust that was reposed in us by the people of the Commonwealth. I have only one or two other remarks to make on the higher aspect of this question, because I dare say we shall have a later and better opportunity of speaking, and of removing misapprehensions that may exist upon various aspects of the subject. But, in the United States, the Judiciary was wanted to define, as it is expressed by authoritative writers, and establish the scope and purport of the Constitution. It was to expand it if necessary in the cause of broadening freedom. No one can read the story of Chief Justice Marshall without feeling that the Constitution as expanded and as carried into effect nowadays is a very much larger and broader instrument of Government than that covered by the mere strict letter within the four corners of the original instrument, which is a mere skeleton. The function of the Supreme Court of the United States was not only to fill up that instrument, not only to expand it to rank the utmost breadth of a growing freedom, but to set limits beyond which its express or its implied powers should not go—to secure on the one hand adequate power to the national Government, and on the other hand to conserve State rights and the rights of the people. Differences and disputes which are the subject now of able and controversial correspondence between State Ministries will, I think, take refuge and rest finally within the walls of the High Court of Australia. There they

will receive their final determination, and there they will end. It has been said that in Canada—and I think it right to point this out—there was no Supreme Court for a number of years. Why? The Constitution of Canada rests upon a totally different principle from that upon which ours rests. There is nothing in the Canadian Constitution corresponding to our Judicature. There was no occasion for it. Why? Because the Dominion Government—the Dominion Governor-General, which means the Dominion Executive—has the power to veto any State Act which it thinks conflicts with the Constitution. Do you think the people of Australia would have tolerated that? Of course not. The people of Australia preferred the system of the United States. If there is an encroachment let us have a tribunal to decide it. If there is a State right that is infringed, let us have it settled by a tribunal above and apart from all party and parliamentary government. If there is a right of the Commonwealth or a power of the Commonwealth that is challenged by a State, let us have it settled free from the breath of parties or the natural heat and vehemence of Parliament. That is what distinguishes ours from the Dominion Constitution. Here I would read two or three lines from a recent article in the October number of the *Edinburgh Review*, evidently an expression of opinion emanating from jurists who look at the matter from outside, and perhaps on that account more valuable than the opinion of those of us who assisted in framing the provision under which this question arises. The writer of the article calls the failure to appoint the High Court a hitch. Referring to the delay, I make no complaint with regard to it. I am not disinclined to agree with my honorable and learned friend Senator Downer, who said that the delay had led to a widespread increase of feeling that the High Court ought to be established at the earliest possible moment. This writer says—

A far more serious hitch is the failure to create the Federal Supreme Court. At any moment a constitutional dead-lock may occur, and there does not exist at present any means of unlocking it. The appointment of this Court is all the more necessary since the famous 74th clause has removed all Inter-State constitutional questions from the purview of the Privy Council. Many such questions have arisen between the Provinces of Canada, or between the Dominion Parliament and the Provinces, and have been decided by the Privy Council. But Australia claimed internal

independence from Privy Council control. We all remember the struggle over the 74th clause, and most of us were perhaps content that Australia should be left to settle her own constitutional problem. The Federal Court, as laid down by the Act, closely resembles the High Court of the United States.

It is an exceedingly able paper. The author of it I do not know. I am not saying that it is to be accepted as gospel, or anything of the kind ; but it is the view of an able outside writer, who recognises what many in Australia do not recognise : that our Judicature stands upon a level with that monument of judicial power, beneficence, and integrity, the Supreme Court of the United States, and has no parallel with the Supreme Court of the Dominion of Canada. Of course, it is obvious that matters may have to be decided, and will continue to be decided, in the States Courts. Honorable senators who were in the Convention will recollect that the reason why the judicial committee introduced into section 71 the provision which empowers the Parliament to invest other courts with federal jurisdiction was in order to save the enormous expense which the establishment of a network of federal courts as in the United States might mean in Australia.

Senator WALKER.—Hear, hear.

Senator Sir JOSIAH SYMON.—My honorable friend behind me (Senator Walker) knows that I myself put in those words to save expense. But the cardinal feature is that the Federal High Court of Australia occupies exactly the same position and relation to our Constitution as does the Supreme Court of the United States. We may paralyze it ; we may do as we please with it ; we may abstain from discharging our duty to the people who sent us here—but it must come, unless we repeal that provision of the Constitution.

Senator Sir WILLIAM ZEAL.—No one doubts that ; it is premature, that is all.

Senator Sir JOSIAH SYMON.—It is never premature to do your duty and to discharge the trust which the people laid upon you under the Constitution. I am glad that the Ministry, who, I know, are men who thoroughly understand the Constitution under which they are working, have placed this in the forefront of the measures which they propose to submit to Parliament. In that connexion I may say that in reference to the solution which the court may offer of many difficulties which may arise between the States

and Commonwealth Governments, I do not wish it to be supposed that I agree that many of the things which have been set up as such are State rights. I know that the expression has been used to dignify—perhaps almost to sanctify—mere disputes of administration, questions of difference between State Executive and Federal Executive. I entirely repudiate anything of that kind. We know what the term “State rights” means ; but a difference as to whether a whole building or a portion of a building should be taken over by the Commonwealth is not a matter of State rights.

Senator PEARCE.—Or the question of precedence at a banquet.

Senator Sir JOSIAH SYMON.—Is that regarded as a State right ?

Senator PEARCE.—Oh, yes.

Senator Sir JOSIAH SYMON.—Then that is an excellent illustration of how the expression may be misused. For instance, in our State—I think I may say this now and here as I come from South Australia—we had a controversy on the question whether it was right that a communication from the State Government with regard to the position of a Dutch ship called the *Vondel* should pass through the Prime Minister, as the Minister for External Affairs, or should go direct from South Australia. I entirely concur with my friends of the Federal Government in the point that it would be ludicrous to allow that claim. In our State they made a fuss on the subject, which was not worthy of the occasion. The claim, if allowed, would be a bad precedent.

Senator O'KEEFE.—It was not worthy of the model State.

Senator Sir JOSIAH SYMON.—That is one of the exceptions that prove the rule. The States may very well recognise their lessened importance, and that we owe—the people of Australia owe—not a second, but a first allegiance to the Commonwealth. On the question of defence, I want to say that I think that at the present moment the defences of Australia are very much in a state of chaos. There is a great deal of dissatisfaction on the subject, and therefore there can be no doubt whatever that one of the first measures which we ought to be called upon to deal with is that relating to defence. Our defence should be upon a uniform basis. It should be under one control. But with six different codes

to work under—because under the State Acts at present there are six different codes — it is no wonder that there should be long minutes passing between the Federal Commandant and the Prime Minister and the Minister for Defence as to whether some suggestions which the Commandant made with regard to military arrangements during the Easter manœuvres had the authority of the Minister or not. I hope that all that sort of thing will pass away. In that connexion I wish to say that I think that we are entitled to look for a minimum of expenditure and a maximum of result. I strongly object to any extravagant expenditure in connexion with the permanent forces. We want no army for aggression. We simply want a force for the internal defence of Australia. We want to defend our own shores, and for that purpose we require a citizen army. We want the population to defend themselves. It is our duty to foster what we may call the auxiliary or volunteer forces — the citizen army. It is our duty to encourage them by every means in our power, and to assist them all we can. If there is to be any considerable expenditure, I, for one, would very much rather see it laid out upon volunteer forces — the citizen army — than upon the permanent forces, with all their paraphernalia and gold lace and parade. I am afraid that I cannot agree that the proposed naval agreement is the most excellent arrangement possible. I am speaking merely for myself; I do not know what my friends may think.

Senator GLASSEY.—The honorable and learned senator's leader in the other House has agreed to it.

Senator Sir JOSIAH SYMON.—I wish I had an opportunity of convincing him of the rightness of my idea. At any rate it will take a great deal of argument to induce me to agree to that contract or bargain. In the first place, in my view, we, the free people of Australia, ought to pay no subsidy or tribute towards an expenditure or in a direction in which we have no voice. That is the first thing. Australia is simply a naval base for the British fleet. We must all recognise that. The squadron in Australian waters is, as has been pointed out by my honorable and learned friend, Senator Downer, simply a portion of the British navy. This is a naval base for that portion of the Pacific

fleet. Why should we pay 200,000 sovereigns a year in order to preserve—if that were necessary—this naval base, which must be preserved as a naval base for the British fleet in any event?

Senator FRASER.—It is for our advantage, though.

Senator Sir JOSIAH SYMON.—We shall have an opportunity of dealing with it more fully later on, but I will ask honorable senators to consider the propositions which I am going to submit. Our share of the responsibilities of defending the Empire is best met, in my judgment, by our defending ourselves and our own shores. That is the view of the Prime Minister of Canada; it is a view in which I entirely concur. We do our share in defending ourselves. We have our internal defence; let us have our naval defence, whatever it may be. Let us defend our own shores and our own territory—a magnificent portion of the British Empire—and we shall be doing our duty to the Empire. It must be remembered, too, that we want no navy to patrol the high seas. People say—"Oh, we cannot afford an Australian navy." But of course we must first understand what is meant by an Australian navy. We do not want a navy in the sense of wanting a fleet for aggression, a navy to patrol the seas, or to go to the North Pacific, or to the Indian Ocean, or to the China seas; but we want a navy—if you are to use the term in that sense—to defend our own shores and our own ports.

Senator DOBSON.—What about our merchant vessels on the high seas?

Senator Sir JOSIAH SYMON.—We shall see about that matter in a moment. We require our coastal and our harbor defences, and we want a navy manned by Australians and under Australian control.

Senator Sir WILLIAM ZEAL.—Then we shall require immigration. It cannot be done with the present population.

Senator Sir JOSIAH SYMON.—We have been able to man our land forces, and man them so effectively as to be in a position to raise contingents which have done excellent service in the Empire's war in South Africa. We shall be prepared to pour out our blood and expend our treasure again if the occasion should arise and the cause be just; but it ought not to be by way of subsidy or tribute. We have even assisted with our seamen and with our ships. We all know that South Australia sent the gunboat *Protector*,

efficiently manned and equipped, to China, and that she went up the rivers there.

Senator Sir WILLIAM ZEAL. — Six men and a boy.

Senator Sir JOSIAH SYMON.—If they were all such efficient and vigorous men as my honorable friend is, six men and a boy would be a sufficient crew. I do not think they would want six men and a boy, if they were all as aggressive as the honorable senator is. I dare say we should be able to do the same thing again. We know also that we had a coastal defence while the States were separate. We had a defence of forts and ships of our harbors. Why are we now to say that we cannot continue that system under the Commonwealth, and extend and improve it? Why is this subsidy necessary for us to secure the continuance of what I have called this naval base, which, as I have said, would have to exist in any case, when we have no control whatever over it? Some of my honorable friends talk about defence. But what are we told? This fleet is to be wholly under Imperial control. The Admiral will be absolutely independent of the Commonwealth—of all the Governments and Parliaments within Australia—and if he takes it into his head or receives orders he will be able, on the alarm being given, to clear away with his fleet to the China seas or the Indian Ocean and join some other portion of the British fleet. In that event what would become of the defence of our shores?

Senator PLAYFORD.—In doing so he might be protecting our shores. The honorable and learned senator should read Captain Mahan.

Senator Sir JOSIAH SYMON.—I have done so, and I may say that I have read a greater writer than Captain Mahan, so far as Australia is concerned—Captain Cresswell.

Senator STYLES.—Of South Australia; and a good man, too.

Senator Sir JOSIAH SYMON.—Yes; I agree with Captain Cresswell, unless he has altered his opinion, and I do not think he has. Some honorable senators say that if the squadron cleared out to reinforce the British fleet somewhere else it would be defending us all the same; it would be destroying the enemy's fleet.

Senator PLAYFORD.—Which would otherwise come here.

Senator Sir JOSIAH SYMON.—But is it only an enemy's fleet which would come

to our shores? I do not believe it would ever come near us. It would be privateers and swift cruisers and torpedo boats that would come here, and it is exactly when our squadron, under the Imperial control, is ordered away from the coasts of Australia that these little chaps, so to speak—not little Japs—will be down upon us, and we shall be undefended.

Senator Sir WILLIAM ZEAL.—Where will Captain Cresswell be?

Senator Sir JOSIAH SYMON.—He will be here, but he will have no ship to control.

Senator Sir WILLIAM ZEAL.—He will have the *Protector*.

Senator Sir JOSIAH SYMON.—Not at all; we have no vessel. We are to depend entirely upon this subsidized squadron. I am not discussing the matter now from the mere stand-point of pounds, shillings, and pence, but from the higher aspect in which it presents itself to me, and that is that we must remember we are a self-governing people. My honorable friend Senator Cameron has expressed that point very strongly indeed. "This bargain," he said, "strikes at the foundation of our national life." I agree with him. We are a self-governing people. We are deeply loyal to the Crown. We are bound to the Empire by indestructible ties of blood and kindred and history and tradition and language. Even if we may have no particular reason to fall down and worship the British Parliament, we are still bound by its foreign policy. Let us never forget that. We are bound by its foreign policy without any hand in its formation, and without voice or hand in its conduct.

Senator DOBSON. — Is not all this a step towards obtaining an Imperial Council?

Senator Sir JOSIAH SYMON. — No. What would be the good of an Imperial Council? How would it satisfy the aspirations of Australia? We might have one or two representatives upon it. Even if they were made peers they would not represent the public feeling of Australia.

Senator KEATING. — They would be like the Judge on the Privy Council.

Senator Sir JOSIAH SYMON. — Who ought to be there, but is never present. We cannot escape from this position. We are bound by the foreign policy of the British Parliament, and they may plunge us into war to-morrow. Yet we cannot say no. It does appear to me that, in return for submitting ourselves to that position, the British

Government might well refrain from asking us to pay this £200,000 for the consequence of it.

Senator DOBSON.—Our proper share is about £4,000,000.

Senator Sir JOS AH SYMON.—Then £200,000 is a paltry sum having regard to the £35,000,000 or thereabouts which the British navy costs the Imperial taxpayer. It can be of no appreciable benefit to England. I cannot believe that England has put it in any such buckstering way, for that is what it must be assumed to be if it is to be taken that the British Government really want the money. Why are we asked to pay? I really cannot understand it. We are to hire a squadron for £200,000 a year to defend our shores—if its admiral pleases.

Senator GLASSEY.—We might as well hire an army.

Senator Sir JOSIAH SYMON.—I would remind honorable senators that the Imperial land forces were withdrawn from Australia a good many years ago, and withdrawn, I think Senator Cameron will bear me out, with great advantage.

Senator Lt.-Col. CAMERON.—Hear, hear.

Senator Sir JOSIAH SYMON.—Why are we to be asked to pay a subsidy to the Imperial Navy any more than a tribute to the maintenance of the British Army? There are other ways of helping the British Empire in a strait. I would prefer that that help should come when the Australian people are in a position to know the exact facts of the case, and to say whether it is right and just that they should lend that help. That is what I desire. I want no handing over of tribute to be spent in a way in which I have no voice. If it is, as I have heard it said, that this £200,000 per annum is to be paid simply to foster industry or unity—it must be industry, if it is to have any effect—it must be a debatable matter, but if it is to foster unity, it is a very poor way of doing it.

Senator FRASER.—Unity is right enough without that.

Senator Sir JOSIAH SYMON.—Exactly. It is a pity that the Marquis of Salisbury is not still at the head of the British Government, otherwise some of these recent propositions, and some of these speeches, about preferential trade would not be so readily made. I find that not so very long ago he gave utterance to the following statement, which I commend to the attention of

my honorable friends, especially Senator Dobson—

There is talk of fiscal union; there is talk of military union. Both of them, to a certain extent, may be good things. Perhaps we may not be able to carry them as far as some of us think, but in any case they will not be the basis on which our Empire will rest. Our Empire will rest on the great growth of sympathy, common thought, and feeling between those who are, in the main, the children of a common race, who have a common history to look back upon, and a common future to look forward to.

That is the basis of our race, and the foundation of our allegiance. The last paragraph to which I desire to refer in His Excellency the Governor-General's speech is that in which the federal finances are spoken of as being in a very satisfactory condition. We are told that—

The return of good seasons, which is now so widely expected, will give new impetus to the development of our resources and the expansion of our industries.

I should have thought that at least one little word might have been said for our imports. "New impetus to the development of our resources." I think we might usefully have buried the fiscal hatchet, and have had added to the line "the expansion of our industries," the words, "and of our imports."

Senator STYLES.—Do not introduce free-trade.

Senator Sir JOSIAH SYMON.—I am not going to do so. What does our revenue, which is in such a satisfactory condition, depend upon if not upon the expansion of our imports? But I do not want, as my honorable friend says, to introduce anything controversial, even though it be such a fascinating subject as that of free-trade and protection. Of course I admit that there has been, and I suppose there will be to the end of the chapter, disagreements between us on many points of policy which some of us may think are for the best interests of the country, whilst others may think them inimical to those best interests. Mismanagement is incidental to all human and public affairs, no matter what Ministry is in power, no matter what the personnel of the Parliament which may be in session; and in spite of all the indifferences, the irritations, or controversies that may take place—in spite of all this—the future lying before Australia, its States and its people, is as full of promise as ever it was. None, I think, can set bounds to Australia's power and prosperity if we, the

people of Australia, are only true to ourselves. There is no impediment to success unless we ourselves raise it.

Senator FRASER.—The drought stops us a bit now and again.

Senator Sir JOSIAH SYMON.—There may be intervals, as my honorable friend says, there may be fluctuations which are natural to any country, but there can be no impediment to the final success of this union unless we ourselves raise it up. There can be no danger, unless we ourselves create it. What then is our duty? It is, in my humble opinion, so far as in us lies to do our best to make the Commonwealth fulfil the spirit of the Constitution; to make it fulfil the highest aspirations of the people of Australia, and, above all, to give our union the first and chiefest place in the patriotism and in the love of all the people.

Senator FRASER (Victoria).—I do not intend to say very much with regard to the opening speech. With part of what it contains I am pleased to say that I agree; with a good deal I disagree. In regard to the High Court, which is first on the list, I think we can well afford to go slowly. We are not supposed to rush headlong like a torrent down a stream immediately we have federated. That was not at all the idea when we federated. The idea was that we were to go slowly and cautiously, and that we were not to create irritation anywhere if we could possibly avoid it. But what have we been doing? We have been creating irritation almost everywhere.

Senator DAWSON.—Not with the High Court.

Senator Sir WILLIAM ZEAL.—Some important people have to be provided for.

Senator FRASER.—I am not going to blame people for trying to secure high positions. That is, of course, a failing of human nature, and what is human is more or less excusable.

Senator MCGREGOR.—Everything human is divine.

Senator FRASER.—Some things human are not very divine. Notwithstanding the very nice peroration of my honorable and learned friend, Senator Symon, assuring us that everything is going on swimmingly, I say that at present everything is not going swimmingly. Everything will come right if we are prudent, careful, and, above all things, economical. But that will not be the case if we are going to rush into the

establishment of a High Court, at a cost of £15,000, £20,000, or £30,000 a year, when there is absolutely no necessity for it.

Senator Sir WILLIAM ZEAL.—It will cost us £50,000 a year.

Senator FRASER.—I shall limit the cost to £30,000 a year, or even less; but if we are going to rush into an expenditure of that kind, when we are in the very tight financial position in which we stand at present, I say there can be no justification for that sort of political conduct. The courts already constituted by the Federal Parliament are capable of doing the business required to be done. They have, indeed, only been called upon to do very little so far, but the little they have been called upon to do they have done very well.

Senator DAWSON.—No, no.

Senator MCGREGOR.—Some people find fault.

Senator FRASER.—I say they have done very well, and no real fault can be found. Some people would find fault with what an angel from heaven would do, with anything and everything. But I contend, in a general way, that the decisions of the courts in respect of federal matters have given general satisfaction.

Senator MCGREGOR.—The honorable senator is not an importer.

Senator FRASER.—I am an importer.

Senator MCGREGOR.—Then the honorable senator has never been caught.

Senator FRASER.—I shall not say very much about that, because I can hardly trust myself upon that subject, and I have no desire to disturb the atmosphere. I say that we cannot afford the vast expenditure involved in this proposal just now, and there is no absolute necessity for rushing into it. We should wait until after the next elections, and until the new Parliament is in full swing, and then, if nature is more favorable to us in giving us good seasons, as I hope will be the case, times will be better, and we shall be in a position to be a little more extravagant. So much for the High Court. Now, as to the seat of government. I agree that we have accepted the position willingly and cheerfully that New South Wales must ultimately be the State in which the federal capital shall be established; but it does not follow that we should decide the matter in the first Parliament of the Federation.

Senator WALKER.—Nor for the first 100 years, I expect.

Senator MCGREGOR.—Would the honorable senator wait for 100 years?

Senator FRASER.—No. But I say that I should be willing to wait for two or three Parliaments. We can keep faith with New South Wales, and with other people who desire that the terms of the Commonwealth Constitution shall be enforced, without deciding this matter in the first Parliament. Let the site be decided, if honorable senators like ; but what I am afraid of is that if we decide upon the site in this session there will be a hue and cry got up for the erection of buildings, and that, in my opinion, would involve an unnecessary expenditure which may well be avoided. The people of this country already owe £215,000,000 or £216,000,000, more or less, and they cannot carry any more burdens. We have to pay an enormous amount of money to the money lenders in London, and we are heaping up debts upon debts. The only safeguard in the matter of this indebtedness is to let the States remain impecunious.

Senator PLAYFORD.—Then spend their money on buildings.

Senator FRASER.—The only safeguard against further expenditure and further reckless borrowing is the fact that some of the States of the Commonwealth—and I am not going to name them—are now in such a position that they can hardly borrow at all. The State Ministries or any other Ministry will therefore have to tell the people of this country—what they should have been told long ago—that it is prudent to be economical. If we relieve the States of present indebtedness, they will rush into further indebtedness. I would as soon trust the States Governments as the Federal Government. I would sooner trust some of the States Governments than I would trust the Federal Government, so far as I am able to judge, because even during last session we had to prevent the Federal Government from borrowing. Of course all borrowing, whether by the Federal or by State Governments, involves a debt upon the people. Who has to pay the piper?

Senator STYLES.—The people.

Senator FRASER.—No. I am going to differ from that very usual phrase. I say it is the farmer, the miner, the vigneron, the wool-grower, the man who labours in the fields. He is the man who has to pay the piper. He is the man who pays us

£400 a year, and but for him we could not be paid at all. If we overload him too much by Federal or State indebtedness we shall kill the man who pays, and we shall kill the “whole boiling.” It is not at all desirable to encourage any further indebtedness. We are now groaning under a load of debt which we cannot afford to pay.

Senator MCGREGOR.—Does the honorable senator mean to say that we should repudiate?

Senator FRASER.—No. I leave that to Senator McGregor. That is according to his Christian faith. We are not now as we were even twenty years ago. We have a vast deal more indebtedness now in Australia than we had twenty years ago, and we are still piling up the agony. I am now speaking to the people of Australia, and telling them my honest mind in regard to these matters. I say that twenty years ago we were in a much better position to meet our indebtedness than we are in to-day. Even ten years ago we had 64,000,000 sheep in New South Wales, 20,000,000 sheep in Queensland, and so many more in Victoria and in the other States. What have we now? We have 7,000,000 sheep in Queensland, 20,000,000 perhaps in New South Wales, and, with droughts such as Australia never anticipated, and never previously suffered from in this world's history, will any one tell me that we are in a position to increase our indebtedness? I say that the public man who will encourage public borrowing at this stage will not be doing his duty to the Commonwealth. I say we can do no worse thing than to encourage borrowing or extravagance of any kind at the present time. I shall speak on every possible occasion against anything of the kind, and against any action by the Federal Government which will result in extravagant expenditure.

Senator DAWSON.—We are in a better position this year than we were in last year. The drought has lifted.

Senator Sir WILLIAM ZEAL.—But the losses have been made.

Senator FRASER.—I grant to the honorable senator that the cloud has been rent, and that we can now see daylight. But what have we now to do? We have simply to work like slaves to pull up what we have lost. Vast numbers of men have gone under, men whose names will never be heard of in the financial world of the Commonwealth. They have gone under quietly, and

nothing is said about them. They are not like bankers and merchants who, when they fail, file a schedule; but farmers and men following similar occupations. They owe money to one or two, and, as a rule, they are honest men who, when they fail, give up all they have, and not a word more is heard of them. Very many of such men have gone under, and there are more to follow, I am sorry to say; so it behoves the Parliaments of Australia, State as well as Federal, to be wise and to refrain from extravagance of any kind where it can be avoided. We are promised courts of conciliation and arbitration. I agree with anything that will bring employer and employé together. But if you go beyond that, and introduce anything in the shape of compulsion, then I say without fear of contradiction that you will be ill-advised.

Senator PEARCE.—The honorable senator would object to the Strike Suppression Bill introduced in the State Parliament of Victoria on that ground?

Senator FRASER.—I do not think there was compulsion there. Does the honorable senator mean to say that a section of people in any country have the right to strike against their own country and to destroy public property? Does any honorable senator contend that any section of the civil servants of the country have an inalienable, God-given right to strike against the Government of their own country? Surely that is not contended? I warned my friends in the Railway department before the difficulty occurred—I begged and entreated many of them whom I had the honour, privilege, and pleasure of recommending for employment in the department five - and - twenty years ago. not to resort to so extreme a measure. I wished the men well, and I told them that it would be sheer madness for them to strike. I am sorry for their position. A great many of them are very good men.

Senator PEARCE.—The whole of them are.

Senator FRASER.—All the members of any section of the community are not good. While I should like to follow Senator Symon in his eloquent statement about the naval agreement I cannot agree with the deductions he made. We are still a small community, but we have an enormous export trade. Unfortunately, it is not now so large as it ought to be, but up to a few years ago it was very great indeed. We could not survive a stoppage of that trade for six months.

If we could not export our produce year by year in security, the people of Australia would become insolvent. Therefore, we are greatly interested in insuring the safety of our ships, and the transport of our produce to other countries. And if we can obtain that security—I do not mind for how many years—I see no other course so suitable and so wise as that which is here recommended. I presume that there will be a condition in the naval agreement that we shall have certain protection in the case of a naval war.

Senator Sir JOSIAH SYMON.—The only condition is that the fleet subsidized may be sent wherever the Admiralty likes without reference to us.

Senator FRASER.—I do not deny that we may be left in a fix, but I do not anticipate that it will be done.

Senator Sir JOSIAH SYMON.—Does not my honorable friend think that if the subsidized fleet went away from our shores we should not be protected against a privateer or a cruiser?

Senator FRASER.—We can trust the British Government not to leave us unprotected.

Senator Sir JOSIAH SYMON.—Let us have a little control. Let us have a say in the business.

Senator FRASER.—No; that is not practicable and, besides, too many cooks always spoil the broth. If Canada, Australia, South Africa, and other colonies were allowed to have a say in naval affairs, the Navy would not be so well handled as it is at present. I consider that Australia would be better served by paying a subsidy, especially such a small one as is proposed, because we cannot afford to establish a navy for many years.

Senator Sir JOSIAH SYMON.—It depends on what my honorable friend means. We do not want a navy to go and fight the Japanese in Japan.

Senator FRASER.—The smallest navy that we could possibly require would cost infinitely more than the subsidy, and in case of trouble we should depend on our land forces. In my opinion, it is the best arrangement we can make. Fortunately the paragraph in the speech relating to the transcontinental railway is vastly different from the one in the previous speech. It is a very mild proposal that is mentioned in this speech. I know a good deal about railway construction and the country which this line is proposed to traverse. Although

its construction might give a little additional traffic to the railway systems of South Australia and Western Australia, the amount of that extra traffic would not be equal to the contribution which South Australia would have to make.

Senator PLAYFORD.—It would not provide grease for the wheels.

Senator FRASER.—I am delighted to hear such an authority as my honorable friend express that view. When I was seeking a seat in the Senate, I strongly denounced this proposal on forty platforms. On every possible occasion I denounced this extravagant idea. It ought to be scouted.

Senator STYLES.—The Government are not in earnest.

Senator FRASER.—If they are not in earnest in this business, the paragraph should have been omitted.

Senator PEARCE.—That is not very flattering to the Government, coming from a supporter.

Senator FRASER.—It is not flattering to the Government. It is a deplorable thing if for the sake of popularity hunting the Government put such a statement in the opening speech. It is an outrage to suggest the construction of this railway. The rails would rust from want of use. When I was in Riverina the other day, I drove my buggy and pair without the slightest hitch over yards capable of drafting 2 000 sheep, and fences, too, of course. During the drought the drift sand had raised the yards 4 feet high. But that country is a garden of Eden in comparison with the country to be traversed by this transcontinental railway.

Senator PLAYFORD.—Even the squatters have not taken up a bit of the country.

Senator FRASER.—Could stronger proof of the worthlessness of the country be adduced than the fact that not an acre of land has been taken up along the route of this railway? It all lies waste and waterless. The steamers run at the rate of 20 knots an hour, but the railways do not average that speed.

Senator PEARCE.—The steamers only travel 14 knots.

Senator FRASER.—They can travel 20 knots, and under the new contract the speed will be faster.

Senator Sir JOSIAH SYMON.—The new contract will not allow these ships to come down.

Senator FRASER.—If the new contract is confined to the use of old tubs, as it is likely to be, we may have to go back to the old 10-knot boats. A few words now regarding the sugar industry.

Senator PARCE.—It is not ruined, as the honorable senator told us two years ago it would be.

Senator FRASER.—I did not say it would be ruined. What I said was that the sugar-growers at Cairns, which has a worse climate than has Mauritius, could not get on with white labour. I stake my reputation on the accuracy of that statement. In a few days I shall be able to produce some returns to show that my opinions were well founded. Experience so far has borne out all I said last session. Queensland sugar was competing with other sugars in Hobart, Sydney, and Adelaide, and if the Government required revenue it could have been easily obtained from other articles than sugar. The confectionery and many other industries have been handicapped by the enormous increase in the price of sugar.

Senator STANFORTH SMITH.—The Australian people are paying no more for their sugar now than they did before federation.

Senator FRASER.—The price of sugar has been raised enormously. Even with the rebate of £2 per ton, there is an advantage of £3 per ton to the sugar-grower. The growers of North Queensland will prove by absolute experience in a few years that they cannot get along without black labour. The Government bungled the sugar business, and now they state that they intend to alter with the method of payment of the rebates. Last session I said that the arrangement was a silly one. According to their own showing it is an unbusiness-like one, and does not do credit to either the Government or the people. Last session I said it was grossly unfair that foreign ships could enter British ports on the same terms as British ships, and naturally I was very pleased to hear Senator Symon refer to this subject. For many years foreign Governments have subsidized ship-owners in various ways so as to induce them to send out their ships to take trade away from British ships. We could never have won the day in the Transvaal but for the ships of the mother country and her dependencies. We could never have transferred 200,000 soldiers to South Africa but for

the enormous number of our ships. Any blow at our shipping is a blow at a vital part of the mother country and her dependencies. All British ships should be placed on one basis. I will not, so far as my voice goes, allow any distinction to be made between a British ship built or owned in England and a ship owned in Australia. There should be no distinction whatever. We, one and all, belong to the British Empire. I am, however, thoroughly in favour of compelling foreign shipping to pay higher charges than British shipping pays. That is a movement in the right direction. Why should those enormous foreign ships come here—ships built and owned in foreign countries—very fine ships, for the building of which I admire the pluck of the people who own them—and pay no more than ships owned and built by British people? No other country on the face of the earth would allow them to take advantage of our ports and get the benefit of our expenditure and take our trade away whilst giving nothing in return. Of course, the United States confine their coastal shipping to their own vessels. I do not blame them for that. America is a huge country, and its people have the right to confine their coastal trade to their own vessels. The Monroe doctrine has to some extent been thrown overboard in regard to the interference of the United States in the affairs of the rest of the world. American policy is very different to-day from what it was twenty years ago. But are we going to draw distinctions between British ships coming here from a British port and ships owned within our own territory? I say, "nay." Let us make no distinction between a ship carrying the English flag coming to our ports and a British ship carrying the Australian flag. The United States Government makes no distinction between ships owned in various parts of their dominions, but we propose to make a distinction between an English ship and an Australian ship. Such a policy is not entitled to be classed as statemanship. As to the Pacific cable, it has been launched at the expense of the various Governments concerned—English, Canadian, and Australian. But what have we done? We have entered into an agreement, subject to ratification by Parliament, and have given the Eastern Extension Company—which is a very clever, powerful, and grasping company, ably managed—terms to which they were not entitled. I admire the management of

Senator Fraser.

that company, but there was no reason why we should give them undue advantages.

Senator PLAYFORD.—I do not think we have done so.

Senator FRASER.—I think so.

Senator PLAYFORD.—We have only given them the same advantages as four States gave them.

Senator FRASER.—Some years ago we entered into an agreement with regard to the Pacific cable, and that agreement was broken by some of the States—not by Queensland, not by Victoria. The Eastern Extension Company, being very astute, secured certain privileges in these States. I remember that at the Pacific Cable Conference held at Ottawa some six or eight years ago it was stated by representatives of the Eastern Extension Company that no cable could cross the Pacific, because of the distance from Vancouver to Fanning Island. They declared that over and over again, and when my friend, Sir Sandford Fleming, stated otherwise, they laughed him to scorn.

Senator PLAYFORD.—They never said anything of the sort.

Senator FRASER.—My honorable friend, Senator Playford, was there.

Senator PLAYFORD.—Yes, and I know all about it. They only said that the long line of cable between Vancouver and Fanning Island would work very slowly.

Senator DRAKE.—That has been falsified by facts.

Senator FRASER.—They declared that it would be almost impossible to work the line, and that it would take many years to construct it. It has now been built at the expense of British people, and the Prime Minister—I think very unwisely—gives to the Eastern Extension Company the privilege of opening offices in Melbourne, Sydney, and elsewhere.

Senator DRAKE.—In Sydney they have that privilege under their own agreement.

Senator PLAYFORD.—Surely Senator Fraser would not prevent men from opening offices? He has some idea of a little bit of freedom.

Senator FRASER.—I would not do an injustice to them; but does the Senate think we are acting fairly by the Pacific cable when we allow a powerful and wealthy company to open offices, and for anything we know to the contrary, to give rebates of anything you like to its customers? The giving of permission to

open offices in Sydney and Melbourne gives the company command of two-thirds of the Australian business at one stroke.

Senator DOBSON.—They have reduced their terms.

Senator PLAYFORD.—We cannot do without the company in sending telegrams to the East.

Senator FRASER.—What I complain of is that an agreement which I consider an unwise one has been entered into. Now the company will, of course, monopolize nearly all the trade, and a line that has been built and paid for by British, Canadian, and Australian people will be starved.

Senator PLAYFORD.—The honorable senator wants a monopoly for the Pacific line.

Senator FRASER.—No; I only want fair play, and it is not fair play to let the Eastern Extension Company do almost all the business and starve the other line.

Senator PLAYFORD.—They only want to open offices, not to do all the business.

Senator FRASER.—They never had the right to open those offices before.

Senator DRAKE.—They had in four of the States before federation.

Senator FRASER.—The arrangement is very unwise, and very prejudicial to the Pacific cable because, as I have pointed out, the great bulk of the business is done in New South Wales and Victoria. I hope that our session will not be a very long one, and that we shall justify the opinions expressed many years ago with regard to the benefits of federation. I agree with Senator Symon that there is friction at present. There was bound to be friction, but it will pass away in time. The creation of the Commonwealth was a wise and a good thing, but we have not taken that advantage of it which we ought to have done. We have not made the savings which were prophesied. I remember going to many meetings before federation and saying that economies would be effected here and there. I should be ashamed to repeat now the statements which I made then. There have been no savings, but all the same old extravagances have gone on. Economy is one of the things that I hope the people of Australia will insist upon. I trust that the legislation of the session will be framed in a common-sense way, and will be for the good of the whole Commonwealth.

Senator WALKER (New South Wales).—I am very glad that this debate is not on party lines, and gives us the

opportunity to speak as we think, whether we favour some parts of the Governor-General's speech or otherwise. I notice that there are 25 paragraphs in the speech and, therefore, if I occupy a little longer time than usual, I shall blame the speech on account of the number of topics with which it deals. The address in reply consists of only two paragraphs which are, of course, very brief. In this connexion I desire to compliment the speakers who proposed and seconded the address in reply. Some remarks have been made in the course of the debate to the effect that whatever is in the Constitution we should see carried out, whether it costs money or not. Personally, I have always been in favour of the early establishment of a Federal Judiciary or High Court, and I think that in a matter of this kind the question of expense is altogether secondary to that of efficiency. We cannot expect to have a thoroughly efficient High Court, such as Australia requires, unless we secure the services of the best men available. Personally, I shall be very sorry indeed in one respect when the High Court is established, because we shall then lose from the service of Australia in the political field some of the most brilliant intellects we have amongst us. But there is another provision of the Constitution which is of special interest to New South Wales. That is the provision as to the Federal territory. It is surely a matter of history that New South Wales would never have come into the Federation, and that the Commonwealth would not have existed at all, had it not been that the section in question was inserted in the Constitution. I am, therefore, very pleased to see that the Ministry intend to bring that matter forward during the session. I have heard the point made for the first time to-day, that although we may settle the site for the federal territory, there is no hurry about erecting the capital itself. But I am under the impression that when we have selected the site, we should take preliminary steps, at all events, for laying out the capital. The next point to which I have to allude is in regard to defence. Here I thoroughly indorse the action of the Government. It is extraordinary to my mind that some honorable senators should look upon the sum of £200,000 a year as being a kind of tribute money unworthy of being paid by Australia. They should think of what an enormous trade we have,

and that this £200,000 a year is practically for insuring the safety of our trade. I consider that it is a very cheap insurance premium. Were we to attempt to establish a navy of our own, we should have to buy or build huge ships of war for the defence of Australia. Then every few years there would come new discoveries in naval architecture, so that we might find after we had spent a million of money on a ship, that after five or six years it was altogether useless. While I strongly approve of the policy of the Government with regard to naval defence, of course I differ from them as to their immigration policy. I trust—although the Postmaster-General said that there was no intention of bringing in an amendment in the Immigration Restriction Act—that when the Ministry sees the feeling existing in regard to it in both Houses they will reconsider their determination, and resolve to amend the Act, at all events with regard to its application to British subjects. The incident of the six hatters promises to be as historical as the story of the three tailors of Tooley-street. All over the world we are the laughing-stock of English-speaking people. Contrast our procedure with that of the Canadian Government and see the consequence of the opposite policy in the Dominion. I have here an extract showing that recently 2,000 British emigrants left the Mersey for Canada, carrying with them capital to the extent of £500,000.

Senator PEARCE.—They were not under contract.

Senator WALKER. — I don't care whether they were under contract or not. I voted against the absurd section to which I have referred. I should like to see people of British origin come here ; I should like to see a free flow of immigration. I remember when there were only 32,000 people in Queensland, but a policy encouraging immigration was instituted, and to-day in that great State—because it is a great State, and in time will be second to none in Australia—we have a population of half-a-million. Are the wages paid there now lower than they were in the days gone by?

Senator STANFORTH SMITH.—There were 30,000 Chinese on the Palmer River.

Senator WALKER.—I am sorry that an honorable senator who has recently travelled about Australia so much should hold such narrow views. I never expected to hear

such nonsense from the Columbus of Australia. Each of the immigrants to Canada is submitted to a rigorous examination.

Senator PEARCE.—There is nothing to prevent their coming here.

Senator WALKER.—We in Australia are further from the old world than Canada is, and we should offer inducements to immigrants to come here. There is another question mentioned in the Governor-General's speech as to which I should like to make a remark. That is the Arbitration and Conciliation Bill. If that Bill is to be introduced I hope that it will be judged on its merits. At present I am a bit suspicious about it. I notice that amongst the modern "new unionists" there is a habit of calling people who are outside their ranks by such opprobrious terms as "scab" and "blackleg." I hope that if that Bill is brought in, it will make it a punishable offence for a person to call a man a "scab" or a "blackleg" who has the courage to leave a union. A man who leaves one shows that he has individuality, and I believe in individuality and freedom. In regard to this matter, I could refer, if necessary, to an honorable senator who at one time belonged to a labour organization, and if I were to repeat to the Senate what he has told me with regard to the way in which people were treated who had the courage to leave their unions, honorable senators would be very much surprised.

Senator PEARCE.—We are a dangerous lot.

Senator WALKER.—I have a considerable regard personally for the members of the labour party, but I cannot stand their politics. We have lately had in Victoria a conspicuous instance of what may happen. Look at the terrible state into which Victoria was plunged by the railway strike. I wonder if my honorable friends in the labour corner have ever thought of the terrible damage that might have been done to our credit by that strike. I have no hesitation in saying that, had that strike been successful, the fact would have struck such a dire blow at our constitutional rights that in the money markets of the world our public securities would have fallen in value, and the progress of Australia would have been retarded to an extent painful to contemplate. I am only surprised that believers in law and order, and other Governments, had not the courage to

send messages of sympathy to Mr. Irvine, commending him for the noble stand he took. That is the view which nine out of every ten people in Australia take of the plucky stand he made. In regard to the mail contract I trust that we shall have the courage, if we have made a mistake, to go back and correct it. See what the British Government now think we intend doing. What can the British Government think of the latest idea of preventing lascars—British subjects—from manning our mail steamers? It will be interesting to notice what will follow in consequence of this legislation. After a time there will be a cry for a republic of Australia. I believe there are many persons inclined to support such a demand at the present time, and we must be careful not to play into their hands. There is another matter in His Excellency the Governor-General's speech which requires careful consideration. I refer to the paragraph relating to the consolidation of State debts. I know that my views are in consonance with those of the Colonial Treasurer and the Attorney-General on this subject, and I think we must be very careful in dealing with the matter. We must take care that we do not encourage extravagance. We must remember that under section 105 of the Constitution we are entitled to take over the debts only as they existed at the establishment of the Commonwealth. Any further debts will have to be a matter of arrangement with the States. If we ever do take over the State debts, there are three points to which we must pay special regard. We must be satisfied, first of all, as to the security; secondly, as to there being a sinking fund; and, thirdly, as to what provisions exist for further loans. If we wish to obtain the best price for our stocks, it would never do to have a variety of Australian stocks on the home market. I hope the time will come when the States will see the wisdom of having all their loans effected through the Commonwealth, and when that is done they will, no doubt, be able to obtain money on very favorable terms. The question is a very difficult one. At one time I was in favour of federalizing the State railways, but that proposal seems to be objected to. Next it seemed to me that we should have to go in for the hypothecation of portion of the railway revenue to supplement the customs income if we took over all the liabilities of the States.

Senator MILLEN.—How could we enforce payment if they decided to suspend the sinking fund for a year?

Senator WALKER.—That is a matter of detail. I am at present simply laying down general lines.

Senator DRAKE.—It could be done by means of trustees.

Senator WALKER.—I knew that a way out of the difficulty could readily be suggested.

Senator MILLEN.—But supposing they passed an Act repealing the first one for a year?

Senator WALKER.—We shall have to be very careful in regard to the proposed sinking fund, because there is a tendency to look upon these funds as mere book entries. The responsible authorities see that they have so much to the credit of such a fund, and they proceed to withdraw it. If there is to be a sinking fund it should be placed in the hands of non-political trustees, and they should have the control of it until such time as it is required. With regard to the Customs department it is unnecessary to repeat what has been said on the subject. I believe that the Minister for Trade and Customs is as honest as is any one here, and that he is endeavouring to do what he believes to be his duty. But, unhappily, he is carrying out that duty in a most unfortunate manner. He takes it for granted that we are all rogues until we are proved to be honest.

Senator PLAYFORD.—No.

Senator WALKER.—The way in which the young man to whom reference has been made was treated in Sydney was simply disgraceful.

Senator HIGGS.—Then there was the case of the man in Brisbane.

Senator WALKER.—I am sure that every honorable senator would like to see the administration of the Customs department carried out in a courteous and gentlemanly way. The collectors of customs should be allowed more discretionary power in small matters. We all know that the Postmaster-General has power to settle little difficulties which occur in his department in a way which he thinks is reasonable. A case occurred the other day in which he fined the offender £1.

Senator DRAKE.—Unfortunately, cases of the kind are very numerous, and a little publicity might stop them.

Senator WALKER.—This is the first I have heard of it. I thought, when the Postal Bill was before us, that the Postmaster-General was very glad to have that provision included in it.

Senator DRAKE.—So I was.

Senator WALKER.—Coming to the question of the transcontinental railway, I think that the reference made to it in His Excellency the Governor-General's speech is perfectly permissible. At the same time it must be remembered that the people of South Australia are endeavouring to show us that they can secure the construction of a railway to the Northern Territory by means of a land grant system.

Senator PEARCE.—By giving away a large part of the State.

Senator WALKER.—If they are able to secure the construction of a railway in that way, is there any reason why the Western Australian and South Australian Governments should not be able to secure a transcontinental railway by means of the land grant system?

Senator PLAYFORD.—Who would take the land?

Senator WALKER.—If people will not take the land, let them say so. We should then know what to do. It is asserted—and I believe that Senator Pearce is the authority for the statement—that there is some very good land in Western Australia.

Senator Sir WILLIAM ZEAL.—But not along the proposed route.

Senator WALKER.—Why should there not be other Kalgoorlies, yet undiscovered, in Western Australia? I am sentimentally in favour of the railway, because it would be useful for the defence of Australia. What could assist more materially in the defence of Australia than the construction of railways from one end of the continent to the other? How would it be possible to send troops from Adelaide to Fremantle, or from Adelaide to Port Darwin, without the use of railways? It would certainly take a long time to send them round by steamer. In regard to the statement made by Senator Fraser, I must say that I am not aware that any of the steamers coming to Australia have a speed of 20 knots an hour. I believe it will be found that the best of them can do only 15 knots an hour.

Senator PEARCE.—The average is less than that.

Senator WALKER.—The only other matter to which I wish to refer is in regard

to Mr. Chamberlain's remarks as to preferential trade with the Empire.

Senator HIGGS.—Protection?

Senator WALKER.—I quite agree with the honorable senator. I think it shows the thin end of the protectionist's wedge. I believe that Mr. Chamberlain is a second Disraeli with regard to political insight, but this is a proposal which I think is not altogether right. I believe Mr. Chamberlain in making it is actuated by the highest motives, but I do not think it is in accordance with what we believe as free-traders. I am a cosmopolitan free-trader, and I believe that if we could have free-trade throughout all lands we should have the best guarantee for the brotherhood of nations, and the peace of the world.

Senator MILLEN (New South Wales).—We are face to face this evening with one of the disadvantages under which we labour in having only two members of the Ministry sitting in the Senate. Of course I take no exception to the absence of Senator O'Connor. Honorable senators, who know the amount of time which he devoted to the work of last session, will freely excuse his absence at the present time. I wish to make it quite clear that I am not in any sense drawing attention to his absence; but I contend that it is only fair, as illustrated by what is taking place now, that there should be another Minister in the Senate. We have a right to expect in the interests of the debate which is now taking place, and for the better elucidation of the various questions touched upon, that there should be a Minister in a position to reply to the speech just delivered by the leader of the Opposition.

Senator DRAKE.—If I had done so, all the other honorable senators would have followed me.

Senator MILLEN.—That is one of the privileges of the Minister who speaks. With another Minister in the Senate the Postmaster-General would have had a colleague to follow those who spoke after him, and to reply to their criticisms. That is a course which is usual in all parliamentary debates of this character, and I think it tends to the proper elucidation of public questions. Coming to the matters dealt with in the very voluminous and somewhat wonderful document with which we are confronted, I believe that other representatives

of New South Wales like myself contemplated saying something upon the question of Customs administration which is a burning one to us. Fortunately, I feel that any obligation of that character is removed from me. The remarks made by Senator Downer represent criticism much more sweeping and stronger than anything which has been launched against the Customs administration by any honorable senator speaking from this side of the Senate. When we have an honorable senator who shows by his whole attitude in making his remarks that he desires to be as kind to the Government as he can, when he admits in a burst of candour, as perhaps the easiest way out of the difficulty, that in the position in which he finds himself he is entitled to the sympathy of the Senate, and when we hear him admitting that unjust acts have been done, that innocent persons have been punished, then I say the whole case against the Customs administration is proven, and there is nothing further to be said. I may add that as I listened to that speech, my sympathy, instead of going out to Senator Downer went out to Senator Drake.

Senator DRAKE.—The honorable senator's sympathy was thrown away.

Senator MILLEN.—I assure the honorable and learned senator that he had it. The fact that Senator Downer spoke in this way enables me to condense my remarks into a very brief compass. I wish, however, to say a word or two as to the site of the federal capital. I want to make the position as clear as I can, and to place views of my State before the Senate, because this is a matter upon which there is some feeling, and, to be frank, some suspicion in the State of New South Wales. That suspicion arises very much from the utterances of representatives of other States. I do not mean for one moment to say that these utterances can by themselves be construed into any intention to evade that provision of the Constitution which declares that the federal territory shall be in New South Wales. But I do say that there are many things taking place now which suggest that the first object aimed at is delay, and that the object of that delay may be repudiation. I desire now, not to express my own view of the matter, but to convey to honorable senators some idea of the opinion which prevails in New South Wales, with a view to having this matter settled as

early as possible. Some utterances have been made here this afternoon, and one by my esteemed friend, Senator Styles ; and I repeat again that those utterances, by themselves, mean nothing. I rather think that they are idle expressions not meant to convey one-half as much as will be extracted from them by the people of New South Wales, who will read them. Senator Styles said this afternoon that the agreement that the site of the federal capital should be in New South Wales had been arrived at by six gentlemen without authority. That may be perfectly true. The honorable senator also told us that it was "Hobson's choice," and that the people of the Commonwealth had to accept it whether they liked it or not. The attack is first against the authority, and is it not possible to suppose that as there is now an inclination to attack the authority which arrived at that agreement, that sooner or later there will be an inclination to attack the agreement itself ? That is only one of many little things which are going on. Then we have in Senator Dobson a staunch advocate for delay. We have the big metropolitan journals of Victoria now in the habit of scornfully referring to the federal territory as the "bush capital." All this goes in my State to form the opinion that the first object sought for is delay, and that ultimately it will be repudiation. We see the danger of delay. There is no provision of the Constitution that is one whit more sacred than any other provision. Each is equally open to amendment provided that the amendment is brought about in a constitutional way. The only thing that may tend to protect this one section of the Constitution from amendment is the moral obligation underlying it, and that moral obligation must necessarily be more strongly binding on the people who entered into the agreement than it will be on their successors. I refuse to believe that any public men who were parties to the Constitution—that any one in this Chamber or any one who in any way took part in the discussions on the Commonwealth Bill—would for one moment consent to the amendment of that provision. But I say that when ten, fifteen, or twenty years have gone by, and the men in whose minds that moral obligation is present have passed away, as they naturally must, and when we have a fresh race of legislators who may not be familiar with the circumstances in which that agreement was arrived at,

there will be a strong probability of an effort being made to amend that provision of the Constitution. New South Wales in this matter recognises that "delays are dangerous," and that feeling is strongly accentuated by such utterances as those of Senator Styles, and by the attitude of the *Age* and *Argus*, who have now got into the habit of jeering at the proposal for "a capital," as they term it, "in the bush." They did not adopt that attitude when the Constitution was in the balance in New South Wales. There was not a word of that kind said then, but they affirmed and admitted that it was a graceful concession in order to please New South Wales. Probably it was, but I have not the slightest hesitation in saying that had that provision not been there New South Wales would never have accepted the Commonwealth Bill. I have no personal want of faith in the good intentions of those who have to decide this matter, but having regard to the suspicion which is growing in my own State I do ask, in the interests of good federal feeling, that that question shall be settled as early as possible consistent with the requirements of public convenience. When I put the matter in that way I do not think any one can accuse me of advancing an unfair proposition. Now I come to the matter of the naval agreement. If Senator Downer felt called upon to differ in some particulars with the Government, of which he is a supporter, I feel that upon this occasion, in order to some extent to make things equal, I must quarrel with my leader, and in this matter I have to express a considerable measure of approval of the agreement which the Government have entered into. I fully indorse the sentimental aspect of the question so ably put by Senator Symon. I say at once that I desire to see an Australian navy, manned by Australians and under Australian control. But can any one tell me that, until at any rate the book-keeping period has passed, it is a reasonable or a sound financial proposition to consider the commencement, this year or next year, of a navy, the construction of which is going to involve an expenditure which is really too large for serious consideration? As for the time being the construction of a navy of our own must remain in abeyance, what, I ask myself, are we to do in the meantime? This agreement appears to me to fill in the gap. Though I in no way assent

Senator MilLEN.

that it is a policy that should obtain here for any protracted period, but as a stop-gap, as something to meet our immediate requirements, and until we are financially in a position to take a bolder course, I propose to support the agreement when it is submitted. I come now to another matter upon which I have also to disagree with Senator Symon. That is as to the payment of the sugar bonus. If I understand the honorable and learned senator's proposition aright, it is this: that those States which were afflicted with the evil of coloured labour, as I regard it, are required to pay the whole cost of the policy of a white Australia.

Senator PEARCE.—Not the whole cost; the partial cost involved in the excise.

Senator MILLEN.—I am dealing with that portion given as a bonus apart from the protective incidence of the matter, and if I have stated Senator Symon's proposition correctly, it amounts to an affirmation that the democracy of the Southern States want an advantage at the expense of the other States. I decline to believe that Southern democracy is built that way. I know that this is a matter that concerns New South Wales as a sugar-producing State, but with the population we have the amount involved is so small that it will not be contended that it would influence us. I am perfectly certain that every man in New South Wales who voted for a white Australian policy was quite prepared to fairly share in the cost of securing it. For the reasons I have given, that is another point in which I have to give my support to the Government, although it will be in opposition to the leader of my own party. I assume, from the fact that there is a reference in the speech to the all-important subject of the State debts, that it is at any rate in contemplation to take some action with the view of effecting a transfer. I hold that any immediate—and I use the term in a comparative sense—transfer of these debts is extremely undesirable. I have not heard any reason advanced why we should transfer them, nor yet has any one to my mind shown that any advantage would result to the Federation from such a transfer. I assume that no one contemplates so serious an operation, and one of such magnitude, unless some advantage is to be obtained. What is that advantage? Is the Federation to be advantaged by assuming a responsibility of such

magnitude? I cannot see that it in any way is to gain in the slightest degree from saddling itself with the heavy financial responsibility that would be represented by the acceptance of the liability of the several States. I can see that the States have something to gain. They, of course, will only be too happy to accommodate us if we will place them in a position to unload upon the shoulders of the Commonwealth a national debt which, in too many cases or to too great an extent, represents the result of financial extravagance.

Senator STANFORTH SMITH.—Conversion.

Senator MILLEN.—I do not believe that any financial authority will be found to say that we should gain any immediate advantage from the conversion of the State debts at the present time. Anyone holding State bonds, if they are to be converted, will require to get an equivalent. The holders of State bonds are not philanthropists, and we must not approach them in that spirit. If we ask them to surrender bonds bearing 4 per cent. interest for a lower rate of interest they will want a higher face value on their bonds. For every £1,000 worth of 4 per cent. bonds that they hold to-day, if we convert them to 3 per cent. bonds they will possibly want a face value of £1,100 or £1,200.

Senator PEARCE.—Would there not be a better market for the stock as a result of the transfer?

Senator MILLEN.—Whom will that advantage? Of course it will advantage the owners of the stock. Supposing the stock of New South Wales, which are quoted to-day as low as they have been for many years, suddenly spring up four or five points. It will not put a single penny into the coffers of the Commonwealth.

Senator BEST.—Would not a scheme be desirable whereby if loans fall due they could be absorbed by the Commonwealth, the Commonwealth having control of the revenue?

Senator MILLEN.—I presume that the honorable and learned senator means that the Commonwealth might be able to renew on more advantageous terms than the State. That would be an advantage to the State, not to the Commonwealth.

Senator BEST.—We have control of the revenue.

Senator MILLEN.—The honorable and learned senator now anticipates a point I wish to come to. Practically, by that

interjection he admits that there will be no advantage to the Commonwealth as distinct from the States. There is no advantage to the Commonwealth itself; but the Commonwealth may by this conversion be the instrument of conveying an advantage to the States. Now the States will still have to pay the interest upon the debts which we take over and convert. I see the possibility of very grave complications arising from that unless we also take over some substantial corresponding asset. That, of course, opens up the question of what the asset is to be. For the present I do not wish to deal with that matter. I merely wish to show the position that we shall be in if we become responsible for the conversion of the State debts.

Senator BEST.—It will be regulated by the revenue within our control.

Senator MILLEN.—Exactly. My honorable and learned friend brings me back to that point again. At the present time the Commonwealth is handing back the surplus revenue to the States. Let me imagine two States in different positions, one having an insufficient revenue even with the amount that the Commonwealth hands back. A bad year overtakes the State and it gets into financial difficulties in its administration. What happens then? Are we to practically force that State to borrow again or become insolvent, if you like, as we should do if we withheld from them the necessary amount of Customs' revenue. If we did not desire to do that we should have to pay their interest charges ourselves? I have always advocated that as far as possible State and Federal finance should be kept distinct. I can see that any number of complications may arise if we once proceed to mix them up, but I cannot see the possibility of very little difficulty and danger arising if we keep them distinct. Let me take the position of the State I referred to. A time might come when, through some radical alteration of the Tariff, the amount of the surplus to be handed back would become very small. We should then have to call upon the State to pay the Federal Treasury the amount which was required to pay the interest on the bonds for which we had become responsible. Supposing that it did not return a positive refusal to pay, but simply said—"We have not the money, and we are not in a position to impose fresh taxation." The only safe way I can see to take over State debts would be to take over with them

a proportion of revenue-earning assets, such as the railways. When the Federal Government or any State or recognised authority is prepared to put forward a scheme for the simultaneous transfer of the debts on the one hand and an equal amount of revenue-producing assets on the other, then this matter will be within the region of practical politics, and I shall be prepared to give it careful consideration.

Senator BEST.—It will be many a long day before that takes place.

Senator MILLEN.—I hope it will be. I think it would be suicidal—I can use no other word—for us to seriously contemplate such a big financial operation as the taking over of the State debts until, at any rate, we are outside the bookkeeping period, and until we can see a little more clearly what is to happen, and how things are going to shape. If there is a general agreement that the matter is to be left over until the bookkeeping period has expired, what is the good of loading this speech with references to it, and, still more so, what is the use of these not altogether friendly exchanges of opinion between Federal Ministers and State Ministers? One great advantage—and the principal one so far as I can see—that would result from the transfer of the State debts would be the possibility of the States launching out into a fresh reign of extravagance. When some reference was made to that question in the early portion of the evening, an honorable senator interjected “Of course the transfer of the debts will be accompanied by a restriction on the State Governments.” How can we restrain a State Government? I know of no way by which it can be done, unless we are prepared to use the military forces, and even then I do not know that we should be successful in our effort. There is only one way in which the extravagance of the State Governments can be stopped, so far as my experience goes, and that is by resolution on the part of the electors to put a stop to it. In New South Wales we have a Government which has been carrying out what it terms a spirited public works policy.

Senator PEARCE.—There is a restriction in some of the American States, I believe.

Senator MILLEN.—There is a restriction on the amount which the State Government can borrow, but we cannot enforce

that view. It would have to be embodied in the Constitution of a State, and with that we have nothing to do. I venture to say that any proposal submitted to the Parliament or the people of the State that the hands of the Government should be tied, would be scouted indignantly as an improper interference by the federal authorities with State rights. The extravagance, or to use a more euphonious term, the spirited public works policy, is, in my opinion, to be charged not so much against the Government of a State as against the electors. Only the other day I was confronted with this rather amusing paradox in a country town. I was invited to attend a meeting for the purpose of forming a branch of what is called there, the reform movement. It was being started by a number of persons to whom the word Kyabram is like the blessed word Mesopotamia. I said I was not quite clear as to whether what they meant by reform was what I meant by the term. I was for reform all the time, but I was not quite certain that my idea of reform would square with theirs, and therefore I did not attend the meeting at the hotel at which I was staying. When the reformers came out they told me that they were going to attend a meeting of the progress committee. I asked the purpose of the meeting, and I learned that it was to urge the Government to spend some money on what I regarded as an absolutely unnecessary culvert. That is an example of a great deal of the reform which is going on. I am prepared to charge nine-tenths of the extravagance which is taking place in that State to the action of the electors, and until they set the example of refraining from urging the Government on with its extravagance, there will be really nothing in the way of financial reform there. That, perhaps, is by the way. But it leads me to this conclusion, that for us to relieve the States of their financial burdens would simply be to open the road to them to continue a policy which I can only regard as bringing very undesirable, if not disastrous, results upon the commerce and industry of the State. I wish to say a word about the railway to Western Australia. I am not quite clear as to the object of the Government in introducing this subject into the speech. I do not like to suspect Ministers of any attempt to suggest things which they do not intend to carry

out, especially if they are improper things, but with all my very kindly regards towards them, I am compelled to ask myself whether this paragraph has not been put into the speech in order to suit the electioneering purposes of certain members of the Government. That is the only conclusion I can arrive at. It is not strictly federal business to construct a railway anywhere. I am not speaking of the merits of this proposal, but certainly, before I consent to the Government undertaking to construct a single railway, I shall require a clear pronouncement as to what their position is to be in regard to the railways of the States generally. I am in very grave doubt as to whether the proposed transcontinental railway has sufficient merit to warrant even five minutes consideration of the project at the present moment.

Senator DE LARGIE.—Let the honorable senator talk about something he has some idea of.

Senator MILLEN.—I have a serious idea about this matter, and it is because I have that idea which takes the shape of a big doubt that I shall hesitate before I give a vote to help the project along until its advocates can bring forward some reasons more substantial than they have done given yet.

Senator DE LARGIE.—Is this the spirit of federation?

Senator MILLEN.—It does not ask me to hurry the Federation into an unfinancial business, and scattered over Australia to-day we have quite enough horrible examples of "wild-cat" railways without adding a federal one to the list.

Senator DE LARGIE.—The best paying lines in Australia runs through country such as you are talking about.

Senator MILLEN.—If it is to be such a good financial business, the only thing I am surprised at is that such a progressive Government as that of Western Australia has not already constructed the line. It would be a most unfriendly act for the Commonwealth to step in and build what is to be the most profitable line in the State, and leave the State to carry on the unprofitable ones.

Senator DE LARGIE.—The line is not to run all through our territory. Does the honorable senator expect a population of less than 250,000 to build it?

Senator MILLEN.—I do not. I admit at once that I do not know

the country which it is to traverse. I do not know that there is any one here who can say that he knows it. In listening to the remarks of Senator Pearce, I was reminded of a very old story, to which, perhaps, I may be pardoned for referring. It is the story of a curate who was on one occasion the guest of his bishop. The curate, having breakfast with the bishop, was toying very suspiciously with an egg which was placed before him. The bishop, suspecting that the integrity of the egg was open to doubt, asked the curate whether there was anything wrong with it. The curate replied—"Oh, my lord, it is excellent in parts." That seems to me to be something like the route which this railway is to cross. It may be "excellent in parts," but taken as a whole it is rather doubtful. But apart from the objection which I have to the federal authorities attempting at the present moment to take up any railway enterprise, I want to lay it down as a proposition, which I think will commend itself to the majority of honorable senators, that the Federal Government ought not, at any rate for some years to come, to approach a proposal which is not, in the words of this speech, "on a sound financial basis." Will any one—will even Senator De Largie—contend that the financial prospects of this railway are such as to justify the Federation in dealing with it at the present time? I do not think that any one will venture to say that that railway will produce anything but a big loss for several years to come. If that be so, then so long as that section of the Constitution which is associated with the name of Sir Edward Braddon remains, what an utterly foolish thing it would be to enter upon such an enterprise. We should lay ourselves open to the obligation of taxing the people of Australia to the amount of £4 for every £1 of deficiency caused upon the line. For that reason alone, it stands condemned until, at any rate, the end of the book-keeping period.

Senator DE LARGIE.—What sort of an enterprise will the federal city be from the dividend-producing point of view?

Senator MILLEN.—I think there is something in the Constitution about the federal city, but there is nothing in the Constitution about the transcontinental railway. The two things can surely be considered as distinct and apart. And I must say here that it is a thing which strikes me very forcibly, that while there is

such undue haste to rush on with something that is not federal business, we find these same gentlemen very slow to get on with a matter which the Constitution lays upon us distinctly as an obligation. One of the objections which I have to this railway is that it is likely to add to the list of non-productive lines in Australia, which represent to-day about the heaviest burden which our producers have to carry. Because every non-productive line in some way or other means keeping up the freights on the productive lines. If there is one political school in the community that, above all others, ought to be pledged to economy in the acts of government, it is that which holds the fiscal views that I do. We who are fighting for a low Tariff must be, above all others, careful that the Federation incurs no obligation which will compel us to raise through the Customs more than is absolutely necessary. That is an additional reason why I cannot entertain for one moment a proposal such as this, which must undoubtedly compel the raising by the Federal Government, through the Customs, of more money than is at present necessary for the government of the country. I pass from that to the paragraph of the Governor-General's speech which deals with the question of preferential trade. That paragraph reads in this way—

My Advisers observe with gratification recent utterances of the Secretary of State for the Colonies advocating the encouragement of trade relations between various parts of the Empire.

Senator Symon seemed to take exception to that paragraph being inserted in the speech. I think there was ample justification for it; because it appears to me, so far as reading this speech enlightens me, that it is the only thing which the Government has found to gratify it either in the recess or in the programme of legislation submitted to us. Surely my honorable and learned friend, Senator Symon, was not prepared to deprive the Government of that gratification, especially when they stand—as he will recognise, I am sure—within the shadow of that impending doom which must come upon them at the next election. I, for my part, do not wish to deprive them of that gratification. But at the same time I find considerable difficulty in reconciling the passage I have quoted with the following paragraph. We here have gratification expressed at the encouragement of trade relations between various parts of the Empire, and then,

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having expressed this gratification at something which is to bring the various parts of the Empire, including India, into closer relations with each other, we find the statement made that the Government are prepared to enter into new arrangements to give effect to a provision in the Post and Telegraph Act. We know what that means. If we are to be grateful on account of the prospect of closer relations with other parts of the Empire, including India, there is a want of consistency when they propose to go out of their way, and, by giving effect to that Act, do something which must tend to disturb trade between Australia and other parts of the Empire.

Senator HIGGS.—Would the honorable senator exclude aliens, and admit alien goods?

Senator MILLEN.—Would Senator Higgs exclude aliens, and yet drink tea produced in other parts of the world by aliens? I think I saw the honorable senator drinking tea this evening. There is the position. I tell my honorable friends frankly that I am entirely with them in anything they can do to keep Australia white, and in anything that can be done to keep undesirable aliens, coloured or otherwise, out of Australia, I will go as far with them as they will go themselves. But it becomes a different thing when they push that principle to an absurd length like this. We are not at all concerned as to what is done outside Australia. There is a possibility of very seriously injuring the trade that has come to us in the past through certain lines of steam-ships which have done a great deal to develop the commerce of Australia, and do a great deal to-day to promote our trade with other portions of the world.

Senator PEARCE.—Would there be less trade with those ships if they were manned by white men?

Senator MILLEN.—But are we called upon, in our own interest, or for any other reason, to enforce a policy which we consider for the interest of Australia upon other portions of the world? We have quite enough to do here.

Senator PEARCE.—It is only our own trade that we interfere with.

Senator MILLEN.—You are cutting off your nose to spite your face. Does the honorable senator mean to say that for the amount which we now pay to the P. and O. and Orient Companies we are likely to get

as good a service by means of any other line of ships? It is one thing to determine the internal and domestic affairs of Australia, and quite another thing to say that we will not take advantage of what is offered to us by a shipping company with which we have nothing to do except to pay for certain services which they render to us. To be consistent in this policy, we should absolutely decline to receive into Australia any goods that have been produced or handled by any coloured person whatever. That would be carrying out the principle to its logical extreme.

Senator DE LARGIE.—Has the honorable senator no interest in British seamen?

Senator MILLEN.—Undoubtedly I have. Whether I have an interest in him or not is quite outside the question, although I dare say that my interest is as keen and as genuine, and possibly as enlightened, as that of the honorable senator. But we are not going to benefit British seamen by enforcing the provision in the Post and Telegraph Act to which I have referred.

Senator DE LARGIE.—Give the British seaman an opportunity of earning his bread.

Senator MILLEN.—It strikes me that the honorable senator is not sincere in expressing that view. I think that we are pushing this principle a great deal too far when, not content with enforcing it within our own country, we are seeking to enforce upon the P. and O. and other steamship companies a policy which may mean that their trade with us will be diminished, or that we shall have to pay more for the same advantages as we already receive from them. I do not think that we can get other companies to do for us what the P. and O. and Orient Companies are doing for us to-day at the same price.

Senator GLASSEY.—There was no falling off of trade in Queensland when this policy was enforced upon the British India line.

Senator MILLEN.—I would ask Senator Glassey whether he means to affirm that we are going to get for the same price an equally efficient service as the P. and O. and Orient Companies are supplying us with now if we insist upon stipulating that they shall not employ coloured labour. Shall we, I ask again, get an equally good service at the same rate?

Senator GLASSEY.—If not, I shall be prepared to pay more.

Senator MILLEN.—At the present time, seeing that the companies do not in any way disturb the policy of a white Australia, it would be foolish for us to try and force our policy outside our borders. It looks to me like thrashing an excellent principle to death. As to the matter of the High Court of Australia I quite agree with Senator Symon—and I am glad to be able to agree with him in one respect—that it is extremely desirable that that Court should be constituted as soon as possible. I listened carefully to the remarks of Senator Fraser, who urged delay. He pointed out in support of a policy of delay that the present States Supreme Courts were giving satisfaction so far as concerned the matters submitted to them. None will doubt either the capacity or integrity of the States Supreme Courts; but what we have to consider is the possibility, which is becoming more and more imminent, of Inter-State disputes arising or of a conflict occurring between a State and the Federation. In such cases it must be admitted that the only competent tribunal to decide the issues will be the Federal High Court. Take the case that came before the Supreme Court of New South Wales the other day. It was the case of a dispute that arose between the Federal Government and the New South Wales State Government, as to whether State imports were dutiable under the Constitution or not. That matter has been by mutual agreement placed in such a position that it is merely held in abeyance for the present, and no decision has been arrived at. But it is important that a decision should be arrived at as early as possible in order that the States may know whether they have a certain revenue at their command, or only three-fourths of the revenue which they expected to receive. It is also desirable that we should know whether in calculating our Customs revenue we should take account of a lesser or greater amount being at our disposal. There is another matter also. I speak of the rivers question, which also is a subject that may have to be decided by the Federal High Court. It bristles with possibilities that will require legal intervention. Is there any State that would be prepared to accept the jurisdiction of the Supreme Court of any other State on a matter like that? New South Wales could hardly be expected to accept the decision of the Supreme

Court of South Australia, and on the other hand South Australia could not be expected in reason to accept the decision of the New South Wales Supreme Court. That is one case which renders it extremely desirable that the High Court should be constituted as early as possible, and I venture to affirm that it is to be hoped the court will be constituted before these cases arise. To wait until a case had arisen and then, when a discussion had taken place, and the matter had been advanced to the point of open disagreement, to appoint the judges and to have the court constituted would be a very bad policy indeed. I am entirely with those who go for economy. When the Bill is submitted I shall give every assistance in carrying it through, but I shall cast my vote on every occasion to limit the expense and to limit the number of Judges. Reference is made in the Governor-General's speech to the question of electoral divisions. With regard to that matter I wish only to say that as several of the States are large it must necessarily take a considerable time for the people interested to learn what are the proposed divisions. I hope the Government will table the plan of division as early as possible, so that every publicity may be given to enable different centres which have any objections to urge to make their views known, as provided for in the Act. I am extremely glad to learn from the Governor-General's speech that the position of our finances is sound, but I should have thought that in common gratitude the Government would have added to that declaration an expression of thanks and appreciation of the services rendered by honorable members on this side of the Senate. It is clearly due to our efforts in removing the restrictive barriers in the Tariff—those objectionable features with which it bristled when it came here—that imports have been flowing into the country to an extent which enables the Government to congratulate itself on a position of sound finance. In conclusion, I cordially join with the Government, as I am sure all honorable senators will do, in expressing the hope that with the return of good seasons that is now promised, although not yet assured, the prosperity of Australia, which in previous times has gone ahead by leaps and bounds will advance at an unprecedented rate under the Federation. We must recognise that, with justification or

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without it, there has been a certain amount of ill-feeling caused by the introduction of the new order of things. In New South Wales that feeling has been particularly pronounced. I would not go so far as to say that those who feel themselves aggrieved or who are smarting under the administration to-day would give a vote to undo the Constitution, but I do feel that if the position were open to them to-day, a great many of them would vote against its acceptance. I do not think they would undo what has been done, even if the opportunity presented itself. I hope that with a little more tactful administration, with a return to good seasons and prosperity and the creation of brighter and better times, all these difficulties will disappear, and that the citizens will regard federation in the way they have regarded their own State political edifices as something of which they may justly be proud.

Senator O'KEEFE (Tasmania).—It is only because, as Senator Glassey says, I desire to save the situation, and because I feel that a number of honorable senators who, I am sure, are desirous of contributing to this debate, have not been able to get together their notes, that I am willing now to step into the breach. Consequently I shall try to follow the example of the mover and seconder of the address in reply by remembering that "brevity is the soul of wit." If my remarks have no other qualification to recommend them to the Senate, I hope they will at least have the virtue of brevity. Dealing first with the proposed constitution of the High Court, I have to say right here that my opinion on this important question has undergone a change. During last session I was one of those who, for reasons of economy, did not think it advisable that the High Court should be established for some time to come. But a number of events have transpired since then which make me believe that it will be to the best interests of the Commonwealth to have the High Court established at as early a date as possible. I cannot forget that very recently one State in the Commonwealth contemplated legislation which would probably have created serious trouble amongst the people—legislation which a large section of the people of Australia believed would go so far as to endanger the liberties of which they have so long been proud. When it is possible for

legislation of that kind to pass a State Parliament, I think it is a very good thing that the people of Australia should have behind them the safeguard of the Federal High Court. It is a good thing that they should have a Federal High Court to appeal to if their liberties are ever endangered by the action of a State Government. I wish to see the provisions of the Bill before dealing with the cost of establishing that court. I understand that it is intended to appoint five Judges. As a layman I am not in a position to say whether it is absolutely necessary that five Judges should be appointed, or whether three would be able to do the work : but my vote shall be given every time in the direction of economy. If I can bring myself to believe that a lesser number than that proposed will be able to carry out the work I shall vote for the reduction. Until recently I held the opinion that probably the High Court could be constituted by appointing the Chief Justices of the various States to deal with every question as it arose, the Chief Justice of the State in which the cause of action arose standing aside during the hearing of that particular case. I have come to the conclusion, however, that it will be to the best interests of the people to establish an independent tribunal apart altogether from that method of procedure. I believe that the High Court is one of the cornerstones of the foundation of our Constitution, and I shall, therefore, support its establishment. The next paragraph in His Excellency the Governor-General's speech is that dealing with the federal capital. Here again I have to admit that my opinions have undergone a change since last session. I have taken all possible opportunities of ascertaining the opinions of the people of New South Wales, and I cannot get away from two serious facts. One of these is that the establishment of the federal capital—following, of course, the choice of a site, which I know we shall all agree to, at as early a date as possible—must involve tremendous expense, if we are not very careful how we go to work in erecting the federal buildings, and removing the seat of Parliament from Melbourne. I know that there is a strong feeling in the State I represent, and in all the other States against any expenditure being incurred which could possibly be avoided at the present juncture. But we have to remember, as it has been put very ably and

eloquently to-day by two honorable senators, that there is an express provision in the Constitution in regard to the federal capital. Whilst I am sorry that that provision exists ; whilst I do not agree that it was wise to fetter the members of this Parliament by such a provision, the fact remains that it is in the Constitution, and that probably the people of New South Wales would not have voted for federation had they not been granted that concession. In these circumstances, unwise concession as I believe it to have been, I hope I possess sufficient of the federal spirit to recognise that this is a federal matter, and that if we wish to be true to the federal spirit we can do nothing but comply with the terms of the Constitution. Therefore I shall support any action in the direction of choosing a site for the capital as soon as we are in the possession of the necessary information, and I shall support reasonable expenditure up to a certain point in connexion with the establishment of the capital. The next paragraph in His Excellency the Governor-General's speech is one which I regard with particular interest. It deals with the proposed establishment of courts of conciliation and arbitration. Very little need exists to-day for any one to go into details to show the absolute necessity for the immediate establishment of these courts in the best interests of all sections of the people of Australia. We have recently been brought face to face with a terrible strike—a terrible disorganization of the whole arrangements of one State.

Senator Lt.-Col. GOULD.—We could not deal with such a matter in a Federal Court of Conciliation and Arbitration.

Senator O'KEEFE.—We know perfectly well that we are bound by the Constitution, and we are aware that it limits us to industrial disputes which extend beyond one State. It is generally believed that it is only a shipping strike which would come within the purview of the Federal Court. But I hold the view that if a railway strike occurred in any one State, as it did the other day, there must be imminent danger of that strike spreading to other States, and surely the industrial legislation that we should pass would be competent to deal with cases of that kind. If the railway employes in all of the States belonged to one union, and, because of a grievance in one State, that union called out their men simultaneously—which

is not a very remote contingency it seems to me, in view of the sympathy which was extended to the Victorian railway men by workers in the other States—it is quite possible that a railway strike would come within the purview of the legislation that we can pass. Another reason which I think should impel us to pass this legislation as soon as we can, is that it may have the effect of bringing local courts of conciliation and arbitration into force in States where there are no such tribunals to deal with matters which possibly could never come within our jurisdiction. I know that Tasmania has no legislation on the subject. I wish it had. On several occasions we have had instances in which the whole of the people of the State would have derived benefits from legislation of this kind. I hope that there will be no opposition to this proposal, and I feel satisfied that legislation providing for courts of conciliation and arbitration will pass through this Parliament without much serious opposition. I feel in somewhat of a dilemma as to the proposed naval agreement. I am satisfied that if we are ever to commence a proper system of national defence we cannot commence too early. While possibly we shall not be in a position for at least a few years to come to establish the nucleus of a new Australian navy, I do not think that I shall be able to support the proposal to increase the present subsidy to £200,000. I do not believe that that proposal meets with the approval of the majority of the people of Australia at the present time. Some very strong reasons will have to be advanced by the representative of the Government who will have charge of this proposal in the Senate to induce me to approve of it. I know that there is a strong feeling in the minds of Australians that there should be an Australian navy, as soon as it is possible for us to establish one. There is also a strong feeling that we are not at present financially in a position to do so; but there is again a strong feeling that we can very well go along as we are doing now for a few years to come, and I believe that the consensus of opinion amongst the people of Australia is in support of that feeling. I believe that if a vote were taken of the whole of the people of Australia to-morrow the new agreement proposed would not receive the assent of the majority. I approve of the proposal to establish uniform patent

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laws, and I hope it will be found possible to do so during the present session. I find the following paragraph in the Governor-General's speech:—

My Advisers feel that the distinct demand expressed by the people of Australia for the substitution of white for coloured labour in the sugar industry implies a readiness to share the financial burden imposed by this substitution.

I come from a State where we have never had anything to do with the kanaka trouble, and know nothing about it, but where, I am proud to say, the majority of the people believe in the principle of a white Australia. I believe a majority of the electors of Tasmania possess sufficient of the federal spirit to induce them to take up their share of any burdens which it may be necessary to impose on Australia for the furtherance of that principle, and they will be prepared to pay their share of any increase which may be found necessary in the price of sugar to meet the purpose. Personally, although I use sugar, I do not know whether I am paying any more for it now than I paid for it twelve months ago. I certainly do not think that I pay very much more. Although it has already been said, and probably will again be said, by representatives of Tasmania in this House, that the people of that State feel themselves hardly dealt with in this connexion, and think it unfair that they should be asked to bear any burden simply in order to rid Queensland of the kanaka traffic—although that has been said many times recently by distinguished gentlemen in stumping the country in Tasmania, I do not believe that such a statement represents the true feeling of the great body of the people of that State. I believe that the people there are prepared to pay a little more for the sugar they consume, for the purpose of keeping Australia for the white races, and ridding the Commonwealth of the kanaka traffic. I am therefore prepared to support the proposal that Tasmania, as well as the States other than Queensland and New South Wales, should bear their share of the necessary burden, and that it may not be imposed wholly upon those two States. I take it that the Inter-State Commission Bill is necessary for the proper conduct of trade between the States. Though it will not greatly affect my own State, I am willing to give my support to such a Bill if it is introduced during the present session. The suggested railway

connexion between Western Australia and South Australia is a very big question involving an enormous expense. With the exception of our friends from Western Australia I think that none of us is in a position to state definitely his reasons either for agreeing to or dissenting from that proposal. I shall reserve my decision upon the matter until I have the reports of the experts in my hands. If I can satisfy myself from those reports that it will be in the interests of the people, and will not involve too great an expense or too great a loss to the Commonwealth, I shall support it.

Senator DE LARGIE.—All the reports so far are favorable.

Senator O'KEEFE.—If on the other hand it is shown that it is likely there will be a very big loss, I cannot agree to support it for the present. As has already been stated to-night, we are so tied up by the "Braddon blot" in the Constitution that I do not see where the money for this work is to come from in the immediate future. There is, however, one reason which might induce many of us to support the construction of the proposed line even before the expiration of the bookkeeping period, and induce us to find the money somehow. That reason would be based upon the question of defence. If our best authorities on defence matters assure us that it is absolutely necessary for the proper defence of Australia that that line should be constructed, and should be constructed soon, such an assurance would, in my opinion, justify any honorable senator in altering his opinion, and in supporting the construction of the line at an early date. If that cannot be shown, and if by the construction of the line we shall be faced with a heavy loss, I do not think any of us can assent to the proposal for some years to come. However, I shall reserve my opinion until I am in the possession of information which will enable me to come to an unbiased and impartial decision. I do not know that I have much more to add to the debate. No doubt now that the situation has been saved for them, there are a number of honorable senators who have collected their scattered thoughts, and are ready to give us the benefit of their views.

Senator HIGGS.—Has the honorable senator nothing to say about the six hatters?

Senator O'KEEFE.—I should say that the hats have been torn to shreds if the

hatters have not. I do not think it necessary at this stage to say much about the six hatters. I think the matter was fairly put by a gentleman speaking in my own State the other day when he said that it was simply a question of administration. The Act was there and it was the duty of the Prime Minister to administer it. If the right honorable gentleman opposing the Prime Minister, and who would like to take his place as soon as he can, were in the same position and refused to administer the Act, he would have shown himself a traitor to the Australian laws. The honorable and learned senator who leads the Opposition in this Chamber, in referring to the matter this afternoon, answered my question as to whether he was here when this particular legislation was passed by saying that it did not matter whether he was or not, but I take it that every honorable senator who assented to that legislation is as responsible for it now as he was when he assisted to pass it.

Senator BARRETT.—The honorable and learned senator was not here.

Senator O'KEEFE.—If that is so, of course the honorable and learned senator had no opportunity of dissenting from it. But I believe that even if Senator Symon, who referred to the section this afternoon as a farcical piece of legislation, had been in the position of the Prime Minister he would not have refused to administer the Act as he found it. There was nothing left for the Prime Minister to do but to administer the Act. There have been so many absurd reports circulated in connexion with this matter that it must have become obnoxious to the people to hear any mention of the six hatters; but I think that even those who oppose the Prime Minister, and who condemn this particular section, will do him the credit of saying that he did not make or pass the law, that it was passed by the two Houses of the Federal Parliament, and that the gentleman in the honorable position of Prime Minister of the Commonwealth having a mandate from the people of Australia to administer the law as he found it, would have been false to the trust reposed in him if he had not administered the law properly and correctly as I contend he did. I have now performed the good natured task of filling in time and saving the situation, and if honorable senators who have not yet spoken allow the opportunity to be lost it

will not be my fault. As each of the measures mentioned in the Governor-General's speech comes before the Senate, it will be competent for us to deal with it. I hope then to be able to deal with the measures referred to in a more connected way, and certainly with more preparation than I have had for what I have said to-night. In conclusion, I may be permitted to express the hope that any friction aroused in any of the States against the action of the Federal Government—friction absolutely inseparable from the situation, and absolutely unavoidable when we remember that the Federal Government had to weld six different systems into one harmonious whole—will rapidly be swept away. I believe that the people of Australia are now beginning to understand that what has been done by the Federal Parliament and by Federal Ministers has been done according to their convictions, and to the best of their ability, in the interests of the whole of the people of Australia.

Senator MACFARLANE (Tasmania).—I had no intention of speaking upon the address in reply; but there is one paragraph in the speech of the Governor-General which I think should have a little more criticism. I refer to the paragraph dealing with the carriage of mails between England and Australia. The trouble about the carriage of mails from Australia to Europe originally arose out of Senator Glassey's proposal that the crews of vessels carrying our mails should be white men.

Senator GLASSEY.—A sound proposal.

Senator MACFARLANE.—At the time the Government were strongly against the proposal, voted against it, and succeeded in throwing it out in the Senate.

Senator GLASSEY.—The Government made a very great mistake.

Senator MACFARLANE.—Nothing has happened since that time to justify us in reversing that opinion. We have quite recently had an official announcement from the Postmaster-General in London, Mr. Austin Chamberlain, that the Imperial postal authorities will not be parties to any such agreement, and that they will provide their own postal contracts on their own terms. Are we prepared to throw away any advantage we may get from the postal arrangements of England, and set ourselves up in the way proposed, to benefit—I do not know whom? It will not benefit ourselves to have only

white crews on some of the steamers. No Australian will take up the stokers' business in these steamers simply for the sake of a white Australia.

Senator PEARCE.—They will take it up for £6 per week.

Senator MACFARLANE.—If the P. and O. Company were induced to do away with the employment of lascars it would not improve the position of the white people in England in the least. It is the poorer classes of the continental people who take stokers' positions—Dutch, Germans, Swedes, Italians, and Spaniards. How then would the proposal benefit Australia from a white Australia point of view? There is another point which we should consider when it is proposed that we shall make contracts for our own mail steamers. I find from *Whitaker's Almanac* that if we want a faster service as we say we do, we shall have great difficulty in getting the steamers. Perhaps there are not many honorable senators who are aware that on the British register of steam-ships there are only 47 that go over 16 knots, and 85 that go 16 knots. We have not a very large field of selection, and, therefore, we should have the greatest difficulty in getting a service, and if we got one we should have to pay a very large sum for that which would not benefit ourselves. I hope the Government will bring in a Bill to amend the Post and Telegraph Act.

Senator DE LARGIE (Western Australia).—While the address in reply meets with my general commendation, I must admit that I do not agree altogether with some parts of it. For instance, I think that the establishment of the High Court might better be allowed to stand over for the next Parliament to deal with than any of the other matters which have been referred to. Senator Symon has said that there is a great outcry in the country for the establishment of the High Court. During my travels in the recess I found that very little interest was taken in this matter. Wherever I spoke, little or no interest was taken in the subject. The prevailing opinion seemed to be that we have as many courts as we can afford to maintain—that we are paying quite sufficient for our law, and that by certain alterations a federal court could be created without involving additional cost to the taxpayers. I am altogether opposed to the

establishment of the High Court at the present time. I wish to say a few words in reference to the naval vote. During the last twelve months we have learned that the people of Australia generally are not docile persons, and that they are very much against the imposition of heavy taxation. That feeling has been made manifest in Victoria perhaps to a greater extent than in any other State, but, all over the Commonwealth, the prevailing sentiment is that heavy taxation should be avoided. If that feeling exists in every State how are we to increase the naval vote and the military vote? I think that if we increase those votes, create a High Court, and carry out certain other proposals, we shall have a Kyabram agitation started all over the Commonwealth. If the money were required for the construction of works that could not be done without, I could understand these proposals for extra expenditure. A great deal has been said to-night against the construction of the transcontinental railway. I believe that if there is one public work which the Commonwealth should undertake, it is the building of that line.

Senator CHARLESTON.—But that would mean extra taxation.

Senator DE LARGIE.—Certainly; but it is a national work, which would repay the Commonwealth for the expenditure it entailed. During the last eight or ten years there are no portions of the Commonwealth which have been so prosperous as the interior portions, more particularly the auriferous regions of Western Australia. The construction of this transcontinental railway would open up miles and miles of auriferous country. It is well known that for the last eight years that State has practically been the milch cow for the greater portion of the Commonwealth. Any money spent in opening up auriferous country of that kind would very well repay the Commonwealth. I can quite agree with the attitude which has been taken up by the Government. So far I think they have acted wisely in regard to this project. I believe that once the final report of the commission is received they will see their way to arrange for a flying survey and take whatever action is necessary to bring about the construction of the line. So far the Government have shown themselves to be very friendly to the project. Even if the Opposition were

placed in power, they would find themselves in the same predicament as the Government. All those Members of Parliament who undertook the trip to Western Australia at the time when our great water scheme was opened, and who had never been there before, were very much surprised at the potentialities of the State. It was an eye-opener to most of them. They all admitted that they had not expected to see such a prosperous country as it undoubtedly is. They were more surprised at the agricultural country they saw than at anything else. They expected to see a great sandy desert, but they saw finer agricultural and pastoral country than they had seen in the States from which they had come. That was invariably the opinion expressed by those who did make the trip to Coolgardie. If more Members of Parliament had taken the trip any unfavorable impressions would have been removed from their minds. Senator Millen asked why the people of Western Australia do not build this railway if it is to be such a good speculation as we say it will be. He ought to remember that it will traverse South Australia as well as Western Australia. The population of our State is still less than 250,000, only half the population of Melbourne, and to ask that small population to undertake such a gigantic task as to build a railway that will cost between £4,000,000 and £5,000,000 would be unreasonable. More desert country has been opened up in Western Australia than in any other State. Our best paying railways are those which traverse desert country. It is only natural to expect that similar results will flow from the construction of this great transcontinental railway. I cannot understand why the representatives of South Australia should be opposed to the project, because their State has as much to gain from its construction as has Western Australia. I believe that our State would not have entered the Federation if it had not been for the very explicit promises of support that we received from the leading public men and the Government of South Australia. We had a distinct promise from the Premier, and the present Minister for Trade and Customs.

Senator PLAYFORD.—What did the Premier say?

Senator DE LARGIE.—He said he would introduce an Enabling Bill for the purpose of having this railway built.

Senator PLAYFORD.—Not to have the railway built, but to enable the Commonwealth to build the line if it liked.

Senator DE LARGIE.—I shall read the letter which Mr. Holder, the Premier of South Australia, wrote to Sir John Forrest, the then Premier of Western Australia, on the 1st February, 1900:—

Following our conversation as to the possible blocking of the construction of a railway line from Kalgoorlie to Port Augusta by the Federal authority by South Australia refusing the consent rendered necessary by section XXXIV. of clause 51 of the Commonwealth Bill to the construction of the line through her territory, I regard the withholding of consent as a most improbable thing; in fact, quite out of the question. To assure you of our attitude in the matter, I will undertake as soon as the Federation is established, West and South Australia, both being States of the Commonwealth, to introduce a Bill formally giving the assent of this province to the construction of the line by the Federal authority, and to pass it stage by stage simultaneously with the passage of a similar Bill in your Parliament.

He was not the only public man in South Australia who spoke in that way.

Senator PLAYFORD.—That is only the opinion of an individual man.

Senator DE LARGIE.—He was the Premier of the State.

Senator PLAYFORD.—He spoke for himself, and the Parliament was not bound by that statement.

Senator DE LARGIE.—Several prominent men in South Australia at that time approved of the project. I was then taking a leading part in the federation movement in Western Australia. One of the principal arguments we used there was that we were almost certain to get a trans-continental railway built if we accepted the Constitution, and if the people of that State had not believed that it would be done there would have been no federation so far as it was concerned. As a matter of fact there is no real federation without a railway to that State. We are as much isolated from the eastern portions of the Commonwealth as is New Zealand. We are practically in the position of an island.

Senator PLAYFORD.—South Australia could not give you the railway.

Senator DE LARGIE.—No; but the Parliament of that State could pass an Enabling Bill.

Senator PLAYFORD.—Has the Parliament of Western Australia done so?

Senator DE LARGIE.—No; but it is only too anxious to do so. The Premier of

Western Australia has informed the Premier of South Australia that a Bill is ready to be introduced, and asked when he intends to carry out the promise of South Australia. It is not a creditable attitude for South Australia to take up, after it promised to do a certain thing. The public men of South Australia led the people of Western Australia to think that they would do everything in their power to assist this great national project, and to-day they are repudiating their promise. Is that fair treatment to a State which I believe is doing more for the Federation than is any other State? I am well pleased to see that the Government have allowed no grass to grow under their feet in furthering this project as far as any reasonable man could expect them to do. I hope that the final report of the commission will be of such a favorable character that it will justify the Government in authorizing a flying survey to be made. I wish to say a few words on the proposal to bring in a Compulsory Conciliation and Arbitration Bill for federal purposes.

Senator WALKER.—Compulsory?

Senator DE LARGIE.—Certainly; otherwise it would be of very little good to us. The man who is not in favour of compulsory arbitration is worse than an anarchist in the community; he would like to see a state of anarchy introduced into the Commonwealth. I am satisfied that the principle of compulsory arbitration will stay in Australian politics. Wherever it has been tried it has been an unqualified success. We know how it has worked out in New Zealand for years. We know how it is working in New South Wales, and I can speak from personal experience of its operation in Western Australia. The very States where we have compulsory arbitration in force are the most prosperous States and the most peaceful so far as concerns industrialism. They are the States in which the danger of strikes and similar disputes is now past. I hold that the man who is opposed to this principle in the face of the experience which we have had is a dangerous member of society. He is only encouraging a state of unrest and lawlessness that may break out at any moment. To allow such things to occur in the face of past experience would be most ill-advised. I am satisfied that the proposed measure will tend to bring the whole of the States into line with regard to industrial legislation. We can all

recognise the unfairness of having a Factories Act in one State, whilst another State has quite a different law. In these days of close competition we want to have the laws affecting industry as uniform as possible, in order that the States may come into line.

Senator DOBSON.—The Arbitration Bill will not do that.

Senator DE LARGIE.—It will bring us towards that point, at all events; and it will be found that the operation of this measure will pretty well have the effect of solving the whole problem. I believe that even Tasmania, which is always lagging behind in social and industrial legislation, will, when this measure becomes law, be induced to pass a Bill bringing that State into line with Western Australia.

Senator DOBSON.—The honorable senator is talking of a uniform factories law.

Senator DE LARGIE.—It is pretty well the same thing. I cannot very well separate conciliation and arbitration from factories legislation. I cannot resist the opportunity of saying a word on the old hackneyed subject of the six hatters. It strikes me as being a strange thing that those who have had so much to say in opposition to the Immigration Restriction Act have failed to note that in Canada and the United States similar laws exist. We do not hear a word of adverse comment in reference to those countries. All this cant about wanting to keep out our fellow Britishers and that sort of thing is so much nonsense. If honorable senators go down to the wharfs when mail steamers arrive they will any day see Britishers coming on shore without let or hindrance.

Senator WALKER.—Seven hundred and fifty men left New South Wales for New Zealand and other places last week.

Senator DE LARGIE.—Yes—they were going to a land where compulsory arbitration is the law. I am sorry to hear that such a state of things exists in New South Wales. If free-trade had continued to be the policy in New South Wales there would have been no need to import six hatters, or any other number. But compare the fuss which was made about these hatters with what occurred in Western Australia. The Government of that State required the services of certain boilermakers. They advertised all over the State for them, and finally, being unable to obtain the men they wanted in Australia, they brought them from the old country. They

landed them in Western Australia, and no one objected to their landing, for the simple reason that the necessary application was made, and the men were permitted to land without any outcry or any delay. But no such application was made in the case of the six hatters. Instead of that there was an outcry of such a character that if it had gone on much longer we should have heard that they had not only been imprisoned, but executed by order of the Federal Government. As a matter of fact, they were never imprisoned at all. They were simply kept on board the ship until permission to land was given. I should like to say with regard to the proposed Navigation Bill that I am satisfied from what I have seen during the recess that such a measure is required. At the same time I am rather afraid, in view of the comprehensive character of the proposed measures, that we shall be unable to get it placed upon the statute-book during the present session. The necessity for a Bill of the kind was brought very strongly before me in Western Australia, where a coloured crew was working on the wharf loading goods into the very ships that were taking away labouring men who ought to have been able to find work in this country. It is reasonable to suppose that if it is a right and proper thing for coloured men to be allowed to do such work on our wharfs—if it is a proper thing for shipping companies to be able to put a black crew ashore to do labouring work—they should be able to take their coloured labour up to the mills where the timber comes from and work them there. It is only extending the same process and the same reasoning. Therefore there is a necessity for a navigation law for the Commonwealth, and I only wish there was more time to enable us to pass it this session. A great deal has been said as to the action of the Federal Government in objecting to the employment of black crews on board the mail steamers with whose owners the Commonwealth enters into contracts. I cannot understand a man who takes up a patriotic attitude—and by-the-way, I find it is those very men who make the greatest parade of their patriotism and love of country who make the greatest noise about this section in the Post and Telegraph Act—objecting to the manning of our mail boats with white crews. At the present time in the old country matters have reached such

a stage that there are 60,000 lascars and coolies working on board vessels in the mercantile marine, having taken the place of so many Britishers.

Senator Lt.-Col. GOULD.—No.

Senator DE LARGIE.—Well, I suppose we may say that two lascars are equal to one British sailor, and that at that rate these coolies have taken the place of at least 30,000 Britishers. The British sailor is fast becoming a thing of the past. We find that the British Navy is undermanned to the extent of 30,000 men. Supposing Britain were to get into trouble with some great maritime power, what reserve of men would she have to fall back upon?

Senator DOBSON.—The lascars would be the saving of her.

Senator DE LARGIE.—God help the country if the lascars are to be the men who are to take the place of the blue jackets of England! We have this fact staring us in the face: that it is owing to the employment of these lascars and coolies that the old historical British seaman is fast disappearing. I will ask any one who has any patriotism in him whether that is to the advantage of the country?

Senator WALKER.—In the mercantile service there are thousands of Norwegians, Danes, and Dutchmen.

Senator DE LARGIE.—That does not improve the position a bit. I should like to see passed a Navigation Bill which would encourage the employment of British people. I notice in the Governor-General's speech a reference to the Royal Commission on Bonuses that has been sitting during the recess, and taking evidence on that all-important subject. Its report has not yet come to hand, and I hope that when it is produced it will be found to be favorable to the attitude taken up by myself and others who think that the iron industry is one that should be kept in the hands of the Government of the country. I think so, too, for the simple reason that the iron industry of Australia must of necessity be a monopoly. We have to choose whether it shall be a Government monopoly or a private monopoly. A monopoly it must be, because the requirements of the country will not enable us to have more than one, or at the very utmost two, up-to-date iron works in Australia. The market is not sufficiently large to require any more. Consequently, if the iron industry is to be started here it

must either be in the hands of a private monopolist or be a State-owned institution. There need be no doubt as to what our choice should be. Furthermore, when it is remembered that the iron industry will supply the rails for the Government railways all over Australia, and that nine-tenths of its produce will be in the direction of the supply of those rails, we have another reason for not allowing it to get into the hands of a private company which will be in a position to screw out of the States Governments any price it likes to ask for the material which is required in the construction of railways. I trust that when the report comes along it will be of such a character as to justify the attitude taken up upon the Bill introduced by the Government last session. As far as concerns the speech as a whole, I am favorably impressed by it, and hope that the policy therein outlined will be carried into effect. If it is, the present session will end as did the last one, as being marked by a record of democratic legislation being put up in the first Federal Parliament.

Senator Lt.-Col. GOULD (New South Wales).—The Government may fairly be congratulated upon the prospect of a very quiet session, judging from the tenor of the speeches delivered both in this Chamber and in the other House. But while they may be congratulated upon having apparently a fair wind and a favorable passage ahead of them, they may be condoled with upon the unfortunate position in which they have been placed in regard to the proposer and seconder of the address in reply. It was stated in the press—I do not know whether with truth or not—that the Government were experiencing some difficulty in obtaining gentlemen to occupy these positions.

Senator DRAKE.—That is incorrect.

Senator Lt.-Col. GOULD.—I accept the statement that it is incorrect, but it is an unfortunate thing that the Government was not able to find gentlemen who were prepared to bless their proposals instead of, to a great extent, cursing them. Both the proposer and the seconder of the adoption of the address in reply took exception to some important matters in connexion with the proposals of the Government. One would rather have seen gentlemen supporting whole-heartedly the proposals of the Government—at any rate those of principal importance touched upon in the speech.

Of course, I know that it is quite impossible to find men who are in accordance from beginning to end with the policy of any Government, but it should be possible to find those who are willing to accept the responsibility of proposing or seconding the address in reply who will, on the whole, justify the policy laid down by the Government in the speech from the Throne. However, that is by the way. We know that the honorable and learned senator who moved the adoption of the address in reply is a gentleman of very considerable parliamentary experience. He has held office frequently. He has had occasion to get gentlemen to act in a similar capacity to that in which he has officiated to-night, and he knows perfectly well how desirable it is that a Government should as far as possible to have the mover and seconder of the address in reply in accord with their policy. We are beginning also to experience some of the disadvantages of the legislation passed last session. Several matters have cropped up since last session relative to legislation then passed, and we are beginning to realize that there is a necessity for amending our laws, at any rate in some directions. One very noticeable matter in regard to which the Government themselves recognise the necessity for something of the kind relates to the rebate allowed in the excise paid upon sugar. When the Excise Bill was introduced I for one certainly understood that the idea of the Government was that the whole of Australia should contribute proportionately to the cost of securing a white Australia under the Pacific Islands Labourers Bill.

Senator CHARLESTON.—Are we not doing so by paying the higher duty?

Senator Lt.-Col. GOULD.—No; we find that the Government have ascertained that the operation of that measure has been to enable certain of the States to escape from the responsibility which they should be prepared to assume, and which a great many of their representatives, I am sure, are prepared to accept. We ought to have been clear, however, as to what our legislation was in that direction. Take the case of a State that does not consume any of the sugar which is produced in Australia. She can consume that produced in Mauritius or some other part of the world, and when it comes to a settlement in regard to the customs duties she receives

three-fourths of the duty of £6 per ton paid. A direct incentive is given by that state of affairs—as far as the financial position is concerned—to accept the product of the foreign grower instead of the native-grown sugar. We do not want to put any State in that position. We want all the States to realize that if a white Australia is to be our policy, every State and every individual in the Commonwealth is required to contribute a fair proportion towards bringing about what the country looks upon as being in the interests of Australia as a whole.

Senator DAWSON.—A national policy.

Senator Lt.-Col. GOULD.—Yes. Therefore I welcome the proposal of the Government that the matter should be dealt with in this way. Having adopted the policy of a white Australia, having laid down certain lines for the exclusion of the kanaka, and having said to the sugar-growers in Australia—"We are going to ease the difficulties you may experience in the early stages of getting rid of the kanaka;" it is only fair that we should all bear our proportion of the cost. His Excellency the Governor-General's speech makes allusion to the naval defence of Australia. I have the fullest possible sympathy with the aspirations of every honorable senator who desires to make our Commonwealth truly a national body. I sympathize entirely with the desire of those who wish to see a navy established wholly under our own control and direction, and to be used to defend our own shores from foreign aggression. But while I sympathize with that desire, while I fully believe in it as the ultimate destiny of our Commonwealth, I cannot shut my eyes to the fact that we are not prepared at present to take upon ourselves the burden of a naval defence. When we have an opportunity, such as the one at present offered to us, it would be folly to refuse to take advantage of it. It is an opportunity to provide what I regard as an efficient defence of our shores.

Senator MCGREGOR.—The honorable and learned senator is like a boy who is always behind his mother.

Senator Lt.-Col. GOULD.—No, I am not. I like to look at these things from a prudent point of view, and I think I am doing so. I do not say there is any necessity for renewing an agreement of this kind, period after period. At the present time it would be highly undesirable to attempt

to establish what may be termed a fully-fledged Australian navy. I know that there are objections to the present scheme. There is a feeling of insecurity on the part of honorable senators when they realize that if the Admiralty or other Imperial authorities think fit the whole of this navy can be sent away to China, America, India, or elsewhere to meet, and destroy, if possible, the enemy's fleet, but leaving us open to the attack of any hostile cruiser or marauder which may see fit to set out for our shores. We are told that no such ship could be despatched without notice of its departure being given to us. But still such a vessel might find an opportunity to make a descent on our shores and to do incalculable injury before we could get back any of the ships of the squadron. I hope it will not be part of the policy of the Government, while accepting the proposal to pay the subsidy of £200,000 a year to entirely deprive Australia of some local naval defence that might be useful at any rate to deal with a single ship attacking our ports. If some local naval defence is preserved, I do not think we shall be able to reasonably complain of any danger. We have our land forces established from one end of the Commonwealth to the other, and I very much regret the way in which the efficiency of those forces has been cut down. Nevertheless, I hope that the great bulk of our people will realize that whether we have a citizen soldiery, a militia, or a permanent force to defend us, we should endeavour to make it thoroughly efficient. I believe in relying to a great extent upon our citizens for the defence of the Commonwealth, but a state of dissatisfaction permeates the whole of the military forces. I allude not simply to the permanent, but to the partially-paid forces which, I take it, are the backbone of our land defences, and will have to bear the brunt of any fighting which occurs on Australian shores. When we find dissatisfaction permeating their ranks we may depend upon it that there is something very rotten in the administration of the Defence department. It has been stated that a policy of retrenchment has been thrust upon the Government which should not have been forced upon it. If that is so the Government should have allowed honorable members to realize that they could not assent to the demand to reduce the expenditure to a degree which would impair the efficiency of the forces. If, on the other

hand, it can be shown, and is shown ultimately, that the amount within which the Government are bound to keep their expenditure is sufficient, well and good. I would gladly welcome the utmost reduction, but I do not welcome a reduction which means a want of efficiency on the part of the forces to which we look to defend us in a case of national emergency. If a man insures a property or a building, he does not go to a bankrupt office. He takes care that the office is one which he may reasonably expect will be able to protect him from loss in the case of his property being damaged by fire. And so with the defence forces. We must be reasonably satisfied that they are sufficient to meet all reasonable cases of emergency.

Senator DE LARGIE.—Shall we have any men at all?

Senator Lt.-Col. GOULD.—That is a drawback which might arise in regard to naval defence. I have already said that I do not believe in absolutely cutting out the local naval defence, and relying entirely upon this agreement. I should like to see something in the way of an available local defence in a time of great emergency. It would very much assist the Imperial authorities if they knew that the whole of the ships in these waters might be spared without exposing Australia to any grievous danger from a sudden descent on our shores. We recognise that our land forces must remain in existence, and we must take care that we do not destroy their efficiency and that *esprit de corps* which should exist amongst them. If honorable senators will make inquiries they will hear in every direction of men who contemplate retiring from the forces because they do not think they are being treated fairly by the Federation.

Senator DAWSON.—If the proposed agreement were carried out what would become of our present naval forces?

Senator Lt.-Col. GOULD.—I do not believe in destroying our local naval forces.

Senator DAWSON.—But the one must be consequent upon the other.

Senator Lt.-Col. GOULD.—No; the present agreement will expire in two or three years' time. The Imperial authorities say to us—"We are prepared to make an agreement of a similar character if you will increase the subsidy. In return we will increase the number and improve the class of ships on the station."

Senator DAWSON.—That destroys all Australian reserves.

Senator Lt.-Col. GOULD.—I do not think so, as one of the essential points of the scheme is that a large number of Australians shall be employed on the squadron if they are prepared to take service. Therefore, it will not destroy, but rather assist in building up our naval forces by training men who will be prepared to take service in an Australian navy whenever it is established. For these reasons, I join issue entirely with much that has been said by Senator Symon in connexion with this matter. I think we might very well support the Government scheme at the present time, although I believe that the day is not very far distant when a naval force should not only be established, but will actually be established, that will belong to and be under the control of the Commonwealth, subject to such power as it may be considered fit to give the Imperial authorities to take charge of a combined fleet for any special work.

Senator PEARCE.—Is it proposed to keep vessels like the *Protector* in commission?

Senator Lt.-Col. GOULD.—I believe not, and that is where I think we are making a mistake. But I am not going to refuse to be a party to the granting of this subsidy because I believe our own people are making a mistake in another direction. I consider the subsidy will give us much greater results than would be obtained from the simple retention of our naval forces. It has been pointed out that, in any event, the Imperial naval authorities will require to have ships stationed here, because this is a naval base; but it is very much better to know that we are going to have ships of a certain class than that it should be left entirely to chance. We see by the papers that three of the third-class cruisers at present in Port Jackson are to be repaired at considerable expense. I take that to mean that if we decline to agree to this proposal, the Imperial authorities will probably leave these three vessels on the station instead of supplanting them by others double or treble their value for defence purposes. Even if it is not so, should we not be prepared as Australians to say that we recognise the great benefit we receive from this naval base—the great benefit which we receive from the ships placed in commission in Australia, and the value of it to our trade and commerce

and to all our ports, and that, therefore, we are prepared to bear the expenditure?

Senator DAWSON.—Nineteen-twentieths was not our trade at all.

Senator Lt.-Col. GOULD.—We are vitally interested in the trade which British men-of-war protect. Our goods are being taken to the other end of the world, and they are receiving the protection of the Imperial fleet. Whilst speaking of naval matters, I come to the question of the carriage of our mails to the old country. I say that here again we are now seeing the result of legislation which was passed during the past session in the section of the Postal Act which prohibits the Government from subsidizing any company for the carriage of our mails unless they employ white labour only.

Senator GLASSEY.—That provision will be adhered to.

Senator Lt.-Col. GOULD.—Whether it is adhered to or not, I would point out to the honorable senator that it is creating a good deal of difficulty for the Government at the present time. When the question of new contracts came under consideration, the Postmaster-General very naturally pointed out to the Imperial authorities what the state of our legislation was. But how much sympathy did he get? He simply had a reply that the Imperial authorities could not recognise that legislation in dealing with contracts for the carriage of mails. They pointed out that they had Indian subjects, and were bound to treat them on exactly the same terms as their white subjects, and they were not going to turn round and place those men at a disadvantage merely because Australia desired it.

Senator GLASSEY.—Why do they not give them votes in India and place them upon an equality with the white people there?

Senator Lt.-Col. GOULD.—That is a different thing altogether. We have these men as British subjects, their services are readily available, and are regarded as valuable. While we believe in a white Australia, we are perfectly right in legislating in that direction as we see fit within the four corners of the country under our control, but when we are dealing with persons far away from our shores, we have no power over them whatever. I admit at once that we had the power to pass the law we did pass, but I say it is an unwise law, because it does not affect by

one jot or tittle what was desired by the advocates of a white Australia. I suppose they are not going forth to set up a white world. If that is their desire, of course, they must go on and do the best they can, but I believe they will find that they have a difficult task to perform, and will require to go in for a great deal of white-wash before they will succeed in accomplishing it. We now find ourselves with mail contracts, under which we receive mails every week by a quick service of 28 or 29 days from one part of the world to the other—a 14-knot service. For that there is paid a subsidy of £170,000 a year, of which we pay £75,000, and the Imperial postal authorities £95,000. For that payment we have a weekly mail service guaranteed to us. It is, however, an open secret that the Orient Company do not find that the share of the subsidy which they are receiving puts them in a strong position financially. They are practically working at a loss under existing circumstances, and unless trade revives considerably, it is a question whether, with the subsidy being paid at the present time, they will be prepared to continue a trade which has been of very great value to Australia, and which certainly ought to be encouraged to a considerable extent. The proposal made now is that we should subsidize ships ourselves for the carriage of mails from Australia to Colombo. Have honorable senators realized the cost of such a service? We have not in Australia, at the present time, a company prepared to take up a contract of that magnitude without incurring very great additional expense in providing ships. The carriage of a mail every week each way would require the employment of a large number of ships, and such a contract as is proposed will involve the payment of a considerable subsidy for the carriage of mails to Colombo. In what position will we be then? Having carried our mails to Colombo under the proposed contract, they will be placed on board the very ships, manned partly by lascars, that we say shall not carry our mails from Fremantle. Will the cause of a white Australia be advanced one jot by any such means?

Senator GLASSEY.—Certainly; it is a part of the whole scheme.

Senator Lt.-Col. GOULD.—We have already incurred considerable expenditure in getting rid of the kanaka to meet the demand for a white Australia, and now we

are to be called upon to incur still greater expenditure to carry out what, after all, can only be part of a fad when we come to deal with places beyond the limit of Australia and Australian legislation.

Senator PEARCE.—Are Australians never to secure any sea employment?

Senator Lt.-Col. GOULD.—I hope they will. But an honorable senator who spoke some little time ago alluded to the fact that there are 60,000 lascars seamen employed in the British marine. Whether my honorable friend's figures are correct or not I do not know, but I assume that he made himself certain of their accuracy before quoting them, and yet assuming that they are accurate, I deny the conclusion which the honorable senator draws from them—that these men displace 60,000 or even 30,000 British seamen. All we need to do to find that there is no ground for such a conclusion is to look at the constitution of the mercantile navy of Great Britain at the present time. We shall find that more than half of the seamen manning that navy are white foreigners. When it is said that these men are displacing British sailors, it must be clear that they come in only to supply the places wanting for British sailors. It may in future be a part of the policy of the Admiralty to increase the pay of British seamen in the naval forces of the Empire, because we know quite well that something will have to be done in order to make the seamen's avocation much more attractive to Britishers than it appears at present to be.

Senator DAWSON.—And yet, when an attempt is made to do that, the honorable and learned senator is one of the very people who oppose the effort.

Senator Lt.-Col. GOULD.—Not at all. No man would more gladly welcome the manning of the whole of the British ships by British seamen than I. But I say that if we cannot get British seamen, and can get men who, although they may have a little colour in their veins, are nevertheless British subjects, and are men who can man our ships as efficiently as foreigners, we should take advantage of the opportunity to secure the services of those men. By their employment blanks may be filled up in the British navy which we might not otherwise be able to fill up. I do not say that they are intentionally blind, but I do wish that some honorable senators could realize that

they cannot carry any policy beyond certain limits. When this principle is taken beyond a certain limit ridicule is thrown upon what might otherwise be a very good national movement on the part of Australia. I hope that honorable senators will realize what is proposed, and that they understand that they are being asked to say that the Postmaster-General may spend £150,000 in order to provide a service for Australia which will be no more efficient than that for which we are now paying £75,000. I hope that, especially, they will bear in mind that it is proposed to allow the completion of that service to be carried out by the very men whom we will not allow to touch upon Australian shores. I say the proposal is a mistake, and no man saw it more clearly than did the Vice-President of the Executive Council when the matter was first raised in this Chamber and supported with all the vigour which our friends of the labour party put into everything they take up. The Vice-President of the Executive Council battled against the proposal, and gave strong reasons why it should not be accepted. Ultimately it was decided, in the other Chamber, that this legislation should be adopted, and it was subsequently accepted by ourselves. It is really a matter for congratulation to find that, as time has passed by, some honorable senators have begun to realize much more clearly than they did in earlier stages, the desirability of settling the question of the capital site. Although the Constitution specified no time within which the establishment of the federal capital was to be carried out, it was always regarded as a matter which would be dealt with without undue delay. The Customs Bill, for very obvious reasons, had to be passed within a limited period. But, although no limitation was placed upon the time within which other matters were to be dealt with by the Commonwealth, nevertheless this matter was regarded by the majority of the electors of the Commonwealth as one which should be carried into effect as early as possible. I have never been one of those who have girded at the Government, and charged them with neglecting the interests of New South Wales in connexion with this question. I know that some honorable senators have thought that the Government required an occasional spur or reminder to induce them to settle this matter as quickly as possible; but I realize that the Government have taken some

steps, and have promised to have the matter settled within the present session. The people of New South Wales were satisfied that the people of the Commonwealth would be prepared to abide by the arrangement come to under the Constitution.

Senator GLASSEY.—New South Wales would never have accepted the Commonwealth Bill if it had not been for that.

Senator Lt.-Col. GOULD.—It is perfectly certain that the people of New South Wales would never have entered into the Federation but for that. The other States did not ask New South Wales to enter into the Federation under false pretences, and they will abide by whatever was put into the Constitution. I believe that the people of Australia are perfectly willing that this matter should be dealt with as speedily as possible. The great bug-bear of expense is suggested by some honorable senators from time to time, but I am one of those who are quite prepared to recognise the fact that we must be satisfied with temporary buildings in the early stages. It is necessary that we should carry out the promise of the Constitution, but we are not called upon at the present time to put up the marble palaces to which some honorable senators referred.

Senator GLASSEY.—There is no necessity for marble palaces at any time.

Senator Lt.-Col. GOULD.—We shall have to be content with moderate accommodation, and I am satisfied that whatever expense it may be necessary to incur in a matter of this kind will be properly incurred. I welcome the proposal of the Government to settle the matter at an early date. We know that the report of the commission, if not already in the hands of the Government, will be in their hands very shortly, and we shall then have an opportunity of settling and of getting rid of a matter which, to a certain extent, is becoming a sore in the minds of a number of people. Some allusion is made to courts of conciliation and arbitration, and in that connexion, some honorable senators have referred to the recent unfortunate trouble with the railway men in the State of Victoria. I think that for those men to have gone out on strike was one of the most lamentable mistakes ever made. I do not blame the bulk of the men, but I do blame the leaders who were either very short-sighted or were disloyal to the Constitution under which they lived.

Senator DE LARGIE.—What about the Government who goaded them into striking?

Senator Lt.-Col. GOULD.—I should not justify any Government in goading men into so unfortunate a position. But I regret that the men themselves did not realize the fact that there cannot be two Governments in a State—that there must be one Government which must be supreme, unless it is desired to bring about a revolution by some unconstitutional means. If the Government of a State made a mistake and acted unjustly towards any large section of their employes I believe that the people of the State would themselves be prepared to do justice to the men if it were shown that they had been unable to obtain justice from the Government. I recognise that these men have had troubles. I believe there have been troubles which ought never to have existed. I may perhaps go so far as to say that I believe some of the recent State legislation was undesirable in the interests of the men. I do not believe in the representation of any particular class or section in Parliament as a class or section. I believe in giving every man his own rights as an ordinary citizen of the community. But in any case the strike was a most deplorable one, and it would have been a still more deplorable one for the whole of Australia if it had been successful. I am glad to think that better and wiser counsels prevailed in the end, and that the men resumed their work. They will no doubt exercise the rights they hold in common with their fellow citizens to get fair justice meted out to them. When the Premier met the men and said he was prepared to deal with all their grievances if they would only obey an order given by the Government the whole ground was cut from beneath their feet to strike at that particular time even if there had been any justification to strike at all. I feel strongly that Government employes have no justification to go on strike and cause a dislocation of the whole trade and business of a community.

Senator DE LARGIE.—If the Premier had the law behind him, why did he not put it into operation and test the question in that way?

Senator Lt.-Col. GOULD.—It was the duty of the men to obey the Premier's order at once, and to test its legality afterwards. On the contrary, the men said to the Government, "You can go and test the

law. We shall not test the law, but we shall go on strike. We shall do an illegal and improper act in order to drive you to do a legal and a proper act." The men were misguided, and no doubt many a man went out on strike merely out of loyalty to his comrades.

Senator DAWSON.—Upon what is the honorable and learned senator founding his opinion?

Senator Lt.-Col. GOULD.—Upon what I read in the press.

Senator DAWSON.—The press published the most villainous slanders that were ever issued to the public. Would the honorable senator like to be judged by the *Age's* opinion of him?

Senator Lt.-Col. GOULD.—Perhaps not, but assuming for the sake of argument that the men were full of trouble and grievances; even then they had no right to throw the whole community into confusion. There was a constitutional course for them to adopt. It might have taken up a little more time, but they would have gained the respect and help of the community at large. An honorable senator urged one of the strongest possible reasons against this Parliament passing a Bill to establish a Court of Conciliation and Arbitration, when he said that if there were a strike in one State, we might depend upon it that it would be accentuated until it spread into other States, in order that it might come under this measure. If honorable members wish courts of conciliation and arbitration to deal with such matters, why do they not see that the States establish them? The Parliament of New South Wales has established a Court of Conciliation and Arbitration, and the law provides that in the event of the railway men feeling themselves aggrieved they shall have the right to take their grievance before the court. Why do not people agitate here, and urge the Parliament of Victoria to pass a similar measure?

Senator DAWSON.—They cannot, because they are press-ridden here.

Senator Lt.-Col. GOULD.—It does not follow that if they cannot do it to-day they may not be able to do it to-morrow.

Senator BARRETT.—We have been agitating for a number of years.

Senator Lt.-Col. GOULD.—No doubt it takes time to bring about a change in the law: but do not create a greater evil in order to meet a lesser one. I admit at

once that originally it was considered that a Federal Act would deal with a great maritime strike such as that which occurred some years ago. It was recognised that it would be impossible for any one State to deal with a strike of the kind.

Senator PEARCE.—The railway strike could not have spread to any other State unless its Government took action similar to that of the Victorian Government.

Senator Lt.-Col. GOULD.—I do not believe that the men in New South Wales would be mad or foolish enough, especially in view of existing legislation, to place themselves in such an unfortunate position.

Senator DAWSON.—They could not strike under their Act.

Senator Lt.-Col. GOULD.—Under the provisions of the Act they cannot strike, but last season we had a strike of shearers that lasted a considerable time, and caused a good deal of loss, inconvenience, bloodshed, and litigation. Of course, the law was invoked, and the strike came to an end. But at the same time it did not prevent the occurrence of a strike, although it was intended to have that effect. I contend that courts of arbitration are still on their trial. I know that there is a large number of workers in the community who do not altogether believe in courts of arbitration. We know that so dissatisfied were the men with one or two decisions in New Zealand that they wished to have a Judge removed in order that somebody else might be placed on the Bench. We know that in New South Wales the labour party is urging an alteration in the constitution of the court, so that men will be selected to deal with each dispute and thus become pure partisans.

Senator DAWSON.—What does the honorable and learned senator believe in as a preventive of strikes if not of arbitration?

Senator Lt.-Col. GOULD.—The honorable senator is putting to me a difficult conundrum.

Senator DAWSON.—Is it coercion?

Senator Lt.-Col. GOULD.—No; I believe in men having the utmost possible liberty. I cannot see that the cause of labour will be advanced unless we have very careful and prudent men on the Bench. The success of this experiment will depend upon the way in which the law is administered. I can conceive of an administration which will cause universal discontent amongst employes. I can also conceive

of an administration which will cause universal discontent amongst employers. It is a very difficult and delicate problem to deal with, and we must wait until we see the provisions of the Bill. The project to build a transcontinental railway must depend to a very great extent upon the result of the inquiries which are being made. We can all sympathize with the desire of Western Australia to be connected by rail with the eastern sea-board. We can all realize that it would have a tendency to cement those bonds of fraternity which we desire to see existing between the different States. Whether a transcontinental railway would ever provide grease for the wheels or not, it would be of great value for defence purposes. Whether it is desirable to deal with the question at the present time or not must depend largely upon the reports we have as to the possible paying character of the line, and as to how far we shall be justified in incurring the expenditure. When we find that neither Western Australia nor South Australia has attempted to build its portion of the line, we may reasonably conclude that the Governments of those States were afraid of incurring financial difficulties in building a railway which probably would not pay for many years.

Senator DE LARGIE.—We have just constructed a water scheme at a cost of £3,000,000.

Senator Lt.-Col. GOULD.—Western Australia has shown great enterprise in carrying water to the gold-fields. I recognise that the State has advanced by leaps and bounds during the last few years, and long may it continue to so advance. I hope that the day is not far distant when we as prudent men can agree to the construction of such a railway as is desired by its representatives. But our decision must depend largely upon the reports which are obtained from time to time. I should not feel satisfied unless I made some allusion to the administration of the Customs department. In Sydney, and in Newcastle, it is held in universal execration by the merchants. We placed certain drastic powers in the hands of the Minister, after getting an assurance from the Vice-President of the Executive Council that they would not be wielded unless for a very good reason. We have the Minister for Trade and Customs saying that he is not going to judge between a mistake and a wilful infraction of the law. If a man does a certain thing, whether it is

done wilfully or unwilfully, whether the mistake is made honestly or not, he is to be prosecuted and the magistrate is placed in this wretched position that while he may know that the person is quite innocent of the most remote idea of defrauding the Customs he must fine him £5.

Senator MCGREGOR.—For his carelessness.

Senator Lt.-Col. GOULD.—No. In cases where men have found out before they completed their returns that they had made a mistake and asked that it should be rectified, they have been prosecuted and fined £5. It is enough to make a man's blood boil to think that such acts of manifest injustice can be perpetrated under a federal law. The Prime Minister spoke of a case in which he said he was satisfied that the man should not have been prosecuted and fined, and that the fine should be remitted. Another Minister said—"We will remit a portion of the fine," thereby showing that the man was properly prosecuted, but that the offence was a small one, and that therefore it could be condoned to a very great extent. I am speaking in general terms of the administration, and only mentioning one or two cases which occur to my mind at the moment. Of course, in those cases where fraud has been proved the prosecution has been perfectly right. Where the Minister has good reason to believe that it has been committed and cannot be proved he has a perfect right to order a prosecution. But where he knows that no fraud has been attempted or contemplated his administration is condemned in the eyes of the people, when he uses the law for the purpose of prosecuting a man under such circumstances merely for the sake of uniformity. I do not suggest that he is acting out of personal malice, but he is such a slave to the idea of uniformity that he cannot realize the fact that there must be some discretion exercised in these matters. We all recollect the prosecution that took place during last session in connexion with the firm of Sargood, Butler, Nichol, and Ewen. The prosecuting counsel said—"We attribute no fraud, and no desire to commit fraud, no dishonesty, and no desire to commit dishonesty," but we prosecute for a simple mistake." It caused no loss to the revenue, it was rectified before all the papers had gone through, and the magistrate took it upon himself to dismiss the case.

His decision was appealed against, and the Full Court said that he was bound to convict and fine. It is monstrous that we should place any portion of the community in such a position. The delays that have occurred time after time with regard to decisions have not helped at all to satisfy the people with regard to the administration of the department. Of course the Minister might have thought it was better that he should have sole control in his hands, but in a Commonwealth composed of States so widely scattered, it was a great mistake for him to throw any obstacle in the way of obtaining speedy decisions upon points that crop up from time to time. There was always the power of the Minister to review decisions if mistakes were made, and take care that no similar mistake was made again. Although I am an opponent, and shall always be, of any system of customs such as we have in existence, levied for purely protective purposes, nevertheless, I believe the administration could have been of such a kind that the people would have said—"We do not agree with the law, but are prepared to abide by it until we can get it altered." Australia is largely interested in her shipping affairs, and the more we can do to help the shipping industry in getting through its work in the different ports, the more we shall be assisting Australia. We want to induce shipping to come to our shores. We want to enable our people to send their produce to the other end of the world upon the most favorable terms. Every disadvantage placed upon shipping is a disadvantage placed upon our own people. They have to pay for it in the long run. If by restrictions we hamper and harass the shipping that comes to our ports, we may depend upon it—for time is money—that the people of Australia will have to pay for the delay. We do not benefit ourselves—we only harass ourselves by that policy. Whether we be free-traders or protectionists, or adopt the policy of the labour party, every man who is a true Australian wants to advance Australian interests as far as he possibly can. With a population of only four millions of people in Australia we are only in our infancy. We want to see 40,000,000 people here. The more people we have here the more work there will be for our men, and the better will our position be in the world. We do not want to make Australia a close

reserve for the few individuals who are here at the present time. But I am afraid that much of our policy has that tendency. Canada is welcoming people into her territory. She realizes that population is wealth. Statisticians tell us that every individual in a country is worth a large sum of money to it.

Senator MCGREGOR.—Where would the honorable and learned senator put the people whom he would bring here?

Senator Lt.-Col. GOULD.—Where did we put the people who came here after the gold rush of 1851? They got scattered in every direction. Only a handful stuck to gold digging; others went into various occupations. We want to offer inducements to people to come here, because every man who comes is of benefit to the country.

Senator MCGREGOR.—Give them a chance of getting on the land.

Senator Lt.-Col. GOULD.—I wish that the legislation of the different States would give people every possible means of getting on to the land. So far from being favorable to shutting up the land, I would welcome every measure that would enable us to take large estates and enable people of smaller means to live upon them.

Senator O'KEEFE.—After you do that you can talk about more population.

Senator Lt.-Col. GOULD.—All the States need increased population. We need to go in for a good system of irrigation. That would help us to no mean extent. I hope that when we receive these various measures from the Government they will be in such a state that we shall be able to deal with them without great delay, and that they will realize that in the framing of our legislation all sections of the community have to be considered. We should legislate upon the principle of fair play to all. I hope, for instance, that the Inter-State Commission Bill will be shorn of the very objectionable features that existed in the measure introduced during last session. It was abandoned—and very properly abandoned—last year by the Government as a measure which was not suitable to the wants of our community. There are a few matters of great importance that will have to be dealt with in that Bill; but very few people were satisfied with the measure which originally came before us. Again, I am glad to know that the Government are going on with the Bill for the establishment

of the High Court. As Senator Symon said to-day, that is one of the essentials of the Commonwealth itself.

Senator DE LARGIE.—Essential to the lawyers.

Senator Lt.-Col. GOULD.—No, essential to the people not to the lawyers. Many points of importance will crop up from time to time which ought to be settled by the Full Court of Australia. There is, for instance, the question of taxing State imports. See the absurd position that occurs in New South Wales where the State is building railways. The Government imports railway material paid for with borrowed money. It is made to pay a heavy duty upon the iron thus imported, and it gets back three-fourths of the duty that it has paid upon the iron bought with borrowed money, and puts that sum into its pocket as revenue legitimately earned. There is a good reason why there should be no charge upon the imports of the State for material that is to be used for public purposes. An instance of the necessity of the establishment of the High Court occurred in Victoria recently. It was sought to establish the point that the Customs Bill was inoperative, because it was at variance with the terms of the Constitution as being a taxing measure. According to a decision given by the learned Chief Justice, it was held that in passing the Customs Act we had gone beyond the powers conferred by the Constitution. Very properly, another case of a similar kind went to the Full Court, where a different decision was given. Here, in the one State of Victoria, are the Judges divided on this one important question. When a similar case occurs in New South Wales, we do not know what the Judges may decide. If a case occurs in South Australia, we do not know what the result will be. The decisions may be all alike, or they may be different. We should have the law laid down by the High Court, so that lawyers may be able to advise their clients reliably, and merchants may know what to do. I therefore welcome the determination of the Ministry in this respect. Whether we shall have three or five Judges is a matter upon which I am not yet prepared to give an opinion. I am inclined to believe that when we establish a High Court if we start with three Judges it will be a very fair thing to do, and will enable us to deal properly with the very important questions which arise. We do not need at this stage to have sufficient

Judges to send all over Australia. Three Judges will be sufficient to constitute the court, and we shall then have a tribunal that we have every reason to believe will be beyond all party consideration, above all passions and prejudices, and will decide questions that arise in connexion with the interpretation of the Constitution upon fair and legitimate grounds.

Debate (on motion by Senator DRAKE) adjourned.

Senate adjourned at 10.11 p.m.

House of Representatives.

Wednesday, 27 May, 1903.

Mr. SPEAKER took the chair at 2.30 p.m., and read prayers.

PETITION.

Mr. THOMSON presented a petition from the Colonial Sugar Refining Company Ltd., Sydney, praying the House to direct an inquiry into the practices and circumstances connected with an alleged unequal collection of excise upon sugar.

Petition received and read.

TRANSFER OF STATE DEBTS.

Mr. HIGGINS.—I wish to ask the Treasurer if there have been any negotiations with the State Premiers, especially since the Premiers' Conference, in regard to the transfer of State debts to the Commonwealth. If there have been such negotiations, how soon will he feel free to take the members of this House into his confidence upon the subject?

Sir GEORGE TURNER.—I have had no negotiations with the Premiers of the States upon the subject.

Mr. O'MALLEY.—Will the right honorable and learned gentleman, before entering into negotiations to take over any part of the debts of any State, obtain an absolute agreement from that State that it will not borrow any more money except through the Commonwealth?

Sir GEORGE TURNER.—I shall be glad to do what I can in that direction, but my honorable friend is asking me to perform a very hard task. My inclinations run in the direction he has indicated, and I shall be very glad to carry out his views if I have the opportunity.

SUBDIVISION OF ELECTORATES.

Mr. CONROY.—Will the Minister for Home Affairs lay upon the table a statement showing the number of electors in each of the new subdivisions of New South Wales?

Mr. REID.—Let us have the information for all the States of the Commonwealth.

Sir WILLIAM LYNE.—I cannot obtain information in respect to all the States of the Commonwealth until the work of subdivision has been completed. With regard to the State of New South Wales, although I know what the number of electors in each electorate is, I have not received any official information upon the subject, and if the honorable and learned member for Werriwa will refer to the Electoral Act he will find that the Minister has no power to compel the Commissioner to give him information until after the expiration of the month which is allotted for the lodging and consideration of objections and suggestions. Directly the previous subdivision of New South Wales was completed, I gave the information to the press, but the law to which I refer was not then in existence. Under existing circumstances, I am powerless to compel the Commissioner to give me information until he supplies it to me officially.

Mr. BATCHELOR.—Does the Minister know if the South Australian Commissioner has finished the subdivision of that State?

Sir WILLIAM LYNE.—I saw a paragraph in one of the newspapers to the effect that the subdivision had been completed, and a report forwarded to my office.

Mr. BATCHELOR.—It was stated that the Commissioner was waiting for an intimation from the Minister.

Sir WILLIAM LYNE.—I have not received any information from South Australia. A telegram was sent to the Commissioner there yesterday, to inquire if the work had been completed, but I have not yet had a reply to it. It is the Commissioner's duty to issue the necessary maps, and give all the information required by law, but I am powerless to compel him to do more than his commission instructs him to do.

Mr. CONROY.—Can the Minister inform us whether the figures which have been published in one of the Sydney newspapers are correct?

Sir WILLIAM LYNE.—I do not know what figures have been published, but I have not made any information public. I have not seen the figures referred to.

Mr. JOSEPH COOK.—All the figures have been published.

Sir WILLIAM LYNE.—I have no information to that effect. If the honorable and learned member for Werriwa will supply me with a copy of the newspaper report to which he has referred, I will compare the figures contained in it with the figures which have been supplied to me.

Mr. V. L. SOLOMON.—The South Australian newspapers have published similar information.

ELECTORAL ACT ADMINISTRATION.

Mr. HUME COOK.—I desire to know from the Minister for Home Affairs what provision is being made to meet the case of electors who have changed their residence since the names were collected for the federal electoral rolls? At present there are no electoral registrars to deal with the matter. Under the Act, if an elector has changed his place of residence, he will not be able to vote for the electorate on the roll of which his name appears. What provision is made for giving him a vote in the division to which he has removed?

Sir WILLIAM LYNE.—I should like notice to be given of that question; but I think that special provision is made in the Act to meet cases of the kind referred to.

Mr. PAGE.—I desire to bring under the notice of the Minister for Home Affairs a letter which I have received from a friend of mine at Grafton, in New South Wales. The letter is as follows:—

I have qualified for a vote in New South Wales, but I am unable to find any one who is in a position to inform me how to get my name on the roll so that I can vote at the forthcoming election. I wish you would write and inform me at once who to apply to.

Sir WILLIAM LYNE.—The writer has only to apply to the Chief Electoral Officer in order to have his name placed upon the roll.

Mr. BROWN.—I desire to know from the Minister for Home Affairs when the federal rolls will be prepared and exhibited for public information?

Sir WILLIAM LYNE.—The names of all applicants and of those who have been placed upon the rolls are in the electoral office at present; the rolls are being prepared

in accordance with the law. Each name has to be placed in the lists for one or the other of the polling places in the various divisions; and this cannot be done until this House has dealt with the subdivisions.

Mr. POYNTON.—I wish to ask the Minister if the Chief Electoral Officers have been appointed for each of the States, and, if so, what are the names of the gentlemen selected?

Sir WILLIAM LYNE.—The acting Chief Electoral Officer is in Melbourne, and certain gentlemen have been engaged in the various States to carry out arrangements in connexion with the compilation of the rolls. No permanent officials have, however, yet been appointed. Following up the reply which I gave just now to the question asked by the honorable member for Maranoa, I desire to say that if any person wishes to have his name placed upon the roll he has only to write to the electoral officer in the State for which he has a vote, or to the central electoral office, or to myself. If he adopts either of these alternative methods, he will certainly have his name placed upon the roll.

PAPERS.

Sir EDMUND BARTON laid upon the table the following papers:—

Resolutions agreed to at the Conference of State Premiers held in Sydney on 15th April, 1903, and following days.

Papers relating to the admission of certain boilermakers into Western Australia.

Papers relating to the admission of certain Maoris into New South Wales.

ORDER OF BUSINESS.

Mr. CROUCH.—I desire to direct your attention, Mr. Speaker, to the fact that yesterday I gave notice that to-day I would move a motion which I now find is placed on the notice-paper for Friday. The Minister for Defence had informed me that the motion would be unopposed. It will be very inconvenient for me to attend the House at half-past 10 on Friday morning, and I fully relied upon the usual practice being followed, namely, that of placing a motion on the notice-paper for the date specified in the notice.

Mr. SPEAKER.—The practice is that no business of the character to which the honorable and learned member's notice refers—nothing except purely formal business—shall be entered upon until the address in reply is adopted. I therefore

propose to allow the honorable and learned member's notice of motion to stand on the paper in such position as he may prefer until the time to which I have referred arrives.

GOVERNOR-GENERAL'S SPEECH: ADDRESS IN REPLY.

Debate resumed from 26th May (*vide* page 66) on motion by Mr. L. E. Groom—

That the following address in reply to the Governor-General's opening speech be now adopted:—

MAY IT PLEASE YOUR EXCELLENCY—

We, the House of Representatives of the Parliament of the Commonwealth of Australia, in Parliament assembled, beg to express our loyalty to our Most Gracious Sovereign, and to thank Your Excellency for the Speech which you have been pleased to address to Parliament.

Sir EDWARD BRADDON (Tasmania).—The leader of the Opposition has exhausted entirely the full measure of compliment that it is expedient or desirable for the Opposition to lavish upon the Government, and therefore I do not presume to add anything in that direction. Indeed, I do not know that I could conscientiously add very much, or suggest anything that could be construed as being of the nature of flattery. A cynical Frenchman once said that, provided meals were served regularly, and the trains ran to time, it did not very much signify under what form of government one lived. That was a philosophical view of the case that I should possibly entertain, but for the fact that it could hardly apply, even in the case of the cynical Frenchman, to the Barton Government. I think the gentleman referred to would have found that something better than that might be looked for, even though meals were served regularly and trains were punctual. The Prime Minister has made some kind of answer to the speech of the leader of the Opposition. He began by saying that, except as to the matter of the six hatters, my right honorable friend had touched upon no measures of the Government, past or present.

Sir EDMUND BARTON.—No. I did not say that. I said that the right honorable gentleman did not find fault with the measures of legislation already passed, or those proposed for this session, and that his notice as to the results of legislation was confined to the case of the six hatters.

Sir EDWARD BRADDON.—Well, if there was nothing whatever in the attack made by the leader of the Opposition, it seems extraordinary that the Prime Minister should have occupied two hours and a quarter in answering nothing—because that is the unfortunate position in which the Prime Minister finds himself. I shall now proceed to deal with some of the replies that the Prime Minister has made to the points raised by my right honorable friend. These points, according to the Prime Minister, were of no consequence; but I wish to point out that his answers were of no consequence, and were in some cases hardly in keeping with ordinary common sense. The Prime Minister found fault with the leader of the Opposition for having given three different reasons why the Judiciary Bill was not passed during last session, and according to him, these three reasons absolutely contradict each other. The first of these reasons, in the order in which the Prime Minister gave them, was that the Opposition had prevented the passing of the Bill because of the fear of the appointments being made in recess; the second was, that the Government neglected to push on, with the measure; and the third was that the Government did not wish to pass the Bill because they could not spare Senator O'Connor from another place. If we only reverse the order of these reasons, we shall find that there is nothing contradictory in them. The Government did not push on with the Bill primarily, because they did not wish to lose Senator O'Connor. Having thus neglected to push on with it, they brought it to the end of the session, when the sense of the Opposition, as expressed by its leader, was that it was undesirable that the Bill should be passed at that particular time, so that the appointments would be made during the recess, when the eyes and the voice of Parliament could not be brought to bear upon them. A fourth reason might have been adduced by the leader of the Opposition had he thought of it, namely, that the Government did not push the Bill through because they had very serious apprehensions as to whether they would succeed. Now, the Prime Minister was charged by the leader of the Opposition with having, whilst in Tasmania, made certain statements about him which were wholly untrue. That is the briefest way of putting it.

Sir EDMUND BARTON.—The *politest*, also.

Sir EDWARD BRADDON.—Yes, the politest ; because true politeness consists in expressing in parliamentary language exactly what one means. One of these charges was that the Prime Minister had declared that the right honorable and learned member for East Sydney and his party combined with the labor party to procure the defeat of the tea and kerosene duties, to the great loss of Tasmania. This is how the Prime Minister is quoted in a Tasmanian paper :—

The party of which Mr. Reid was the leader, who was always accusing him of being under the thumb of the labour party, absolutely combined with that party to take off the duties on tea and kerosene, which for Tasmania were the most necessary in the Tariff.

Of course, all through the speeches made in Tasmania, there was a strong bid for the Tasmanian vote, and that bid is being made from the Tasmanian platform to-day—it is to be made to-morrow even. As a matter of fact, as the leader of the Opposition has explained, when the tea and kerosene duties were before the House, he was not present, and he was no party whatever to the debate or to the division which took place. As a fact, the tea duty was thrown out, not as a consequence of the votes cast against it by the Opposition, but because of the defection of eight of the Government supporters.

Mr. KINGSTON.—The right honorable member for East Sydney was paired against the Government.

Sir EDWARD BRADDON.—Yes ; but that does not affect the statement that Mr. Reid acted in combination with the labour party, because he was never in combination or in conference with them on the subject. When it is said that the rejection of the tea duty was the work of the Opposition, it may be pointed out that twelve members of the Opposition voted with the Government for the retention of the duty, and I do not think, therefore, that it can be fairly charged against the Opposition that they were the cause of the duty being thrown out. A large number of members of the Opposition voted in favour of the duty.

Mr. SYDNEY SMITH.—The majority of the Opposition voted with the Government.

Sir EDWARD BRADDON. — Yes. The majority of those present. Surely it was incumbent upon the Treasurer, who knew how important this duty was to one of the States, to do what he could to secure the support of his own followers in having

it recommitted. There was another point as to which the leader of the Opposition was misrepresented in Tasmania by the Prime Minister, and as to which the Prime Minister has offered no answer whatever. I refer to the statement that the leader of the Opposition and the free-trade party desired to force direct taxation upon the States. I have here a report of what occurred at the Devonport meeting. The Prime Minister, having made this statement, Mr. John Henry asked—

Will you quote where the free-traders say that ?

Sir EDMUND BARTON.—I have no quotations with me, but I believe I have heard Mr. G. H. Reid say so.

That is all. “I believe I have heard Mr. G. H. Reid say so.” Sir Philip Fysh said—

Sir William McMillan had said that they would require to raise £2,000,000 by direct taxation.

That is an old figment which was thoroughly swept away by the honorable member for Wentworth two years ago. “At any rate,” said Mr. Barton, “I am not in the habit of making incorrect statements.” But the statement to which I have drawn attention was an incorrect one. Whether it is the habit of the Prime Minister to make such statements I do not know. I do not think it is.

Sir EDMUND BARTON.—I should have to change from my side of the House if it were.

Sir EDWARD BRADDON.—However, the fact remains that the statement which the Prime Minister made was an utterly incorrect one, and the right honorable gentleman, when questioned in regard to it, could only say that “he thought he had heard Mr. G. H. Reid say so.” In replying to the leader of the Opposition yesterday the Prime Minister pointed out, with considerable emphasis, the importance of this particular measure to Tasmania. Tasmania, he said, now obtains very much less revenue from customs than she did under her old State Tariff. That is so. She obtains a great deal less owing to the very low excise duties upon tobacco and spirits, the absence of any excise whatever upon wine, and the high duty imposed upon made-up woollen goods. Upon the last-named class of goods alone Tasmania has sustained a loss of £30,000 per annum, a loss which is far greater than that occasioned by the remission of the tea duty, which the Prime Minister stated was so

precious to the people of that State. The right honorable gentleman also charged the leader of the Opposition with having entered into an unholy combination with some mysterious body which desired to secure the introduction of cheap labour by opposition to the passage of the Immigration Restriction Bill—a statement which is absolutely opposed to facts and to common sense. What is the unholy combination into which the leader of the Opposition entered for the purpose of carrying out the schemes suggested? With whom did he make the combination? Those who voted for the Act in its present form included the members of the labour party and all save six members of the Opposition. Are they the special representatives of capital? I was one of the six who voted with the Government for the Bill in its original form, because I held that I was pledged by my utterances in London in 1897, when the matter was being discussed with the Secretary of State for the Colonies. I agreed then that we should legislate on the lines of the Natal Act, and upon my return to Tasmania I introduced and passed through the State Parliament a measure framed upon those lines. Accordingly, it was only consistent that I should take the same stand last session. That, however, does not justify the charge made against the leader of the Opposition of entering into an unholy combination in an endeavour to defeat the passage of the Immigration Restriction Bill. What did he do? He endeavoured to make that measure effect what it was intended to accomplish according to all the opinions expressed throughout Australia. He endeavoured to introduce the colour line in order to secure a white Australia by a straight-out policy of exclusion.

MR. REID.—“A white Australia” is an expression to trade upon.

SIR EDWARD BRADDON.—Of course there is a cry for a white Australia, and it is only reasonable to insist that we should have that term clearly defined by providing a test which will exclude all coloured aliens. Regarding that measure it seems a little extraordinary that whereas on 10th May, 1901—the day after the opening of Parliament—Senator O'Connor made a mistake in saying that the colour line would be applicable to all coloured aliens except British subjects, to whom an educational test would be applied, and

that the Bill had already been drafted and presumably discussed by the Cabinet, that remark—a remark of the most striking character—escaped the attention of the Prime Minister until a day or two ago. This seems to indicate that the method of drafting a Bill of that great importance was, at any rate, a very haphazard one, which does not reflect particular credit upon the administrative capacity of the Government. The Bill was amended in committee at the instance of the honorable member for Bland, and as a result of that amendment the notorious case of the six hatters has arisen. I maintain that both this House and the Senate were clearly led to understand that the amendment—qualified as it was by other portions of the Bill—could not be interpreted as it has been since.

MR. WATSON.—The Opposition are very innocent.

SIR EDWARD BRADDON.—The honorable member for Bland is one of the innocent, unless, indeed, he be deeper in craft than I have hitherto assumed him to be.

MR. WATSON.—I think they all understood what was meant.

SIR EDWARD BRADDON.—I certainly did not understand what it now appears was intended. If we consult *Hansard* we shall find that, in the debate upon the measure in question, the honorable member for Kooyong said—

But I have had a knowledge of the necessity of introducing considerable numbers of men for particular industries, because they have had special training and experience.

The Attorney-General here injected—

That is provided for.

The honorable and learned member for Northern Melbourne said—

There is no desire to exclude men who voluntarily seek to make their homes here.

MR. BATCHELOR.—As free men.

SIR EDWARD BRADDON.—I suppose that they come to Australia voluntarily if they come under an agreement. They might not come voluntarily if they did not come under an agreement. The honorable and learned member for Northern Melbourne said—

There is no desire to exclude men who voluntarily seek to make their homes here for the purpose of engaging in manual labour or anything else, so long as they belong to civilized white races, and are themselves desirable immigrants. As I understand it, we have never in Australia

taken up that narrow view of saying that we must keep Australia for ourselves and our children.

Mr. WATSON.—Oh no.

Mr. HIGGINS.—It is well that that should be generally understood.

What happened in the Senate? Senator Sargood said—

Such a paragraph as this is, so far as I know, contrary to the wishes of the general public.

It will allow the Minister to stifle industries that may require the importation of specially-skilled men, and the consequence will be that capital which might profitably be employed in developing industries will be unable to be so utilized.

In replying to that contention, the Postmaster-General said—

There is a special exemption for skilled men, so that the honorable senator has no ground to stand upon in his objection to the paragraph.

The doubts and fears of members of both Houses were thus lulled to rest, and a section was passed which has been interpreted by the Prime Minister, who declared that he had no discretion in the matter, in a way that is calculated to prove most disastrous to Australia. Some honorable members may regard this as a matter of little moment; but let them recall what has already been its effect, and let them imagine what it is calculated to be if the law be allowed to remain upon the statute-book in its present form. We have heard some expressions of opinion concerning this legislation both in England and out here. From England the Agent-General for New South Wales found it incumbent upon him to cable to his Government that the effect of the exclusion of the six hatters had been to damage the credit of Australia in the English money market. That is not an unreasonable result. The Prime Minister has stated that the despatch of the cable in question was the result of promptings from Australia—the outcome of some conspiracy, I do not know what, and on the part of some conspirator, I do not know who.

Mr. HIGGINS.—I hope that our credit is too strong for that.

Sir EDWARD BRADDON.—Our credit is not so good that it cannot be destroyed if we defy the Imperial sentiment and outrage our association with the mother country and the Empire by actions such as that.

Mr. HIGGINS.—But the six hatters are not Imperial sentiment.

Mr. REID.—There have been many wars concerning the rights of one Englishman.

Sir EDWARD BRADDON.—To my mind there is an object lesson in the way in

which the Act has been interpreted. The Prime Minister states that he made due inquiry into the case of the six hatters, and that, after satisfying himself that they were experts in their business, he allowed them to enter the Commonwealth. Is the right honorable gentleman to satisfy himself that everybody who is imported under an agreement is an expert in this, that, or some other branch of industry in which his manual labour may be required? If I desired to enjoy good living, and accordingly imported a trained cook, possibly the Prime Minister might be able to express an opinion as to his qualifications—after trial. But all through the range of employments, who is to be the judge whether a man imported by a vigneron, a manufacturer, or a manufacturing interest, or by an individual for his own particular service, is an expert whom we may admit under this Act?

Sir EDMUND BARTON.—The statute makes the Minister the judge, but the Minister, like every other judge, will have to go by evidence.

Mr. REID.—What a nice occupation for the Prime Minister of the Commonwealth!

Sir EDWARD BRADDON.—How would the Prime Minister set about obtaining evidence as to an imported cook? It was clearly incumbent on the Government to as little as possible outrage the sentiment of any State. And what has passed in the Legislative Assembly in Sydney is in itself a very severe stigma upon the Government. I find that the Premier of that State, Sir John See, who is not particularly in alliance with the leader of the Federal Opposition, expressed the opinion at a very early stage of the *contretemps* that the Federal Government was entirely in the wrong in preventing the hatters from landing. In his place in Parliament, Sir John See said that if he acted from personal feeling he would be prepared to break the law even if he had to go to gaol. That is not a nice thing to have said of the Federal Legislature by the Premier of the mother State. Mr. Hawken, a member of the New South Wales Legislative Council, said that this was a matter in which every true Britisher would feel indignation such as it was almost impossible to express. Mr. Hawken further said it was difficult to imagine that, in a place like Australia, with our liberal legislation, six Englishmen, who were as much denizens of the Empire as

were the members of that House themselves, should be prevented by a federal law, passed without the knowledge of the people, from landing. Mr. B. R. Wise, the New South Wales Attorney-General, who is no special ally of the leader of the Federal Opposition, said he was sure every member of the New South Wales Legislative Council must sympathize with the sentiments expressed by Mr. Hawken. Mr. Wise admitted the sentiment that was properly entertained by members of the House; but he appealed to honorable members not to bring forward in that Chamber a matter over which as a Parliament they had no control, and with which they had no concern.

Mr. MAUGER.—And he might have added that it was a matter about which they knew very little.

Sir EDWARD BRADDON.—Of course Mr. B. R. Wise would not pretend to know as much about this matter, or perhaps any other matter, as the honorable member for Melbourne Ports; but still that was the view which Mr. Wise took, and it was a view largely taken in England. On this latter point, the honorable member for Wentworth will no doubt be able to give us some information. It is a view natural enough, surely, in a case in which six of our fellow Britishers, our fellow countrymen, free men and unionists—

Mr. WATSON.—Not free men.

Sir EDWARD BRADDON.—Yes, free men.

Mr. WATSON.—No; bond slaves.

Mr. REID.—Then no workman is a free man who is under a contract.

Mr. WATSON.—In this case the men were bond slaves.

Sir EDWARD BRADDON.—Does a man sacrifice his freedom when he agrees to take a certain wage for a certain work?

Mr. WATSON.—Certainly he does.

Sir EDWARD BRADDON.—Then we are none of us free men.

Mr. WATSON.—Very likely we are not.

Sir EDWARD BRADDON.—How can the honorable member for Bland speak about free men when he is himself paid under a contract?

Mr. WATSON.—I can retire at any moment.

Mr. REID.—So can these men, because the contract ceases to be in force.

Mr. WATSON.—Excuse me, that is not so.

Sir EDWARD BRADDON.—The only extenuating plea I have heard for this

policy is that there is a similar enactment in America. But the Americans do not exclude Americans; they exclude aliens.

Mr. WATSON.—The Canadians exclude Britishers.

Sir EDWARD BRADDON.—We exclude fellow Britishers.

Mr. WATSON.—So do the Canadians.

Sir EDWARD BRADDON.—Will the honorable member for Bland suffer a few moments in patience. The point is that America carries out this policy with justification possibly, because she excludes, not fellow countrymen, but people who do not belong to her. But, in spite of the fact that America has over 80,000,000 of people, the immigration to the United States to-day is hundreds of thousands in the year, and it is admitted that, but for this immigration, the naturalized and born Americans would, in the course of some years, deteriorate to a very considerable extent. The influx of new blood in America is a physiological necessity, owing to the climate of a great part of the country, as it will be found to be a physiological necessity in Australia, where we try to shut out immigration. Is Australia fully populated? Have we the number of citizens within the Commonwealth we ought to have to push our industries and develop all our wonderful resources? Ought we to suffer any law to remain on our statute-book that excludes any immigrant who is a desirable man to have amongst us? I think not. I suppose the Prime Minister referred to me when he spoke of the duty on potatoes and oats being maintained on a high principle. There is something in that reference, and I did say something to that effect, and I did so advisedly. I was apologizing to my audience for what might appear to be a lapse from the path of the free-trader, the audience being free-traders for the most part; and my explanation was, I think, thoroughly justifiable. I said that seeing that Tasmania made large sacrifices to enter the Commonwealth, and to purchase her way into the five ports of Australia, New Zealand, which had every opportunity of coming in, and which was courted and entreated to come in, should not, as a matter of justice, have the same rights as Tasmania. That was not because Tasmania imports one bushel of oats or one ton of potatoes from New Zealand, or is ever likely to do so.

When I was Premier of Tasmania I proposed to strike the duties off potatoes, oats, and cereals of all sorts, for the very simple reason that the duties were there for no particular purpose, inasmuch as we collected no revenue in the absence of any importation. But when it became a question of our being federated, and making considerable sacrifices for federation, then I thought it right and fair that, so long as New Zealand stood out, that colony should not have accorded to it all the privileges that Tasmania had bought. We have lately had an invasion of Tasmania by Ministers. We have had the Prime Minister, and also the Secretary for Home Affairs—the latter of whom is going over again—and we have the honorary Minister, Sir Philip Fysh, there now. Sir Philip Fysh has to address a meeting in Launceston to-morrow; that is his parliamentary business at the present time. If one were an evil-minded critic it might be supposed that Sir Philip Fysh was there, and that his colleagues had gone there, in view of the impending elections; but if so, I think they are very much wasting their time. I do not think that their being there will have any particular effect on the electors of Tasmania, or banish from their minds the bitterly hostile feeling that Ministers engendered early in their career. The Prime Minister yesterday spoke about my unkindness towards my ex-colleague, the honorable member for Tasmania, Sir Philip Fysh. There is no unkindness of mine; the unkindness is that of the Government in having placed the honorable member for Tasmania, Sir Philip Fysh, in the position in which he now finds himself. Ministers went to Tasmania and said—“We are the men who want to secure to you a proper revenue from the customs and to save you from an income tax.” The income tax at the time was very unpopular in Tasmania, and Ministers played on that fact when they said—“Do not listen to the Opposition, who will force an income tax on you; listen to us, who will save you from it.” That is a good card to play if only the Government do not get found out, and the people do not discover that the cards are marked. I have no feeling of hostility towards the honorable member for Tasmania, Sir Philip Fysh. He was my colleague; and I hope I was loyal to him so long as he and I were of the same political complexion. The honorable member was a free-trader, and I was a free-trader; but after 65 years’ experience he

has become a protectionist. It is said that a man who never changes his mind is a fool, but a man who goes on for 65 years a fool in being of any political complexion, and then changes his mind so late in the day, does no good for himself. I want to show how extremely false is the position in which the honorable member for Tasmania, Sir Philip Fysh, has been placed. The other day at Hobart, speaking after the Prime Minister, and echoing what had fallen from the right honorable gentleman, he said—

This high Tariff is therefore a revenue Tariff, and not a destructive Tariff. Boots and hats would yield a little more at 10 per cent., but in connexion with almost everything else, I am in a position to say that the duties are not destructive, even if they do enable the manufacturers of these States to supply a certain number of Australian people. It is not a fact that a lower Tariff produces more revenue. When Mr. Reid says that he will secure the same amount of revenue from a lower Tariff, I say that he does not know what he is talking about.

That is the honorable gentleman as a protectionist, who, while he says that low duties do not secure a larger amount of revenue than high duties, tells his audience in almost the same breath that if the duties upon boots and hats had been reduced from 30 to 10 per cent. they would have yielded a greater return. He goes on to say—

So far as Tasmania is concerned, I will tell you this: That I strove to get the highest Tariff I possibly could, because I wanted to save you from direct taxation. There was give and take on both sides, and we secured a Tariff which is about as reasonable as we can expect. You have no business to pay a higher Tariff.

I ask honorable members to mark that statement. No doubt the electors of Tasmania will do so. Although he told them that they had no business to pay a higher Tariff, he again and again voted during the consideration of the Tariff for duties much higher than those which were agreed to. The Tariff which is now in force is not the Tariff which was brought down by the Government. It bears only a very faint likeness to it, and is incomparably superior to it, in that it is infinitely more moderate.

Mr. REID.—It bears the same relation to it as a half-caste bears to a blackfellow.

Sir EDWARD BRADDON. — I will now ask the House to listen to what the honorable member, Sir Philip Fysh, said—with my complete concurrence, and knowing that I should indorse every word he uttered—when Treasurer of my Administration in

1897-8. In a Budget speech which he delivered upon 14th October, 1897, he said—

In 1882 *ad valorem* duties of 10 per cent. and minimum specific duties, added to a beer duty of 3d. per gallon, produced on a population of 102,834, a revenue of £302,954. In 1896 a maximum *ad valorem* duty of 20 per cent., and maximum specific duties, plus 4d. excise on beer, produced on a population of 166,113, £347,925. The difference is £44,971. The increase of population, without any increase of duty should, and probably would, have yielded £113,523. If that can be fairly assumed, then the increased Tariff is a loss and not a gain to the revenue. Can any facts more forcibly convince that our Tariff is baneful to the people without securing the revenue intended?

In his next Budget speech he said—

We admit that our experience of high Tariffs is that they too often defeat their primary object, and revenue is not gained.

That is a fairly explicit statement in favour of low duties. Now, as to direct taxation. Speaking in 1897, the honorable gentleman said—

In 1882 Parliament was influenced to give relief to the taxpayer through the Customs, which the Treasurer of the day said then bore the relation of 70 per cent. to the total taxation of the country. I find that it was nearer 81 per cent., and I believe that policy of relief to be sound in principle. In 1896 the relation is nearly 75 per cent., and in 1897 it will be much higher. That policy of 1882 was directed on principles which called to the aid of the revenue the land tax and the dividend tax of 1880. It finds its origin in the policy of the British House of Commons, and if we are unable to adopt the Imperial fiscal policy in its entirety, we may accept it as a guide in regard to general principles. The Parliament of 1882 and 1892 accepted the necessities and equities of these proposals, and the people have been loyal to the compact. Yet a cry of repeal rises from the few who pay income tax, in disregard of the many who bear without a murmur all the other extra burdens I have named. The total repeal of the income tax would be a sin against the people, a breach of the canons of political economy, and a repudiation of an equitable adjustment to which all classes of the taxpayers have been parties.

In conclusion, he said—

Necessity and a statesmanlike policy of fiscal reform alike brought into existence the income tax.

I am showing what a complete change of front in regard to direct taxation by means of income tax there has been on the part of the honorable gentleman. We can all take the opportunity now afforded us to point out the grievances, more or less heavy, from which the people suffer as a consequence of maladministration. If I thought there was any hope of improvement I would once

more urge the absolute necessity for a larger measure of economy in administration than is now apparent. Here is one instance which to my mind shows utterly uncalled-for expenditure—the appointment of an Inspector-General of Works at a salary of £1,000 a year, and of six assistants at a salary of £600 a year each—a total yearly expenditure of £4,600 upon officers whose duties for a considerable time to come might very well have been performed by public servants of the States for a mere trifle in comparison with the sum I have named.

Sir WILLIAM LYNE.—That statement is not correct. The charges made by the Governments of the States exceed by many times the amount the right honorable gentleman has named.

Mr. REID.—That is due to mismanagement. The Minister could have come to better terms.

Sir EDWARD BRADDON.—Does the Minister say that he could not make an arrangement with the States?

Sir WILLIAM LYNE.—No. It was not possible.

Mr. REID.—Any other man in the position could have done so.

Sir EDWARD BRADDON.—I think that any one else could have done so, and that it would have been an exceedingly simple matter to arrange, inasmuch as in the services of the States there are men who are fully competent to do the work, and who are more familiar with the buildings which have to be attended to, and the requirements of our service, than a newly-appointed staff can be. A man who could not make a more economical arrangement with the States has no right to be a Minister. Then there are little pinpricks of administration which might very well be removed by the exercise of more consideration and expedition. I have two complaints which I specially desire to bring under the notice of the Minister for Trade and Customs. One is in regard to the extravagant bonding rents which are now exacted, and which have been heavily increased since federation; and the second is in regard to the delay which exists in getting complaints heard. The Minister is expedition itself in seizing upon all he can lay hold of to obtain revenue, and I applaud him for his vigilance, where it has been properly directed, and for his determination that all revenue actually due should be collected.

Sir Edward Braddon.

But, even as to that, I think there are ways of doing things strictly which would not have brought him into so much antagonism with the people of the country. He must know how bitter the feeling is throughout the trading world in regard to the administration of the Customs department.

MR. KINGSTON.—I have not found such a feeling to exist.

SIR EDWARD BRADDON.—Then the right honorable gentleman has not looked far for a manifestation of it. There is considerable delay in obtaining replies to communications pointing out cases calling for redress. I do not complain about the Minister being quick to collect duty where it ought to be collected; but I think that he should be quicker in refunding duties which ought not to have been collected. I brought such a case under his notice many weeks ago, but, up to the present time, I have received no sort of answer to my letter. I was a little amused the other day to see how the Minister held himself up for public admiration as the Customs Minister who has received more conscience money than any other. I did not know that there was so much childlike and bland innocence in his composition. He appears not to see that, even if the fact is as stated, he does not receive all the revenue which might be expected. If a merchant make a mistake in his entries now, he dare not own up to it. If he is an ultra-honest man, he has to send an anonymous letter to the Commissioner.

MR. KINGSTON.—That is not a fact.

SIR EDWARD BRADDON.—How can the Minister know that it is not a fact that conscience money is sent in under these circumstances?

MR. KINGSTON.—What I mean is that if a man points out a slip that would otherwise pass our notice, he is certainly not punishable for it.

SIR EDWARD BRADDON.—A good many persons have had a contrary experience.

MR. KINGSTON.—No; they have not, although it has been so stated for political purposes.

SIR EDWARD BRADDON.—I am not making these statements for any political purpose, but I am pointing out what is a popular belief, namely, that it is dangerous to point out mistakes in entries, because those mistakes are seized upon by the Customs authorities, and fines are inflicted.

MR. KINGSTON.—That is a pious belief that is wrongly entertained.

SIR EDWARD BRADDON.—What I have stated is laid down in the Customs Act as it is administered.

MR. KINGSTON.—There is nothing of the kind in the Act.

SIR EDWARD BRADDON.—It seems to me that the Minister does not know the Act which he has to administer. I wish to direct attention to one or two matters relating to the Post and Telegraph department, which I presume is represented here to-day by the Prime Minister. Although these are small matters they should be remedied as soon as possible. In the first place, a surcharge of 1d. is now made upon letters which are posted in trains. In civilized countries which have developed their Postal departments to the fullest extent the trains afford the principal means of distribution, and the common practice is to post letters in trains, have them sorted on the journey, and delivered at their several destinations along the road. This surcharge of 1d. has been imposed upon letters posted in trains which are, therefore, now subject to a postage rate of 3d. I also wish to call attention to the rate for the delivery of private mail bags. These bags had previously been treated as private letter-boxes, and recently the fee charged has been increased for no apparent reason, except that it will probably offer some inducement to people who now have private mail bags to discontinue them, and thus cause loss to the revenue. In Launceston there is no delivery of letters received by the Inter-State mails arriving at that place on Saturday at noon until the following Monday. This may involve very considerable trouble and anxiety to people other than those who can afford to have their private letter-boxes. Letters addressed to private individuals are, as a whole, of greater immediate concern than are business communications, and I am glad to be informed that the Postmaster-General has the matter under his consideration. I should like to say a few words with regard to the Speech from the Throne. It states—

You will be asked to establish by statute a uniform defence system for Australia.

One cannot help thinking how strange, to say the least, it is that for two years and more we should have been conducting our defence affairs without any Act whatever to sanction the existence of our forces, or to

enable them to be dealt with by law in cases of emergency.

Sir EDMUND BARTON.—The trouble has been the other way. We have six Acts.

Sir EDWARD BRADDON.—I thought that uniformity was desired.

Sir EDMUND BARTON.—So it is.

Sir EDWARD BRADDON.—I understood that the Government desired to pass a Defence Act that would enable our forces in all the States to act together.

Sir EDMUND BARTON.—So we do.

Sir EDWARD BRADDON.—At present we have no legislation which will enable a defence force in one State to be called upon to act in another.

Sir EDMUND BARTON.—That is a very good reason why the right honorable member should support us in passing the proposed Bill.

Sir EDWARD BRADDON.—I am not talking about reasons for supporting the Government. I did support the Government when the last Bill was introduced, but what is the use of supporting those who do not support themselves. I supported the tea duty proposed by the Government, but what did they do—they blocked it.

Sir EDMUND BARTON.—Because the right honorable member's friends of the Opposition took such a course that the duty was knocked out.

Mr. REID.—The duty was defeated because some of the Government followers voted against it.

Sir EDMUND BARTON.—The Opposition had more support from our side than we obtained from theirs.

Sir EDWARD BRADDON.—The Government had the support of twelve Oppositionists compared to ten who voted against the duty, and there is no reason, therefore, why it should be stated that the Opposition knocked out the Government proposal.

Sir EDMUND BARTON.—We cannot control the members of the Opposition.

Sir EDWARD BRADDON.—The Government cannot control their own supporters.

Sir EDMUND BARTON.—The Opposition cannot control theirs.

Sir EDWARD BRADDON.—The leader of the Opposition was not present in the House on the occasion referred to.

Mr. REID.—No, I was trying to do something better.

Sir EDWARD BRADDON.—I hope that we shall not see any repetition of the

blunders committed by the Government in connexion with previous Defence Estimates. The Estimates first brought down were, upon a motion tabled by myself, reduced by £131,000. It was originally proposed that they should be reduced by £1, as an indication of the feeling of the House that the total expenditure upon defences should be curtailed by £200,000; but Ministers compromised matters and promised to effect reductions amounting to at least £131,000. Honorable members, however, did not listen to the promise of Ministers who have the confidence of the House to such a full extent, and divided on the motion, which was carried. Ministers did not occupy a dignified position when their plighted word was put aside, and a division was taken in order to embody the feeling of the House in a mandate. The next Estimates which were brought down were reduced by £131,000, and the honorable member for Bland, a potent factor in the House, moved their further reduction.

Sir JOHN FORREST.—The Estimates were reduced by £175,000 in the first instance, and then by £62,000 afterwards.

Mr. WATSON.—The House passed the motion proposed by the honorable member reducing the Estimates by £131,000, and the Government made a further reduction of £40,000.

Sir JOHN FORREST.—Then the House followed that with a further reduction of the next Estimates by £60,000.

Sir EDWARD BRADDON.—I cannot congratulate Ministers upon such episodes. The honorable member for Bland said he wanted the Estimates reduced, and the Minister for Defence being away, the Minister for Home Affairs consented. Apparently the expenditure was further reduced after that compliance with the demand of the leader of the labour party. What kind of Estimates were they in the first instance? Upon what were they based? How was it that Ministers accepted the proposal of the honorable member for Bland—even admitting the potent influence he has with them—without saying anything about the effect the reduction would have upon the efficiency of the defence forces or anything else. By their conduct they admitted one of two things: either that their Estimates were in excess of actual requirements, or that they accepted votes for less than the amount sufficient to maintain the defence forces in

a state of efficiency. I notice from the Governor-General's speech that we are to have a bonus in connexion with the sugar industry. The Minister for Customs has had some experience of bonuses, and, no doubt encouraged by this, wishes to extend the principle. The time is not yet ripe for discussing the proposal, but when it comes before the House and we know what it is, no doubt a good deal will be said about it. A great deal will have to be said to some of us to induce us to cast our votes in its favour. Then there is a paragraph in the Speech from the Throne which tells us that—

The urgency of questions of domestic importance prevents Ministers from asking you to give immediate consideration to the question of preferential trade.

Oh ! that unfortunate preferential trade—how it has suffered. We have always had it dangled before us. It was fully understood that it was to have been brought before the House and decided this session, but now we are told that something shuts it out from our present consideration. Cannot Ministers make up their minds six months before the actual work of the session commences? If they believe in preferential trade, as we have been led to understand, could they not have been ready to bring down some measure to give effect to it? No, they could not do this, although we are told that—

My advisers observe with gratification the recent utterances of the Secretary of State for the Colonies advocating the encouragement of trade relations between the various parts of the Empire.

I hope that none of us will feel any gratification at these utterances, if they can be construed into anything like what Ministers think they mean. I trust that we shall withhold our opinion until we have the whole context of what has passed, and know what the Secretary of State for the Colonies had in his mind when he delivered the utterances referred to. It seems absolutely impossible—unbelievable—that England, which has prospered through all these years with her open ports and her free-trade, will go back upon that policy for the purpose of fomenting trade relations with any part of the world.

Mr. CONROY.—That is only a little political cheap-jack business.

Sir EDWARD BRADDON. — Mr. Chamberlain is not a political cheap-jack. He is an eminently able statesman, who has seen England through one of the greatest

crises which she has ever been called upon to face.

Mr. CONROY.—He is nothing like an able statesman now.

Sir EDWARD BRADDON. — The honorable and learned member cannot know yet what Mr. Chamberlain means, and I decline to believe that the man who has followed Cobden, Bright, and Gladstone in their fiscal policy will come down to protection. Does it look like it when at the very moment of these utterances, over which there has been so much chuckling, the English corn duties were repealed? If the free-trade position in England is to be yielded up, how is it that when the Government had secured the corn duties they did not hold on to them? I cannot believe that the nation will go back upon itself, not even for 50 statesmen of the calibre of the Right Honorable Joseph Chamberlain. We are told that we are to have a Navigation Bill, and I should like to know whether it is in print.

Sir EDMUND BARTON.—A draft Bill is in print.

Sir EDWARD BRADDON.—Is the Bill to be brought down to the House?

Sir EDMUND BARTON.—The honorable member can see for himself by reference to the speech.

Sir EDWARD BRADDON.—I see that—

A number of other important measures are in preparation.

Sir EDMUND BARTON.—Yes.

Sir EDWARD BRADDON.—That does not tell us that the Bill is coming down. We have heard that statement before. The Governor-General's speech continues—

Amongst these is a Bill to provide a uniform navigation and shipping law.

Sir EDMUND BARTON.—Read on.

Sir EDWARD BRADDON.—I think I have gone far enough.

Sir EDMUND BARTON.—The right honorable member will find at the end of the paragraph an intimation regarding the intentions of the Government in respect of that and other measures. It is there stated that probably we shall not have time to deal with a uniform Navigation and Shipping Bill this session, and as the first draft of it contains over 500 clauses, I think there is justification for the statement.

Sir EDWARD BRADDON. — The cryptic utterances of this paragraph may mean anything. I suppose they do mean

that we shall not see the Bill during the life of the present Parliament. I hope that when it is submitted it will not be in anything like the form which has been outlined by the public press. I trust that it will not contain an invasion of the rights of British steam-ship companies trading to these ports, which would be unjustifiable—which could hardly be justified by any process of reasoning whatever. It has been hinted that it will contain a provision declaring that the sailors of these vessels while in Australian waters shall be paid at the Australian rate of wages. What right have we to prescribe the rate of wage which these great shipping companies shall pay to their men? Their vessels enter our ports for a week, ten days, or a fortnight, but they do not belong to us, and are we to discourage them from coming here? To my mind, it is evident that we should encourage their presence as much as possible.

MR. TUDOR.—What would the right honorable member do if they remained trading upon our coast for months?

SIR EDWARD BRADDON.—I would treat them exactly the same as if they remained here only for a week.

MR. TUDOR.—And if they remained for twelve months, I suppose the same treatment would be meted out to them?

SIR EDWARD BRADDON.—The steamers of the P. and O. and Orient Companies are very likely to remain here twelve months at a time, are they not? The course suggested would not only be prejudicial to our interests, and constitute an interference on our part with the conduct of business by the great ocean-going steam-ship companies; but it would also be against the interests of the sailors who come here, and still more against those of our own seamen, who might count upon it as a fact that if such a provision were enacted there would be an influx of sailors to enjoy the higher wages in comparison with which the entry of the six hatters would be something utterly trivial and unimportant.

MR. MAUGER.—Our own sailors do not say so.

SIR EDWARD BRADDON.—They will say so by-and-by. We have had a brilliant example set to us by the mother country in regard to her navigation laws. There anything of this tyrannical or restrictive character has happily been abolished for the past 50 years, and I hope we are not going

back to a system of barbarism which existed half-a-century ago, and which would be to so large a degree injurious to our own people and to our relations with the British Empire. Gratifying mention is made in the Vice-Regal speech to the State debts. We find that Ministers have not forgotten that there are State debts, and have even given consideration to the subject of taking them over. The speech states—

They will gladly take advantage of any opportunity that may offer of bringing these subjects before you, but they are not sanguine of being able to do so in the course of this session.

Here is a matter which has been a most urgently pressing one with the great bulk of the people of the different States ever since we federated. Indeed, one of the great reasons for federating was a desire that the State debts should be taken over by the Commonwealth together with the customs duties out of which the interest is paid. We have already been waiting for two years to witness some step made in this very desirable direction, and we are now told that Ministers have been considering it, but see no chance of doing anything in connexion with the matter during this session. Together with the consideration of the Bill to provide for old-age pensions, it has been relegated to the limbo of the past. It has been set aside for some indefinite period. I do not know that it is necessary to say anything about the selection of the federal capital. It is stated in the Governor-General's speech that we are to have information laid before us showing what the proposed capital sites really are, and, it is added, that it is expected the information which has been collected upon this subject will enable us to come to a satisfactory conclusion. Are we to arrive at a conclusion upon the matter this session?

SIR EDMUND BARTON.—I hope so. Honorable members will be given every chance to arrive at a conclusion. An early opportunity will be afforded them of considering the report.

SIR EDWARD BRADDON.—But will it lead to business?

SIR EDMUND BARTON.—I am always in doubt as to whether the right honorable member means business. If he does, he will have an opportunity of transacting it in connexion with that report.

SIR EDWARD BRADDON.—I do mean business.

Sir EDMUND BARTON.—Yes ; business of a sort. The right honorable gentleman would rather make a malign attack than assist in the business of the country.

Sir EDWARD BRADDON.—I have not made a malign attack.

Sir EDMUND BARTON.—I have no objection, if the right honorable member does so.

Sir EDWARD BRADDON.—But I have an objection. I do not desire to make such an attack—I leave that to the Prime Minister. I think I have said all that it is incumbent upon me to say, and I can only express the hope that we shall do business, and that at any rate some of these important matters for which the Commonwealth is waiting will see the light of day, and become the law of the land before the close of this Parliament.

Mr. A. McLEAN (Gippsland).—I think the right honorable member who has just resumed his seat was a little unfair to his former colleague, Sir Philip Fysh, seeing that the latter is not present to defend himself. The right honorable member laboured very hard to prove inconsistency on the part of his colleague, inasmuch, as on some occasions, that gentleman declared that low duties produced more revenue than high duties, whilst on others he contended that high duties were the more productive. When we accuse our friends of inconsistency, I think it is unfortunate for us that there is such an institution as *Hansard*, in which all our own sins are recorded. I have in my hand a copy of the *Hansard* of last session in which is reported a very able speech upon the fiscal question by my right honorable friend, in the course of which he told the House—indeed, during almost the whole of the session he contended that low duties were more productive of revenue than high duties—that the Government of which he was Premier increased the duties under the Tasmanian Tariff from 12½ per cent. to 20 per cent. for the express purpose of obtaining more revenue on account of the straightened condition of the finances. However, these are little lapses to which I suppose we are all more or less liable. When we are engaged in the very important work of laying the foundations of a new nation, it is most desirable that we should tread cautiously, in order that we may make no serious mistakes. I think, if we discover that we have made any mistakes, we should rectify them as soon as possible, in order that the nation

we are endeavouring to build up may rest on a sound and solid foundation. It is not my intention to enter into anything like a general review of our past work, but there are one or two matters to which I wish briefly to refer, because I feel very strongly in connexion with them, and therefore—however unpopular my views may be with perhaps the majority of honorable members—it is my duty to express them fearlessly, and I intend doing so. Before referring to past acts of administration, however, there is just one matter, which was referred to by the leader of the Opposition last night, and to which I desire to make a passing reference. It is in connexion with the Tariff. The Tariff was undoubtedly the most important work performed last session. It occupied, I think, about a year of continuous work on the part of this Parliament. The Tariff is exactly what a thoughtful man might have foreseen from the commencement. We had to reconcile and assimilate the Tariffs of six different States. The two largest of the States, New South Wales and Victoria, were at the extremes of Australian Tariffs, the former having a free-trade policy and the latter having the highest protective duties in the Commonwealth. The other States had all more or less protective duties ranging between the free-trade of New South Wales and the high protection of Victoria. What was more natural than that the Tariff should be a fair compromise between these two extremes ? I think any impartial judge will say that that is exactly what our Tariff is. It is a Tariff of very moderate duties which are protective in their incidence, but nothing like to the extent that prevailed in Victoria. If we had wrangled for another two years, the result would not, in my opinion, have been very different. This is not the time to refer to our fiscal views or to urge the merits of one fiscal policy or the other ; we are not now dealing with those views, and no arguments could have any effect. That being the case, we should all agree to give the present Tariff a full and fair trial ; and if we have faith in our fiscal views we should not be afraid. We can compare in New South Wales the effects of a moderate protectionist Tariff with the effects of a free-trade Tariff, while in Victoria we can compare the effects of lower protective duties with the effects of the higher duties in the former Tariff

of that State. With that knowledge and experience, we should in the course of a few years have an excellent opportunity of framing a Tariff suited to the permanent requirements of the Commonwealth.

Mr. REID.—It would be the same old cry after three years—"Do not disturb these infantile industries."

Mr. A. McLEAN.—I may be wrong, but those are my views. No one in this chamber respects the leader of the Opposition more highly than I do, and I am very sorry that he is determined to plunge the Commonwealth into another Tariff struggle. That would be done without any information other than we have at present, and it would only mean the disarrangement and paralysis of Australian trade, commerce, and manufactures for another two or three years. I venture to say that Australia is not in a position to stand anything of the kind. We have suffered sufficiently from the disarrangement of trade in the last year or two, and also from the effects of the disastrous drought. I sincerely hope that the leader of the Opposition will reconsider this matter. I venture to say that almost every person who has the interests of the Commonwealth at heart, whether he favours a free-trade or a protectionist policy, will agree that we ought to have a little commercial rest for a time, and give the present Tariff—although I admit it does not satisfy either party—a fair trial before attempting to disturb it. There was one other matter to which the leader of the Opposition referred, and about which I desire to say a word or two. I should be the last to say anything at this stage against the project which our friends from Western Australia have so much at heart—the Inter-State Railway. The leader of the Opposition last night urged the Government to proceed with a survey.

Mr. REID.—A trial survey.

Mr. A. McLEAN.—There has been a trial survey.

Mr. REID.—No; I ascertained that there had not been a trial survey. If there had been I should not have made the observation.

Mr. A. McLEAN.—I have been told over and over again that the State Government of Western Australia have made a trial survey.

Sir EDMUND BARTON.—There has been a survey made by two engineers, Messrs. Muir

and Stewart, who have reported to some extent in favour of the practicability of the line.

Mr. A. McLEAN.—I hope that a full investigation may justify me in supporting this project, but at the present time the only salient features that stand out in connexion with it are that it is estimated to cost over £5,000,000 sterling; that the line runs for the greater portion of its length through a desert—though I am almost afraid to say so in the presence of the Minister for Defence—and that when completed it will have to compete with water carriage, which can almost always undercut railway carriage. Before we do anything in the way of committing the Commonwealth to the expenditure of £5,000,000—which is no trifling sum—we should have the fullest information that could be obtained. I listened very carefully to the Prime Minister last night, and I think I can say without flattery that I never heard him in better form. Most of the statements he made were extremely effective, and I agreed very largely with what he said. But as there are spots on the face of the sun, so I think there were some weak points in the Prime Minister's arguments. In referring to the case of the six hatters who were denied admission to the Commonwealth, until the intelligence had been cabled not only over the British Empire, but over the whole civilized world, the Prime Minister waxed indignant at any person attempting to criticise the Immigration Restriction Act. If the Prime Minister had confined himself to a defence of his own administration of the Act, he would have been on sound ground, but when he went on to defend the Act itself, he was on anything but a firm basis. I know that the Prime Minister did no more than administer the Act in accordance with its strict letter, and I am not one to evade my share of the responsibility as a private member for having permitted such an Act to get on the statute-book. But I say in extenuation that when this particular section was proposed by the honorable member for Bland, and accepted so readily by the Government, and when I asked the meaning of it, I was told that it was only intended to prevent an employer during the progress of an industrial dispute from adopting a means of terminating that dispute without regard to its merits. There was some semblance of justification for that—though I do not say that even such an object was

absolutely right—and I did not see my way to offer any strenuous opposition if that was all that was intended. I fully believed, from what we had been previously told by several members of the Government, that the Act would be administered in that spirit. It will be remembered that when the Bill containing the education test for immigrants was under consideration, it was pointed out over and over again that the provision, if strictly enforced, would shut out, not only numbers of reputable Europeans who would make most excellent colonists, but might also shut out hundreds and thousands of British subjects. There are numbers of British subjects who could not pass an educational test, and who nevertheless might be industrious, reputable, honest people, and would make desirable colonists. When these facts were pointed out we were told over and over again that if this power were given to the Government they would undertake that it would be applied only in the case of coloured aliens or objectionable immigrants. With that assurance, I for one took it for granted that the Prime Minister would administer the provision in regard to contract labour in the same spirit, and that it would be resorted to only during the progress of an industrial dispute.

Sir EDMUND BARTON.—I did not say that.

Mr. A. McLEAN.—No; the Prime Minister did not say that it would be only so applied.

Sir EDMUND BARTON.—What I said was that I would not apply the education test to reputable Europeans.

Mr. A. McLEAN.—When the Prime Minister accepted the provision in regard to contract labour, I thought he would see his way to administer it in the same way as the provision for an educational test. Had I thought it would be used for the purpose of shutting out the most desirable class of immigrants that could possibly come to Australia, I should have opposed it to the very utmost of my power, and I believe a great number of honorable members would have done the same. The Prime Minister seemed very much surprised last night that Mr. Copeland, the Agent-General for New South Wales, had dared to say that the exclusion of the six hatters would affect our credit in the mother country. I must certainly express my surprise that it was necessary for the Prime Minister or any other member of the House to go to Mr. Copeland for that

information, which was as patent as the noonday to every business man in Australia. What are the facts of the case? We know perfectly well, and every man whose opinion is worth having will tell us, that Australia can never become a prosperous nation without a large increase of our present population, and a very large expansion of our present industries. Where is the population to come from? We have already shut out aliens and objectionable immigrants of every kind, and I supported every measure to that end—not that I am afraid of a small sprinkling of industrious, frugal people such as we sometimes have amongst us, but because of our close proximity to the teeming millions of the East, by whom, unless we adopt drastic legislation of the kind, our continent might be overrun, and the question arise as to which race should dominate. I consider it was absolutely necessary in the interests of the future of Australia that we should go that far, and I did all I could to support measures with that object. But, having shut the door to every undesirable class of immigrant, surely it was our duty to open it all the more widely to every class of reputable immigrants who would be a desirable acquisition to our population. What did the Prime Minister tell us last night? He told us that free men from Great Britain are welcome, but that bondsmen are not welcome—that men who come under agreement are not welcome. I can only say I never heard a greater desecration—I never heard a greater prostitution of the terms, “bondsmen” and “free men,” than to assert that men who can get work and who will not leave work for which they are well qualified, unless assured of employment here, are bondsmen; while a member of the unemployed in England is quite welcome to leave the old world and to swell the ranks of the unemployed in the new world and perhaps become a burden on the people. That is a doctrine entirely new to me, and one which I think will never have my adhesion. I consider that the man who establishes a valuable industry in our midst, and who at his own expense brings out labour to make the industry a success, thus furnishing employment, is a public benefactor. At any rate such a man would be so regarded in any other country in the world except Australia.

Mr. MAUGER.—Even if he is doing it to defeat local labour?

Mr. A. McLEAN.—Do the friends of the honorable member adopt that policy themselves in their own affairs? When they want a professional agitator, do they take the local article, or do they bring a man from the old country and pay him £600 a year?

Mr. MAUGER.—The person to whom the honorable member refers did not make the contract under which he is working until he came here.

Mr. A. McLEAN.—A man would not be likely to come out here until he knew what he was likely to get for his services.

Mr. MAUGER.—He came out as a free man, and the contract was made after he reached Australia.

Mr. A. McLEAN.—Is it any wonder that, in spite of our magnificent resources, we have only a small population scattered round the fringe of the coast line, and that that population, instead of increasing by leaps and bounds is, like Joshua's sun, standing still? I regret that I may appear to speak with some heat on this subject, but I feel very strongly upon it. I feel that we are making a serious blunder, and that if we persevere in it, as the Prime Minister said last night the Government intend to do, we shall strike a blow at the very root and foundation of our national life. Contrast our condition with that of Canada.

Mr. MAUGER.—Canada has the same law on the subject as we have.

Mr. A. McLEAN.—The other day Canada received 1,800 immigrants as the result of public lectures which were delivered in the old world to induce them to go there. Here, however, we are placing every barrier in the way of an influx of population.

Mr. FISHER.—In what way?

Mr. A. McLEAN.—By doing all we can to shut out classes of people whom we should attract. We should offer every inducement to useful immigrants to settle amongst us. It will be a fatal blunder to build a Chinese wall round the continent, but that is what we are doing. And while we are trying to keep out our countrymen from the old world, we are taxing our own people to such an extent that we are driving them out of the Commonwealth. It is a very easy thing to keep out reputable immigrants who would like to come here, but we cannot compel our own people to remain if they are not content with their conditions. Therefore, we find that while there is very little immigration

to Australia, our own people are leaving us by the thousand. What else could we expect from our manner of treating them? We are piling up taxation.

Mr. MAHON.—The honorable member helped to do that by supporting the Tariff introduced by the Government. He supported high duties whose effect must be to drive population out of the interior.

Mr. A. McLEAN.—I did not help to place upon the people the burdens to which I am about to allude. We are driving people away by encumbering them with taxation which they should never have been asked to bear. Take two of the subjects referred to in the Governor-General's speech—the High Court Bill and the Inter-State Commission Bill. If those measures are passed, their administration will, when in full swing, cost the Commonwealth not less than £50,000 a year, and probably much more. Now, when the people of Australia were asked to enter into this union, the leading statesmen and writers on the press who advocated it told them that £300,000 a year would be the maximum cost incurred by federating.

Sir EDMUND BARTON.—The Financial Committee of the Convention reported during the Adelaide Session that to put the Commonwealth into motion, with certain attributes which they provided for, would cost £300,000 a year, but it was not conceded by the advocates of federation that the cost of administration would afterwards increase.

Mr. A. McLEAN.—Those whom I heard to advocate federation in Victoria asserted over and over again that £300,000 a year would be the high-water mark of the Commonwealth expenditure.

Mr. REID.—For some short time. For three years at least.

Mr. A. McLEAN.—We were told that over and over again.

Mr. REID.—The honorable member is perfectly correct. The statement he has referred to was prepared to be placed before the electors.

Mr. A. McLEAN.—I will show the House how the expense of the Commonwealth has grown. In the first six months after the inauguration of federation, the expenditure by the department of the Minister for Home Affairs was £441, but during the financial year which began on the 1st July, 1901, it rose to £8,870, and during the first nine months of the present

financial year it has been as much as £19,249. Those figures do not include the expense of Parliament, which for the first two years and three months of federation amounted to £291,078, which seems an extraordinarily large sum. I fail to see why the expenditure of the Department of Defence should have increased since the administration of the separate departments of the States was amalgamated under the Commonwealth. I admit that it was necessary to spend a large sum of money upon the celebrations consequent upon the Royal visit, but I find that in the first two years and three months of federation the total expenditure of the department has been increased by £83,292.

Sir JOHN FORREST.—Where did the honorable member get those figures?

Mr. A. McLEAN.—From the Treasury. They were supplied by the Under-Treasurer. For the first six months of federation the increased expenditure of the department was £14,147.

Mr. McCAY.—The bulk of that amount was spent in connexion with the Royal visit.

Mr. A. McLEAN.—A good deal of it was. During the financial year which commenced on the 1st July, 1901, the expenditure of the department was £24,433 more than under the administration of the States, and during the first nine months of the present financial year it was £14,712 in excess. I am not allowing for any saving in the cutting down of troops, because I take it that that could have been done equally well while the military were under the control of the Governments of the various States. The total additional expenditure of the Commonwealth last year, as shown by the Treasury figures, was £275,861. That was the expenditure for a full financial year, and I would rather deal with those figures than take the figures for the present financial year, which has not wholly expired. Those figures, however, do not show anything like the whole of the expenditure which the people have been called upon to meet. One Act alone—that which provides for the creation of a white Australia—and which I supported, but of which I think the people should know the cost, has led to the paying away in the shape of rebates for the last nine months of no less a sum than £61,266, which is at the rate of £81,688 per annum.

Mr. KINGSTON.—That period of nine months includes the season in which the cane is delivered at the mill, and the amount paid in rebates is consequently the total amount that will be required for the year.

Mr. A. McLEAN.—I am willing to accept that correction, but I wish to point out that the expenditure must go on increasing. The Act does not provide for the total abolition of kanakas until 1906. Last year only a little over 30,000 tons of sugar were produced by white labour. But if we take the total production for the Commonwealth at 150,000 tons—

Mr. FISHER.—It is more than that.

Mr. KINGSTON.—It would be about 170,000 tons.

Mr. A. McLEAN.—I accept those figures. That means that this Act alone will involve an expenditure of £340,000, or £40,000 more than the total outlay foreshadowed by the advocates of federation. In addition to that, we inserted one section in the Public Service Act relating to the payment of the minimum wage, which will also involve a heavy expenditure. That was distinctly an Act of the Federal Parliament, and I am not saying one word against it, but I am only showing what our legislation is costing the taxpayers. We have paid under this section during the last nine months £21,894, or at the rate of £28,658 a year, and this cause of expense, like the other to which I have referred, is in its infancy only. It is estimated by the Treasurer that it will cost very much more. Whilst referring to these matters I cannot refrain from saying a word or two about the department of my honorable friend the Attorney-General. I think that that stands out as a shining example to all others, owing to the small amount of expenditure incurred and the great amount of work performed by it. I think we shall all admit that the Attorney-General has been unremitting in his devotion to his work. We have known him to work until his health has become seriously impaired. The total cost of his department to the Commonwealth for two years and three months has been only £5,037. If the other departments were administered with anything like the same regard to economy, we possibly might not be afraid to launch out into expense such as will be involved in the establishment of the High Court or the Inter-State Commission. What I desire to

impress upon honorable members, however, is that the drought which has afflicted the Australian States, has decimated our flocks and herds, has injured our agricultural industry, and inflicted loss upon the Commonwealth to an extent which I would not attempt to estimate, but which we know will run into tens of millions. We know that the Commonwealth is now suffering a recovery from that drought. We hope that the drought is broken—there is every appearance of it—and if that be so we may rely upon the recuperative powers of the Commonwealth to bring us back to normal conditions in the course of three or four average good seasons. If we had recovered from the effects of the drought, I should not hesitate to sanction expenditure upon the establishment of the High Court, but at the present time I do not think we should be justified in incurring it. The Commonwealth is not in a position to stand any additional taxation at the present time, and I contend, moreover, that there is no pressing necessity for it. I know perfectly well that the Commonwealth Constitution provides for the creation of a High Court, and also for an Inter-State Commission, but the framers of that Constitution very wisely refrained from saying when these departments should be brought into existence, leaving it to the judgment and good sense of the Federal Parliament to act when the necessity arose. I submit that the necessity has not yet arisen. The Constitution gives us power to vest any of our present courts with federal jurisdiction, and if our courts were so invested, they could deal with questions such as have arisen up to the present as effectively in every way as could the High Court if it were created to-morrow. We know that we have the best talent available upon the Supreme Court benches of Australia. The Bar in every State has been carefully culled in order to find gentlemen to occupy seats upon the Supreme Court benches, and I have never known a gentleman who was selected as suitable refuse the offer of such a position in the State of Victoria. Could we reasonably expect it to be otherwise?

Mr. JOSEPH COOK.—I know of half-a-dozen cases in New South Wales.

Mr. CROUCH.—There have also been some in Victoria.

Mr. A. McLEAN.—Perhaps they felt that they were not qualified for the

positions. At any rate, I never knew any person selected for such a position in Victoria to refuse it.

Mr. REID.—The honorable member is wrong so far as New South Wales is concerned.

Mr. A. McLEAN.—That may be. I speak subject to correction.

Mr. KINGSTON.—The honorable member is also wrong in regard to South Australia.

Mr. A. McLEAN.—Perhaps so; but nothing like such large salaries are paid in South Australia as in Victoria and New South Wales, and I think my right honorable friend will admit that South Australia has no legal luminary better qualified to adorn the Bench than the present Chief Justice of that State. I think that he would be an ornament to the High Court if it were created to-morrow. A few years ago some of the gentlemen who are listening to me used to speak about Supreme Court Judges as if they were little deities. I always used to feel inclined to bow my head when I heard the Attorney-General speak with bated breath of the Judges of the Victorian Supreme Court.

Mr. DEAKIN.—They are excellent men for Victoria.

Mr. A. McLEAN.—Yet if I understood my honorable friend aright, in that magnificent speech which he delivered last year—I do not think that I ever listened to a better or more able deliverance—he took a somewhat different view. When listening to that speech I could not help thinking that if my honorable friend had tried he could have thrown an attractive halo of romance around Hades itself. I understood him to say that the only objection to our present Judges was that if they were called upon to adjudicate between the Federal and the State Governments, they might be considered by the people of the Commonwealth to resemble the famous tower of Pisa—they might be regarded as leaning towards the Governments that paid them. I know that my honorable friend did not mean his remarks to be taken in that sense, but he did say that the Judges might be suspected of unconscious bias. If, however, that applies to the Judges of our Supreme Courts, will not the same objection hold good in the case of the Judges of the High Court, and will not the same people suffer in either case? The people of the States are the people of the Commonwealth, and the taxpayers of the

States are the taxpayers of the Commonwealth ; therefore, it matters little whether the bias is to be found in the present courts or in the High Court. I have the highest confidence in our Judges, and I believe that no paltry considerations with regard to the paymaster who doles out the salaries contributed by the whole of the taxpayers will enter their minds. I do not think they will be so narrow-minded. There is no country on the face of the globe that is so well served by its judiciary as is ours. Moreover, no country pays such high salaries to its Judges. The United States, with 80,000,000 population, pay nearly one-third less than we do in Victoria, and the Canadian Judges are paid less than half the salaries received by ours. Therefore we may reasonably expect to be well served.

Mr. HIGGINS.—The honorable member does not refer to the total, but to the individual salaries ?

Mr. A. McLEAN.—I mean that the salaries paid to individual Judges in the United States and Canada are lower to the extent I have mentioned than those paid by us.

Mr. HIGGINS.—Yes ; but they have three times as many Judges as we have.

Mr. A. McLEAN.—That would not affect the individual, and the class of men the salary would attract to the position. In view of all the facts I have mentioned, I have no hesitation in saying that there is no pressing necessity for heaping these additional burdens upon the people of the Commonwealth at the present time. The arguments which I have used with regard to the High Court will apply with equal force to the Inter-State Commission. That tribunal will no doubt be required in the course of time, but there is no pressing necessity for it, and in view of the degree to which the Commonwealth is suffering from the effects of the recent drought, it would be unjustifiable on our part to impose one shilling of taxation more than is absolutely necessary. Therefore I must continue to oppose these proposals, as contained in the Governor-General's speech.

Mr. GLYNN (South Australia). — I do not think that after the excellent speeches we have heard from the leader of the Opposition and others, it is necessary for me to contribute at any great length to a debate which is generally regarded as being devoid of practical result. We must

acknowledge the excellence of the reply made by the Prime Minister, although he may not have succeeded in rebutting what was said by the leader of the Opposition. We can understand the desire of Ministers, who have had a free hand during the recess, to get to work at once, and to thus avoid listening to further criticism, but we must all recognise that a little wholesome criticism, in fact a strong remonstrance, such as we have heard from the honorable member for Gippsland, or, perhaps, a friendly suggestion from an honorable member situated like myself, may not be altogether thrown away upon gentlemen who have on all occasions shown themselves especially susceptible to the force of numbers and to the pressure of new ideas. I must congratulate the honorable member for Gippsland upon his honest speech. Any remarks which come from the honorable member are always characterized by considerable force—not only by force of character, but by real strength of eloquence. And on the present occasion he has shown that he does not consider himself too much bound by the ties of party allegiance to stand by the Government when he considers that the course they propose is open to strong exception. Although I had intended to refer to the extraordinary and irritating act of administration connected with the episode of the six hatters, I do not consider it necessary for me now to take up the time of the House, because I indorse everything that has been said by the honorable member for Gippsland. The honorable member referred to some extent to the speech of the leader of the Opposition, in which he is alleged to have stated that he intended, if possible, to effect a complete and radical change in the Tariff. I did not understand the speech of the right honorable gentleman as indicating that. No doubt if an opportunity arose for making a radical change in our fiscal system, such a reform would be acceptable to the free-traders, but the immediate policy for the coming election, as indicated by the leader of the Opposition, I understood to be the cleansing of the existing Tariff, the conversion of losing lines to revenue-producing imposts, and the alteration of the incidence of the Tariff, so that it should bear as lightly as possible upon the producers.

Mr. HUME COOK.—How can the issues be confined to those lines ?

Mr. GLYNN.—If opportunity arose, no doubt the right honorable gentleman would enter upon a radical revolution of the Tariff; but I understood him to indicate that where certain lines involved a loss to the revenue, they must be abolished; but where duties were too onerous, even from a moderate protectionist point of view, they should be reduced, and that, at all events, a stand should be made upon the whole question of oppressive and wasteful duties at this time rather than five or ten years hence, so that industries established under the Tariff may not in their opposition to revision rely upon the guarantee of acquiescence in their continuance, and so that we may not have to beat down vested interests created in large centres, such as Sydney, by the operation of inequitable imposts. It is fully understood that if protection is once allowed to develop in any country, it is hopeless to abolish it. I was also exceedingly glad to hear the remarks of the honorable member for Gippsland in reference to the establishment of the High Court. I have previously expressed the opinion—and I repeat it now—that the immediate creation of a High Court, manned by new Judges, is premature. I do not think that it is really required by our Constitution. It was absolutely necessary in connexion with the American Constitution, because there was no Privy Council to which to appeal for the reconciliation of the conflicting decisions of the States courts. In the next place, some of the States courts had, in confederal days, point-blank refused to carry out the federal laws.

Mr. REID.—Does the honorable and learned member think that the provision in the Constitution which enables us to refer matters to the State courts covers all the ground that is covered by the High Court, excepting that court as a court of appeal?

Mr. GLYNN.—I do. I think that the means I suggest will be all that is necessary for the next generation to reconcile the divergent decisions of the States courts. In pursuing the reference which I was making to America, I may mention that the Executive had complete control over the judiciaries of the several States. The Judges had a tenure of office in some cases at will, and in other cases from year to year, and as a necessary consequence the State courts really followed the trend of State politics, which for fifteen or twenty years was too often antipathetic to federal

power. The dependence of the Judges upon the Executive impelled the federalists of America, in the very first session of Congress, to constitute a federal court. It goes without saying that no such necessity exists here. Our Judges hold their office during good behaviour, and, apart from that consideration, we have in the Privy Council one of the greatest tribunals that the world has ever seen, despite its occasional eccentricities—a tribunal which is free from all political bias, free from all preconception which political Judges must have as regards the construction which should be placed upon the Constitution—preconceptions it may be taken from the Convention in which some members who may be promoted to the bench were particularly active. The honorable and learned member for Darling Downs, who made a very good speech in opening the debate, referred to the small business which the Supreme Court of the United States was called upon to do during the first fifteen or twenty years of its existence. It is somewhat significant that between 1790 and 1801–2, there were only six constitutional cases decided by that tribunal. Of course, a good deal of other business came before it, but the decisions upon the particular matters which in Australia call for the creation of a High Court did not amount to more than six in the first twelve or thirteen years of the American Federation. As a matter of fact, during the period in which Chief Justice Marshall held office, namely, from 1803 to 1835, the constitutional appeals averaged only two each year. They amounted altogether to 62. Of course, I am dealing with the period referred to by the honorable and learned member for Darling Downs, who, on the question of business, took up a position which he thought strengthened the case for the establishment of the High Court, but which I think really militates against its creation. Some time ago I called for a report upon the number of appeals made to the Privy Council during the twenty years ended 1901. Honorable members may have seen that report, which was furnished last year. It showed that the total number of appeals during the period indicated was 223—an average of less than 12 a year. Our conditions of appeal to the Privy Council are almost identical with those which operate in the case of Canada. We have not abolished the appeal to the Privy Council. Had we

done so, I should say that the High Court ought at once to be created. But we have to deal with circumstances as they are. The High Court of Australia, if established, will not, at its own option, be the court of final appeal except in very rare instances—perhaps once in fifteen or twenty years. It can only prevent an appeal when a question of constitutionality arises between States and the Federation. It is substantially true, therefore, that we have not abolished the appeal to the Privy Council, and that the High Court will still be only an intermediate court of appeal. In Canada, where the conditions are somewhat similar to those prevailing here, two-thirds of the appeals from the State courts go direct to the Privy Council. Owing to the respect in which that tribunal is held, and the greater expense of taking them into the Supreme Court, where there is no resident bar, and where the judges are actually compelled to reside, the bulk of the appeals go direct to the Privy Council. If honorable members care to look at the appeal cases, they will see that what I am stating is absolutely correct. If we establish the High Court, though there may be an average of twelve appeals a year—taking as a basis the experience of the last twenty years—probably not more than half of them will go to the High Court of Australia. I have already mentioned the number of constitutional cases which arose in America; and we must not expect that the States are going to be constantly wrangling as to moot points of constitutional law. If we allow that there will be only half-a-dozen appeal cases a year, I fail to see the necessity for creating the High Court immediately. The Bill introduced last year by the Attorney-General, in the very excellent speech to which everybody has referred in terms of admiration, proposed to create a very large original jurisdiction, which can be given only by centralization and by ousting the jurisdiction of the State courts in matters with which they are competent to deal. I do not wish, at this stage, to amplify the objections to the creation of the High Court, but I do think that they should give honorable members pause. We ought to bow to the prejudice—if one may be permitted to use that term—of the electors of Australia against the creation of huge machinery before the circumstances clearly justify the necessity for its creation.

Mr. REID.—The main point is that the public should have some tribunal to which they can appeal.

Mr. GLYNN.—I quite agree with the right honorable and learned member's reference, but if we were to vest original jurisdiction with the State courts, and use that highly respected and justly revered body, the Privy Council, for the purpose of correcting divergent decisions, all that is necessary during the first twenty years of our national existence would be accomplished, and we should effect a saving of £30,000 a year, according to the convention estimates, and possibly of £50,000. The Inter-State Commission Bill need never have been introduced if the Minister for Home Affairs had displayed a little energy in attempting to induce the Premiers to come to some arrangement in regard to competitive rates at the borders. I pressed this matter upon his attention last year, when he promised to endeavour to see if some such arrangement could not be arrived at. Later on he informed the House that the Premiers of New South Wales and Victoria had acknowledged the communications which had been forwarded to them, but that the Premier of South Australia had replied asking for further particulars. Letters were written by the Acting Prime Minister to the Premiers of the three States concerned, asking them to come to some arrangement similar to that which was entered into in 1895 for the voluntary abolition of these competitive rates. But, if the Acting Prime Minister had really wished that the States should do nothing, he could not have drafted a letter which was better adapted to attain that end than the one which he sent to South Australia. He practically accused that State of being the only sinner in the matter. The wording of the communication was so unhappy that the South Australian Premier had to ask in what respect that State had sinned, what were the particular rates objected to, and consequently the correspondence stopped, and nothing has been done since. I firmly believe, from what I know of the temper of South Australia and the apparent inclination of other States, that if an agreement similar to that which was entered into in 1895, for the abolition of these competitive rates, had been adopted, the matter might have been settled without the intervention of an Inter-State Commission. Besides, section

117 of the Constitution, which prevents discrimination between the States, makes the border rates absolutely unconstitutional. It requires only the act of the Executive to see that the provisions of the Constitution are carried out. I notice that the Government are now considering the question of taking over the State debts. Some of us strongly advocated the adoption of that course in the convention. It is only right that the primary liability as to the payment of interest on the debts should rest upon those who have the control of the Customs, which was the mainstay of the States' revenues. But I believe that if the debts are to be taken over, the power of the States to borrow further ought to cease. It is impossible to have seven different bodies dealing with the one set of assets. At the present time the States are mutually interested in each other's securities. All their assets are jointly taxable through the Federal Parliament, and it is ridiculous to have six States capable, without mutual control, of dealing with one set of assets, and the Commonwealth capable of imposing burdens upon the very same assets. The sooner we obtain the power of checking the States in their borrowing the better. The result also would be consolidation. Instead of having six or seven classes of debts, we should have one only, and greater solvency would arise from the fact that the money lender in the old country would at once be able to understand what Australian securities really were.

Mr. FISHER.—How does the honorable and learned member suggest that the borrowing of the States should be checked?

Mr. GLYNN.—I was about, with a certain amount of whispering humbleness, to make a suggestion to the Treasurer, not that there is much in it, but merely for consideration, and I do so because in the Federal Convention I suggested an amendment which was not gone on with, in the direction of taking away the power of the States to borrow. If a State with less than the average indebtedness of the States were allowed to demand a loan through the Federal Parliament, no harm would be done. If a State has been economical—if by the conversion of its debts and increase of population, the indebtedness per head is less than the present average of all the States—I should allow that State to borrow, as a right, through the Commonwealth. In Queensland I find that the indebtedness exceeds by £20 11s. 2d.

per head, the average indebtedness of the States, while in South Australia there is an excess of £19 5s. 6d. per head. Under the circumstances such States ought to show cause why an application for a loan through the Federation should be granted; because the other States, as I have already said, have an interest in the solvency of the two States.

Mr. HIGGINS.—But have not interest and other matters to be considered?

Mr. GLYNN.—I do not wish to go into detail, but the honorable and learned member is quite right. When I mentioned the average indebtedness I ought to have said the true indebtedness, because terms and interest must be taken into account, and the true indebtedness is easily enough obtained by reducing all the loans on paper to one common denominator. Having got the true average relative indebtedness of the various States after eliminating differences of terms and rates of interest, a State, when its indebtedness exceeds the present average, ought not to be allowed to borrow as a matter of course. In Victoria the indebtedness is apparently under the average by the amount of £11 9s. 10d. per head, and under the circumstances Victoria ought to be allowed to borrow according to its own desire.

Mr. FISHER.—Then the honorable and learned member does not take assets into account.

Mr. GLYNN.—One cannot take everything into account. I am merely making a general suggestion; and, whilst various factors have to be taken into account, I do not desire to deal with particulars on an occasion like this. It may be, for instance, that the indebtedness of Victoria is higher than it appears. It has been said, though I do not know with what truth, that many of the municipal debts of Victoria are really State debts; that, however, is a matter on which I do not desire to say anything. These are minor matters of adjustment, and my only object at present is to indicate, possibly, some suggestion which may impose a check on State borrowing, and yet be satisfactory to the States. I very much regret that there is no reference in the speech to the question of river navigation, seeing that the Federation, as well as the States, has an interest in the much vexed and important question of the rivers. The Minister for Home Affairs, when questioned by the honorable member for North Sydney

last year, in regard to non-interference with diversions in the rivers, stated—

It may be that no action can be taken until a law is passed dealing with navigation, or the High Court is established.

Apparently we are to have no law this session on the navigation question. There is a huge Bill of about 600 clauses, to consider which might occupy two years, and the greater part of which is probably borrowed from the Imperial Merchant Shipping Act ; but the Government ought to have at once placed beyond doubt federal jurisdiction over the rivers by passing a short Navigation Act. Personally, I think we have jurisdiction without an Act, but on this point I remember that in the celebrated case of the *Queen v. Keyne*—the Franconia case—it was decided that though the civil and municipal jurisdiction of England, by the acquiescence of other nations, extended to the 3-mile limit, that jurisdiction was only effective for the purposes of belligerency—that it was dormant for other purposes, until an Act of Parliament, exercising it had been passed. Legal members of the House will remember that in that case, owing to no Act having exercised jurisdiction, the captain of the Norwegian vessel, who was arraigned for manslaughter through carelessness, outside low-water mark was acquitted, and that the year following, an Act was passed, exercising jurisdiction within the 3-mile limit. Following the analogy of that case, it is more than doubtful whether federal jurisdiction exists until an Act is passed ; and that seemed to be the opinion of the Attorney-General, as expressed in the answer given through the Minister for Home Affairs. I again express my regret that, under the circumstances, nothing has been done by the Government. I would appeal, on the question of the rivers, to the good sense of Australian representatives. I am bound to refer to this matter shortly, because we have, as federal members, a direct duty and responsibility in connexion with the rivers, just as much as have the members of the States Legislatures. I hold it would be a poor outcome of the loud-voiced enthusiasm which led to federation being carried, if on the first occasion when an appeal is made to Australian sentiment and national spirit on such a question as that of the rivers, that spirit is found wanting. It is in matters of great difficulty, and not in matters of petty parochial

politics, that real statesmanship is tested. Minor matters can be dealt with by men of moderate intelligence and a little luck if they have a complaisant majority behind them ; but it requires men of high calibre to deal with questions of great difficulty which do not, perhaps, bring immediate benefit, from a party point of view, to those who advocate them. There is no doubt that the relative rights of the riparian States in the rivers, and the best use and just apportionment of the waters, is one of the biggest questions that Australian statesmanship can face. The difficulty and complication are not inherent in the question itself. The trouble arises from the mutual misunderstanding and suspicions of the States concerned, from the relative extravagance of their respective demands, from the idea which has been formed on an imperfect knowledge of the details that it is impossible to reconcile the interests of navigation and irrigation, and that all concessions to one interest or method of utilization must be altogether at the expense of the other. But I hold that if honorable members approached this question with a full knowledge of all its bearings, and in a spirit which would actuate them if the Commonwealth were really a consolidation, a solution of the river question satisfactory and just to the States and the Commonwealth could readily be found. All that is really necessary is that we should get rid at once of the futile idea that it is impossible to reconcile the interests of irrigation and navigation, and that one must be given supremacy at the expense of the other. On that point I would recall the statements made by the Attorney-General and by the Minister for Home Affairs at the Melbourne Federal Convention. These honorable members then pointed out that, although the question was very hotly discussed, there was a possibility of a method of reconciling the two interests being hit on by the Federal Parliament, which they asked the Convention to trust in the matter. I should like to place before honorable members the position from a South Australian point of view. I may have to weary honorable members with a few figures which I feel it my duty to submit for consideration, although the significance of those figures may not perhaps be capable of immediate apprehension. The Royal commission appointed by the three interested States reported that there was an irrigable area of 50,000,000 acres

in Australia—that is, an area capable of being irrigated if water were obtainable. The total irrigable area in New South Wales is given as 43,500,000 acres, in Victoria as 4,000,000 acres, and in South Australia as 2,500,000 acres.

Mr. REID.—Is that in connexion with the Murray system?

Mr. GLYNN.—Yes.

Sir WILLIAM LYNE.—That is, the Murray flats?

Mr. GLYNN.—Yes; the land was within a certain distance of the river. Many persons reading the report of the Royal commission, or a newspaper synopsis of that report, would rush to the conclusion that there are tremendous opportunities for irrigation from this river system; but as a matter of fact the effective irrigable area is much less than that I have just stated. I do not know what the real area is in New South Wales; but the area in Victoria was reduced by experts to 2,000,000 acres as a maximum, and in that State there are not altogether more than 276,000 acres under irrigation. A very small proportion of even that area is under intense cultivation, the greater part being under irrigation by flooding, which is the least profitable and most wasteful method. I am speaking now purely on the evidence taken by the Royal commission.

Mr. FISHER.—The Royal commission did not touch Queensland.

Mr. GLYNN.—Queensland is not very much interested in the matter except in one way.

Mr. L. E. GROOM.—Queensland supplies the water.

Mr. GLYNN.—The opportunities for irrigation are not so great in Queensland as elsewhere, although that State really acts as a benefactor to the other States. The catchment area in Queensland which supplies the river systems is far greater than in any other State, and we hope that Queensland will join in the Inter-State locking system. According to experts, rivers for a considerable distance into Queensland are capable of being made permanently navigable by a proper system of locking, and I hope that we shall have the co-operation of our Queensland friends in the federal policy. America shows what extravagant views are entertained as regards opportunities for irrigation, when I state that in the arid region of the United States there are not more than about 3,500,000 acres irrigated.

Mr. McCOLL.—There are 8,000,000 acres commanded by irrigation channels.

Mr. GLYNN.—I rely on *Kinney on Irrigation*, which is, perhaps, one of the greatest authorities in America, and on another book, the name of which I forget.

Mr. REID.—Not McKinney?

Mr. GLYNN.—That is also a good man, to whom I am much indebted for information on the question. The two States which are regarded as the leading States in America, from the irrigation point of view, are California and Colorado, but in the former State there are only 1,500,000 acres under irrigation, and in the latter 1·2 per cent. of the total area of the State, or about a million acres. That does not show a very large capacity for irrigation. In Egypt irrigation has been in existence from the time of the Trojan war, and there are not now more than 5,000,000 acres commanded by the Nile.

Mr. WATSON.—That area carries a big population.

Mr. GLYNN.—No doubt it is irrigation which keeps the population there, but if in Egypt, which is the greatest country in the world for irrigation, there are not more than 5,000,000 acres—

Mr. McCOLL.—Does the honorable and learned member know the reason why the area is not larger?

Mr. GLYNN.—The impossibility of getting the water.

Mr. McCOLL.—No; it is because there never have been constructed conservation works to steady the flow and keep the water available.

Mr. GLYNN.—I anticipated that would be urged as an objection; but in India there is not a very much larger area regularly under irrigation than there is in Egypt. In South Australia there is a very great navigation interest which is imperilled by an extravagant view of the possibilities of irrigation. There are something like 90 vessels, representing an invested capital of £250,000, engaged in the navigation of the South Australian rivers. £250,000 is the Victorian estimate of the value of the vessels. I believe that the figures were supplied by the firm of Permewan, Wright, and Co., but that Captain King's estimate is, I think in excess of that sum.

Mr. SALMON.—The honorable and learned member cannot speak of those vessels as engaged in navigation when they are lying at the mouth of the river.

Mr. GLYNN.—They are the vessels which trade throughout the river system when the rivers are navigable. The Murray is navigable as far as Wentworth for, on the average, nine months of the year, but the apportionment which was recently suggested would destroy its navigability for the greater part of that time. The commission recommended that in any apportionment the navigation interests of the river which already exist shall be respected. On page 50 of their report the commissioners say—

It has been already shown that no apportionment of water can be made between the States for irrigation and water conservation without regard to the requirements of navigation. Sufficient water must be allowed to pass down the rivers to maintain navigability as heretofore, and as some time must elapse before the construction of locks and weirs, it is important to decide what are the conditions which will secure this meanwhile.

That is, the same natural discharge for the purposes of navigation as previously existed. I say at once that we in South Australia do not ask for that, and that it cannot be granted except at the expense of the demands of Victoria and New South Wales. But we ask that compensation in the way of conservation to render our share effective should be given to us if we are to yield to the needs of the other States. What do the commissioners and the Premiers recommend? The commissioners divide the year into two periods, that from July to January, which are considered the high-water months, and that from February to June, which are considered the low-water months. For the first period the upper States—New South Wales and Victoria—are to have a diverting power of 440,000 cubic feet per minute, and all the surplus over the navigable discharge at Morgan, and South Australia a discharge of 170,000 cubic feet per minute. That is, if the Murray at Morgan has a discharge of over 337,000 cubic feet per minute, the navigable discharge taken by the commission, any surplus is to go to the upper States. The compromise of the Premiers was this: The quantity to be diverted by the upper States was left at 440,000 cubic feet per minute, but that was subject to a condition which in some cases would be an impossible one. The diverting power of the upper States was made conditional upon there being a navigable discharge at Morgan. Now, during some of

the high water months you cannot give a diversion of 440,000 cubic feet per minute to the upper States, and leave a navigable discharge at Morgan. I will show honorable members what would be the effect upon the existing discharge of carrying this suggestion into operation, and for this purpose I will deal first with the period from July to January, and afterwards with the period from February to June, taking the discharge for the year 1900, which is adopted by the commissioners as a mean year, and for the year 1896, which was regarded as a typically low year, though I think, as I shall afterwards show, that it really was not so. The average discharge at Morgan for the period from July to January, 1900, was about 1,100,000 cubic feet per minute. A depth of 4 feet upon the gauge there, which is accepted by the Premiers as a navigable discharge, and which is the discharge to be submitted to the State Parliaments for approval, is equal to a discharge of 460,000 cubic feet per minute. South Australia, therefore, gives up during the high-water months of a mean year a surplus of 640,000 cubic feet per minute.

Mr. McCOLL.—How can the honorable and learned member say that South Australia gives up that surplus, because not a drop of the water which is measured falls in her territory?

Mr. GLYNN.—I do not wish to go into that question. It is a matter of morality, and may be a matter of law. Honorable members may challenge my position, and say that South Australia is not entitled to the rights she claims. That is a matter of opinion. But, assuming that there is something in our claim, and that our rights may be recognised by the courts, then the effect of the compromise of our lawful claims which is suggested by the Premiers is as I have pointed out. I am not going to object to it, but I intend to ask for compensation when we grant it—a compensation which I am sure the good sense of honorable members will recognise. Let me now take the typical low year of the commissioners. In 1896 the average discharge at Morgan, during the period from July to January, was 649,429 cubic feet per minute. A navigable discharge, according to the Premiers, would be 460,000 cubic feet per minute, so that the surplus given up in that year would have been 189,429 cubic feet per minute. Besides that, there

would have been given up the 440,000 cubic feet per minute which is to be the primary diversion, because South Australia is asked to allow a diversion of 440,000 cubic feet per minute, and all excess over the navigable discharge at Morgan. Now let me take the low water months of those years. The commissioners recommended that the apportionment during that period should be 370,000 cubic feet per minute for the upper States, and 70,000 cubic feet per minute for South Australia, and that any excess should be shared between the three riparian States in the proportion of those quantities. The Premiers recommend that 370,000 cubic feet per minute shall still be the primary diversion right of the upper States, and that the compensation water to South Australia shall be raised from 70,000 feet per minute to 150,000 cubic feet per minute, which is to be made the absolutely irreducible minimum.

Mr. McCOLL. — At the expense of the other States.

Mr. GLYNN.—Yes, to some extent, as it cannot always be obtained, and to some extent, as it is often exceeded now, at the expense of South Australia. In addition, if there is any surplus, ten-eightieths of it is to go to New South Wales, five-eightieths to Victoria, and three-eightieths to South Australia. The effect of that distribution would be this: In 1900 the average discharge during these months at Morgan was 257,000 cubic feet per minute. The minimum suggested by the Premiers' Conference was 150,000 cubic feet per minute, which would give up an excess of 107,000 cubic feet per minute. In the typical low year—1896—the average discharge was 430,000 cubic feet per minute, so that the surplus would have been 280,000 cubic feet per minute. It will be seen that the figures for the typical low year are higher than those for what is regarded as a mean year. But I have already said that I consider the figures do not justify it being called a typical low year. The fact is, however, that you cannot always give a minimum of 150,000 cubic feet per minute to South Australia.

Sir WILLIAM LYNE.—Where does South Australia get her surplus water?

Mr. GLYNN.—I do not now wish to go into that question. I acknowledge that the water comes from the other States, though two-thirds of it falls in Queensland. Do not let us now enter upon a discussion of the

legal rights of the States. In some months it is impossible to get a minimum discharge of 150,000 cubic feet per minute. In March of last year the discharge at Morgan was only 119,000 cubic feet per minute, in April 69,000, and in May 78,000 cubic feet per minute, so that in those months the irreducible minimum would have existed only upon paper. In any case it is useless to South Australia without a system of locking, because it is about 200,000 cubic feet per minute less than the navigable discharge of the river. Honorable members may object that boats can be built to suit any stream. That has been tried, but it has been found that very light draught boats will not pay. The conditions of our rivers are different from those of the American rivers which are of more equable flows. Those rivers, though shallow, are of an even depth. But even very shallow craft navigating our rivers have to meander here and there to obtain a navigable channel, so that boats of light draft have to make such long journeys and to travel so often to get the cargoes up that they do not pay. Thus the minimum proposed would be ineffective for us, and it is to be given in exchange for the surrender of a large part of the navigable discharge of the stream. Therefore I ask honorable members to come to our assistance in making the proposed compromise effective. We are asked to give up the quantities of water I have named, and, in addition, any claim—and I acknowledge that our claim is open to dispute—to the waters of the Lachlan, the Bogan, the Macquarie, the Castlereagh, the Namoi, and the Gwydir in New South Wales; and of the Campaspe, the Loddon, the Broken River, and the Broken Creek in Victoria, as being outside the range of any apportionment. Besides that, we are to surrender all right to test the question of riparian rights for five years to come. Under the circumstances, I think that the recommendation of the commissioners that there shall be a federal system of locking as far as Wentworth as a commencement should be carried out.

Mr. McCOLL.—Now the honorable and learned member is speaking upon right lines.

Mr. GLYNN.—That is what I was endeavouring to lead up to. I should be the last to obstruct a final solution of the wrangles over the rivers question. It has been my desire for many years past that a

just apportionment should take place, but I ask honorable members to enable us to adopt the recommendations of the Premiers' Conference by giving us the compensation which is beneficial to all but essential to us, of a joint system of locking suggested by the commissioners.

Mr. McCOLL.—The people of Victoria will never accept the agreement of the Premiers' Conference when they know what it really means.

Mr. GLYNN.—I know what some Victorians would like, and I know what ought to be done. Let us look at the present position of Victoria. Very little diversion of water is made by New South Wales, but in March of this year Victoria had a total diversion of 50,000 cubic feet per minute, the diversion in that month from the Goulburn alone being 20,000 cubic feet per minute. A channel is now being constructed, and is very near completion, which will have a capacity of 103,000 cubic feet per minute, and which will enable the whole of the waters of the Goulburn to be diverted into Victoria.

Mr. McCOLL.—No.

Mr. GLYNN.—That is the report of the commission.

Mr. McCOLL.—The discharge of the Goulburn is sometimes as much as 1,500,000 cubic feet per minute.

Mr. GLYNN.—Yes, but what we have to go by is the discharge in low years. It is in low years, not in years of flood, that the diversion of water matters. In March, 1903, 21,000 cubic feet per minute was being diverted from the River Goulburn; 18,000 cubic feet was being pumped from the River Murray between Echuca and Swan Hill; and at Mildura 13,000 cubic feet was pumped in March, the total being 51,000 cubic feet, although the discharge at Echuca at that time was only 40,000 cubic feet per minute, and the discharge at Renmark had fallen to 24,000 cubic feet per minute, and the water in the river there was not sufficient to permit of navigation by ordinary boats propelled by oars.

Mr. McCOLL.—But consider what a dry year it has been.

Mr. GLYNN.—Still, it is in such years that the river question becomes most important to every one; and within a few years it will be a difficult matter for Victoria to get what she wants unless she joins hands with South Australia.

Mr. SALMON.—Navigation is not so necessary in the lean years as in the fat years.

Mr. GLYNN.—That depends upon the settlement.

Mr. SALMON.—It depends upon the production.

Mr. GLYNN.—Supplies are more necessary in bad years than in good years. It has cost as much as £6 per ton to carry goods by road for a distance of 76 miles from Morgan to Renmark.

Mr. SALMON.—But the idea of settlement is not to consume supplies. We ought to expect production from settlement.

Mr. GLYNN.—The two things have to be taken in conjunction. The period of production in many cases is followed by a number of months when the river is very low, and if the river is not navigable the produce cannot be carried to market. We know, for instance, that wool is kept on the upper rivers for twelve months and more because it cannot be removed to the markets. The cost of the proposed locking to Wentworth is put down at £760,000, or about £200,000 more than the amount which was proposed to be borrowed by the Government under the Loan Bill of last session. It may be that this work will not directly pay for some years, but it must be remembered that our railways do not at once pay the full amount of interest upon the capital expended. I would ask also whether ordinary water supply systems pay. Victoria went in very largely for the creation of water trusts, and for carrying out irrigation works. In 1900 she had to wipe off over £1,750,000 which had been invested in irrigation works.

Mr. McCOLL.—That is quite a mistake.

Mr. GLYNN.—The Act of Parliament dealing with the matter shows that the interest and capital which had to be wiped off amounted to the sum I have mentioned.

Mr. McCAY.—The honorable and learned member is confusing irrigation works with ordinary water supply undertakings. A great deal of that sum was expended for domestic water supplies and for watering stock.

Mr. GLYNN.—It does not matter with what special object the money was spent, so long as the capital expended on waterworks had to be wiped off to the extent of £1,750,000.

Mr. McCAY.—That is quite true.

Mr. GLYNN.—Then, again, the Coliban scheme does not pay 2 per cent. interest on the outlay.

Mr. McCAY.—But that is not an irrigation work.

Mr. GLYNN.—No ; but I am speaking of the outlay upon waterworks.

Mr. McCAY.—As a matter of fact, the Coliban scheme does pay 2 per cent., and more.

Mr. GLYNN.—The official reports do not show it. I have taken my figures from the Victorian statistics. The Geelong waterworks, also, do not pay 2 per cent. ; and if we turn to South Australia, we find that the Beltaloo waterworks do not return $1\frac{1}{2}$ per cent. interest upon the capital outlay. Therefore it would be unfair to judge a navigation scheme by the consideration whether it is likely to be an immediate and direct success from a financial point of view. I am sorry to weary the House with all these figures, but the matter is one of great importance to all the States, and is kindling an agitation which, so far as the electors of South Australia are concerned, will, I hope, be conducted in a friendly spirit. I still hold the opinion that I had previously expressed, that the proposal to build a new federal capital is premature. It will involve very great expense, and will not realize the objects of those who wish to have a federal city apart from the present centres of population. Ottawa and Washington are neither of them models of political purity. The tone of politics at the former city is very largely influenced by the civil service, and the capital is run by third-rate pressmen, politicians, and civil servants.

Mr. JOSEPH COOK.—Where does the honorable member suggest that the federal capital should be ?

Mr. GLYNN.—I should prefer that it should be located in Sydney rather than that it should be planted away somewhere in the Australian bush. I do not think that the removal of the seat of government from the present centres of population is likely to lead to any improved tone in federal politics, or to exert any beneficial influence upon the legislation passed by the Commonwealth Parliament, and I should not hesitate to support a proposal for an amendment of the Constitution, even if the change involved the location of the federal capital in Sydney.

Mr. McCAY.—I should not object to that.

Mr. GLYNN.—I believe there are many Victorians who would prefer to see Sydney made the federal capital, rather than have it planted somewhere in the back-blocks of New South Wales.

Sir WILLIAM LYNE.—Does the honorable and learned member think that it would be a good thing if the federal capital were located at one of the present large centres of population ?

Mr. GLYNN.—I do, and I will further answer the question by quoting from the English press remarks made in condemnation of the arrangement entered into at the time the Constitution was finally framed. I think that the whole matter was put in a nutshell by the *Saturday Review* of 19th May, 1900. It was pointed out that we were merely following the wretched precedent of the United States and Canada, whose capitals, state and federal, had no claim to recognition either as centres of intellectual, social, or business life. They asked how much of the interest taken by the best class of minds in the country would evaporate if the political centre of Great Britain were transferred from London to some provincial town, and concluded by remarking—

It may be hoped that common sense may in time cause Australian political activity to gravitate towards some acknowledged centre of national life.

I think that puts the matter very fairly, and I hope that this question will receive, from a wider point of view than a merely parochial one, further consideration at the hands of Parliament. I am sorry that I have to differ from the leader of the Opposition upon the question of the naval vote. I believe that if we increase our contribution from £106,000 to £200,000 per annum we shall be affirming a principle, the developments of which we shall subsequently have to acknowledge. This vote is being asked for only as an instalment.

Mr. THOMSON.—We are already contributing towards the navy.

Mr. GLYNN.—Yes, we are contributing £106,000 a year, but we must remember that the British politicians are becoming most importunate in their requests for a larger proportional contribution by the colonies towards the expenditure upon the British Navy. Mr. Chamberlain, in introducing

the question to the recent Conference of Premiers, said—

The colonies have enjoyed great advantages from being part of a great empire, but the privileges which we enjoy involve corresponding obligations. The responsibilities must be reciprocal and be shared in common.

Speaking later on, and being apparently affected by the inadequacy of the promise to contribute £200,000, Mr. Chamberlain addressed the Cape Chamber of Commerce in these terms—

The colonies must be prepared to abandon the idea of forming part of the Imperial confederation, or be prepared to take their full share of the responsibilities which world-wide dominion entails. He wished to impress upon them the necessity of realizing their position and obligation.

That was after the promise of the £2 0,000 per annum as an initial step. We must remember that Great Britain can make out a very strong case for a large contribution. We saw it stated in the press recently that the total trade of the United Kingdom amounted to £934,000,000. That is a very large trade for any country to reach under a free-trade régime.

Mr. HIGGINS.—That is the total foreign trade.

Mr. GLYNN.—Yes. The internal trade is much larger. Of the foreign trade, British possessions outside the United Kingdom are directly interested in about one-eighth. We send about 80 per cent. of our exports to England, and if there is any protection to be obtained from the navy, we are interested as exporters to that extent in the trade of England.

Mr. HIGGINS.—I think that our exports to England include the goods sent by us to Germany and other continental countries.

Mr. GLYNN.—Not to a very large extent. That opens up the whole question of the preferential duties, because the amount of wool that is sent direct to foreign ports is now much larger than before. A few years ago over 97 per cent. of our wool intended for foreign consumption was sent through London; but now only 72 per cent. is forwarded to the United Kingdom, because Antwerp is challenging the position of London as the port for the reception of wool intended for continental use. What I wish to point out, however, is that trade amounting to £254,000,000 is represented by commerce between British possessions and foreign countries, or between one British possession and another. This trade,

which never touches the shores of the United Kingdom, receives the protection of the British Navy.

Mr. HUME COOK.—How does the honorable and learned member arrive at those figures?

Mr. GLYNN.—I have the whole of the figures taken from the blue-books, but the cable which was sent from England recently corrected some of these, and it is, of course, upon the corrected figures that I have spoken.

Mr. HIGGINS.—The trade to which the honorable and learned member last referred includes that of all British possessions.

Mr. GLYNN.—Yes. The figures I have quoted represent the trade of the Empire in which England has no direct interest, because it never touches her shores.

Mr. HUME COOK.—That would include the Indian trade?

Mr. GLYNN.—Yes, undoubtedly. If we calculate the white population of the Empire at 56,000,000, and the naval expenditure at £32,000,000—that being the amount appropriated for the year 1901–2—the contribution would be 11s. 5d. per head of the white population throughout the Empire. The actual contribution to the navy by the people of the United Kingdom is 15s. 2d. per head, whilst the white inhabitants of the rest of the Empire contribute 4d. per head, and Australia's share represents between 6d. and 7d. per head. I say, therefore, that a very strong case can be made out by the United Kingdom when the time arrives for discussing the proportionate contributions. By increasing our present contribution, we shall begin to recognise a principle which will be pushed to its logical conclusion. The suggestion of the British Government was that we should contribute not £200,000 but £387,000 per annum. Even writers like "Calchas" in the *Fortnightly Review* state that Canada should contribute £4,000,000 and Australia £3,000,000 towards the expenditure upon the army and navy. We find even the Cobden Club—whose authority I am sorry to have to look to in this matter—condemning the colonies for not making a larger contribution, and pointing out that our true proportional contribution, combined with that of Canada, should be £6,000,000.

Mr. CROUCH.—The Cobden Club has always condemned the colonies.

Mr. GLYNN.—If it has condemned the colonies it has acted for their benefit. It

may have condemned their fiscal arrangements, but it has never condemned their aspirations. If honorable members seek for English opinion in this matter, I would direct their attention to the correspondence which has been published in the *London Times* during the last twelve months. This affords many instances of writers actually advocating what might involve the cutting of the painter unless we are prepared to acknowledge our responsibilities. Mr. L. H. Horden, writing to the *Times* in answer to a very strong letter by Mr. Loring, says—

All that I advocate, and all that I understand Mr. Loring to advocate, is that we should inform the colonies we shall decline, after a certain date, to recognise their claims; that we will protect them as far as we can, having regard to the interests of the rest of the Empire, but that we will not accept it as an axiom any longer that they shall be relieved of all responsibility for their own defence, or from damage by war.

Then the *Times* puts the case very strongly. It pointed out a few months ago that a Zollverein or customs union was out of the question for the present—although it has changed its front with Mr. Chamberlain during the last few weeks—but told us that a system of Imperial defence was possible, and ought to be adopted as a beginning. It remarked that it was—

... a necessary consequence of self-government which, to their great advantage and ours, we have long ago conferred on the colonies in question, and, perhaps from these modest beginnings an adequate and equitable system of Imperial defence may some day be evolved.

That is, the very modest beginning of Lord Selborne's recommendation of a contribution of £387,000 a year from Australia, not the modest beginning of £200,000 annually which has been accepted by the Prime Minister. In this connexion I may point to the evidence of the various Imperial Defence Leagues. Twenty years ago their cry was—"Imperial federation first, and afterwards a contribution through it for the purposes of defence." Now, they have shifted their ground and ask first for proper colonial contributions to the navy, and afterwards, as a reward, Imperial federation, for which we do not ask.

Mr. CROUCH.—The Victorian League has a different system.

Mr. GLYNN.—Mr. Chamberlain, in referring to this matter, says that we ought to start with an advisory council, which would meet in London every four years. He declares that in his opinion the political federation of the Empire is within the bounds of possibility; that they ought not to force the

hands of the colonies too quickly in this matter, but that the latter should commence with an advisory council and contributions to the navy. He continues—

If you are prepared at any time to take any share, any proportionate share, in the burdens of the Empire, we are prepared to meet you with any proposal for giving you a corresponding voice in the councils of the Empire.

I do not believe that the States ask for such a corresponding voice. What position should we occupy with proportional representation in the Imperial Council? Our full contribution to the naval expenditure of last year, which, according to the Estimates, aggregated £34,000,000, would, leaving other possessions out of account, as Canada requires to contribute, have been about £3,500,000, and thus our share of Imperial representation would be about 60 or 70 members out of 670 members. Why, we should have a regular pyramid of Members of Parliament in Australia. First, we should have the members of the States Parliaments—the most numerous class—then we should have the members of the Commonwealth Legislature, and on the top of all there would be the representatives in the Imperial Parliament, all of whom would be endeavouring by means of the peculiar methods which we have recently witnessed to help each other by mutual recrimination. Unless we accepted this proportional representation, it is said there would be a loss of local dignity and the power of influence in Council. Personally, I think that the true bond of Empire is not to be found in these artificial arrangements. The real bond of Empire is that which is reflected in the memory of our mutual traditions, and that splendid feeling for the old country to which we always refer as "home." The matter has been beautifully put by that great statesman Burke. If I remember aright, he declared that the affection of the colonies really depends upon common names, kindred blood, similar privileges, and equal protection. These are ties which, though light as air, are strong as links of iron. It may be said that we cannot, and do not wish to, escape from our liabilities. But we can recognise them by another means than that suggested by the Premiers' Conference. Surely it is not impossible to do what the people in America in the early days did, and acquire the beginnings of a local navy! That course is recommended by experts. I suppose that

all of us have read the recommendations of the Commandant of Queensland.

Mr. McCAY.—Does not the honorable and learned member think that his remarks instituting an analogy between the circumstances surrounding the establishment of the High Court in America and the need for setting up a similar tribunal in Australia are equally applicable here?

Mr. GLYNN.—I do not think so. Recently I read a report of an excellent paper by Lieutenant Biddlecombs, whom the honorable member may know. Judging by that report, he must be a man of, in naval matters, considerable capacity. In that paper the writer pointed out that for interest on an expenditure of about £1,000,000 we can borrow ships which, combined with the Imperial navy, would be adequate for our local defence. The outlay upon these would represent £40,000 or £50,000 a year by way of interest. What we want, as has been pointed out by Captain Creswell, is not ocean-going ships, but coastal ships—local defence ships—with tremendous gun power and small steaming capacity. The little South Australian vessel known as the *Protector*, which is only about one-third of the bulk of the *Wallaroo*, one of the Imperial ships here, has actually a gun capacity 70 per cent. greater. The former vessel was particularly praised for the service which she rendered in China, and, as evidencing her steaming power, I may mention that on the voyage from Sydney to the Gulf of Pi-Chi-li she actually reached her destination only one day after the so-called much faster ship of the Imperial squadron. I would further point out that the proposal to establish the nucleus of an Australian navy is supported by some of the leading journals in England. For example, *The Spectator* of the 12th May, 1902, writing on the aspirations of the colonies in this direction, says—

To any scheme under which the colonies would be pledged to a definite contribution in men and money we greatly prefer the autonomous and localized system which has already grown up and which has served us so splendidly in the past three years.

In May, 1902, *The Monthly Review*, a journal which I think is established purely for the purpose of cultivating the Imperial instinct, said—

Self Government, equal rights, and freedom from interference are indeed the pre-requisites of

loyalty in the sense that they leave little or nothing for disloyalty to take hold of.

The *Edinburgh Review* completely indorses our local aspirations. It writes—

A strong movement exists in Australia in favour of obtaining control of the navy, and it found expression, we believe, at the colonial Conference. This tendency is inevitable. State sovereignty is inextricably bound up with military power. No colony can really be self-governing which has not also control of its own forces.

These quotations evidence that a strong case may be capably made out from the point of view of those who advocate the establishment of an Australian navy. As regards any preferential arrangement, I think that the sooner we knock the recent suggestion of Mr. Chamberlain on the head the better. The gyrations which he has displayed upon this question during the last three or four years are simply extraordinary. At the Premiers' Conference, he would not tolerate any reciprocation in trade matters between parts of the empire except upon purely free-trade lines. He further explained that he meant by revenue lines, not the protective system in vogue here, but a revenue tariff under which the import duties would fall upon articles not capable of local manufacture, and would therefore yield the whole of the revenue to the State. He declared that where articles were capable of being manufactured locally the import duties should be met by a corresponding excise duty. His idea, therefore, was in favour of a revenue Tariff upon purely free-trade lines.

Sir EDMUND BARTON.—He said that that was what he would like to see, but that he would be grateful for any preference which he could receive.

Mr. GLYNN. — I am sorry that I have to contradict the Prime Minister.

Sir EDMUND BARTON.—It is very easy for the honorable and learned member to do that, seeing that he was not present at the conference.

Mr. GLYNN.—But I have the blue-book record of its proceedings, and I have read it.

Mr. BARTON.—In his opening speech Mr. Chamberlain indicated what he would prefer, but it would be a total mistake to imagine that he did not say he would be very glad of any preference that could be afforded.

Mr. GLYNN.—The Prime Minister gives only parts of Mr. Chamberlain's statement and not the whole of it. He pointed

out that our Tariff, even after rebates, would still be practically prohibitive as far as some English imports were concerned.

Sir EDMUND BARTON.—That remark was directed solely to the high Tariff of Canada. I am speaking of the whole drift of the conference.

Mr GLYNN.—I have read the whole of the report.

Sir EDMUND BARTON.—The honorable and learned member could not have done so.

Mr. GLYNN.—I assure the Prime Minister that I have carefully read all the speeches. I sent home and obtained a blue-book for the purpose. I do not trust to the newspaper reports, because their accuracy is so often challenged. In his opening speech at the Imperial Conference, Mr. Chamberlain stated that he wanted any preference which might be afforded to British goods to be upon free-trade lines, and, in a letter to a constituent on the 21st May, 1903, he defined his position as follows :—

I am fully convinced that the prosperity of this country depends largely upon her trade with the colonies which, with a wise system of mutual concession, would increase by leaps and bounds. We have been apt in the past to consider too much the advantage which results from buying cheaply, and have not devoted sufficient attention to methods whereby we have the means to pay at all.

But at the conference Mr. Chamberlain said—

Whilst we most greatly acknowledge from you any preference you may be willing to voluntarily afford us we cannot bargain with you for it; we cannot pay for it unless you go much further and enable us to enter your home markets on terms of greater equality.

He then proceeded to show that even if the specific rebates were made that were promised by other parts of the Empire, but not by our Prime Minister, there would still be a very high wall of protection against English imports, and in his final speech I think he really gave a quietus to the proposals of the Premiers. I should like to point out that it is impossible to adopt any commercial union of that kind which is not open to the very strongest objection. There were two suggestions, one of which I believe originated with Sir John Macdonald, and proposed an all-round duty of 5 per cent. on foreign imports. The suggested duty has recently been raised in some places to 10 per cent., but Sir Robert Giffen, the statistician of the Board of Trade,

points out that that solution is absolutely impossible, because it would mean that almost the whole of the revenue would be paid by England. Our contribution would be a little over 1·1 per cent., while England would have to pay 41 per cent. of the total, and Canada and Newfoundland 2·4 per cent. Look at how English trade is likely to be affected. If we take 40 of the raw materials which are imported into England, £110,000,000 worth are exported from foreign countries, and only £49,000,000 worth from other parts of the Empire. Of foods, the imports into the United Kingdom from foreign countries are valued at £180,000,000, while those from various parts of the Empire represent only £41,000,000. Of the total export and import trade of the United Kingdom, 75 per cent. is with foreign countries, and it is that trade we are asking England to tax.

Mr. HIGGINS.—It is Mr. Chamberlain who asks that.

Mr. GLYNN.—I do not believe that England is asking that that trade should be taxed, but Mr. Chamberlain may be asking it with a view to carrying out that branch of his Imperial idea. The Canadian policy is an utter failure, and I speak here on the evidence presented at the Imperial Conference.

Sir EDMUND BARTON.—Has the honorable and learned member read a speech made by Mr. Patterson at the Imperial Conference?

Mr. GLYNN.—I read the report down to the appendices.

Sir EDMUND BARTON.—Pardon me; I have a real reason for asking the question. Has the honorable and learned member read the speech made by Mr. Patterson, or the speech made by Mr. Feilding? If the honorable and learned member has not read those speeches, he has not got the speeches which were made at the conference. There were two books published—one, a blue-book, published to the world, and another, a white-book, which was a record of the speeches made at the conference beyond that of Mr. Chamberlain. These speeches, however, were not allowed to be published, because of an objection on the part of one of the members of the conference.

Mr. GLYNN.—I read only the speeches which were available.

Sir EDMUND BARTON.—That shows I was right in saying that the honorable and learned member had not read the speeches made at the conference.

Mr. GLYNN.—I may not have read the whole of the discussion ; but surely the Prime Minister will not say that I cannot form a reasonable opinion from the perusal of the official blue-book which is published? Surely the Prime Minister does not say that the Executive would deceive the Empire by publishing an unreliable blue-book?

Sir EDMUND BARTON.—I do not say so. All I say is that the honorable and learned member cannot say that he has read the debate at the conference unless he has got that which is not yet allowed to be published.

Mr. GLYNN.—I can give the Prime Minister quotations from speeches of Canadian Ministers, and from the speech of Mr. Chamberlain in reply to Canadian Ministers.

Sir EDMUND BARTON.—If the honorable and learned member will show me the document on which he relies I will tell him whether it is the one to which I refer.

Mr. GLYNN.—The document is Mr. Chamberlain's reply to Sir Wilfred Laurier as to the failure of the Canadian Tariff. There is ample material on which to form an opinion, because the special report presented to the Imperial Conference on the Canadian Tariff and rebates is presented with the published blue-book. From that report I find that in 1886 and in 1888, 40 per cent. of the Canadian imports were from the United Kingdom, and that in 1895-7, the proportion had sunk to 28 per cent. Then the Canadians, in order to check the decline of English imports, offered the rebate, which in 1900 reached 33½ per cent. What was the effect? In 1901 the proportion had sunk to 23½ per cent., so that the policy absolutely failed in regard to the proportion of imports.

Sir EDMUND BARTON.—All that has been blown to the winds.

Mr. GLYNN.—The report shows what I have stated.

Sir EDMUND BARTON.—The facts were shown by the Canadian Ministers. A white-book contains speeches in which the facts are shown.

Mr. GLYNN.—Surely the Prime Minister does not allege that the figures in the published blue-book are contradicted by figures in another book not published?

Sir EDMUND BARTON.—But the light thrown on the matter by those who were concerned in the very collection of the

duties shows that, in the immediate object of giving a preference, England has very largely gained.

Mr. GLYNN.—I read about a column and three-quarters in the *Times*, contributed, I believe, by the Canadian High Commissioner, on this question.

Sir EDMUND BARTON.—I applied for leave to publish the speeches I have mentioned, but permission was not given because one objector prevented it being done.

Mr. GLYNN.—I did not read what was said by the Canadian representatives, but I do not see that that could change my opinion one bit if what is expressed in the blue-book is correct. At all events, Mr. Chamberlain, in reply to Sir Wilfred Laurier, said—

Though British trade with Canada since 1897 had increased 49 per cent., general imports had increased 62 per cent. . . . The increase was due only to the prosperity of Canada.

Sir WILFRED LAURIER.—Well, that is probably substantially true.

There is a total increase in the total trade, but the comparative proportion of imports from Great Britain shrank since 1886-8 from 40 per cent. to 23 per cent.

Mr. REID.—And there was a three times greater increase of foreign imports at the same time, an increase of £11,000,000 in foreign imports as against an increase of £3,000,000 in British imports.

Mr. GLYNN.—However that may be, I believe that the conclusion drawn by statisticians like Sir Robert Giffen and Mr. Mulhall are probably correct, namely, that the adoption of this policy would eventually involve the disintegration of the Empire rather than preserve its integrity. I am sorry to have detained members at an undue length, but this is really the only occasion on which matters of great importance can be ventilated in the House. I thoroughly agree with the remarks of the honorable member for Darling Downs as to the better federal spirit which seems to be arising. We must all recognise an uneasiness in the public mind as to the probable outcome of federation. I do not believe that real disaffection exists, but there is just a little of that doubt, arising from a sense of the unknown, which sometimes affects the efforts of men at the commencement of great undertakings. That is due, I believe, to a combination of causes.

Mr. JOSEPH COOK.—Bad government.

Mr. GLYNN.—We are all, when not completely stumped, none the less conservative

and inclined to kick against changes which do any violence to longstanding habits. The period of pure enthusiasm seldom outlasts the honeymoon, though, if Mr. Coghlan will allow me to say so, national and vital statistics generally establish the beneficence of the bond. Again, it is hard for the public to closely watch the working of the federal machine, and local criticisms in this grumbling age are not always marked—to use Swift's phrase—by sweetness and light. As to bad government, I doubt that the occupants of the Treasury benches were, at a time when the Federal Constitution was so much run down, the best men to minister to a mind diseased. They seem rather partial to irritating remedies, of attempting to cure the disease by developing it. However, most other federations have had their days of diminished enthusiasm and State antipathy, but the time came when they gave place to acceptance, co-operation, and, eventually, when the new order of things had come to be regarded as the natural one, devotion to the federal power. The experience and success of other federations, when observed, should silence carping and inspire confidence, for there are no indications here of weakening in those racial characteristics which have made the United States of America, in some respects, the envy of the world.

Mr. HIGGINS (Northern Melbourne).—As a private member I do not feel justified in taking up the time of the House at any length when no adverse amendment has been moved upon the motion for the adoption of an address in reply to His Excellency's speech, but I feel that I may do good service to some small extent by indicating as shortly as I can a few of the opinions which I hold. In dealing with the conduct of the Government during the recess, and with their programme, we ought to regard not only what they have done and promised to do, but what they have refused to do. It is only fair to recognise that in regard to some of the gravest problems which they have had to face they have refused to act in the manner in which they might have been tempted to act. I refer to the extraordinary proposals made by the Premiers' Conference with reference to the transfer of the debts of the States, and for compensation for the transferred properties, and also to the determination of the Government not to wink at the

provisions of the Immigration Restriction Act, but to administer the law as it stands, without regard to consequences. As to the transfer of the debts of the States, if anything would injure our credit, no proposal could do more in that direction than that unanimously and seriously put forward by the Premiers as the result of their Conference in Sydney. If Mr. Micawber, his wife, and children had each incurred debts, and borrowed all the money they could get, and the brilliant idea had seized Mr. Micawber of forming the family into a company under the title of "Micawber and Co.," and transferring all obligations to it, so as to leave each member free to begin borrowing again, we should have had a position analogous to that which the Premiers of the States seem anxious to bring about. I do not know anything more humiliating than the idea that the Federal Government should take over all the liabilities of the States, and that the Governments of the States should then wipe their hands of all responsibility, and go on borrowing as before. Such an arrangement is utterly impracticable. Then, as to the payment for transferred properties, I understand that it has been estimated that from £12,000,000 to £14,000,000 are required to pay for them. The Premiers have suggested that they are entitled to obtain bonds or money for these properties. In making these remarks, I have to depend entirely upon the newspaper reports, because, for, I have no doubt, very good reasons, the Treasurer has not yet taken the House into his confidence about the matter; but if the newspaper reports are correct, he is taking the only safe course in the matter. He says in effect to the Premiers of the States—"I will not pay you in bonds or in cash. These properties represent borrowed money. It would be absurd for the Commonwealth to take over a property worth, say, £10,000, and paid for out of borrowed money, and let you buy it back from us, and borrow another £10,000 for it, thus charging it with a debt of £20,000."

Mr. HUME COOK.—That is not an unknown principle in State financing.

Mr. HIGGINS.—I hope that we have turned over a new leaf, and that if that is an old device of the States the Commonwealth will not repeat it. A matter which has been referred to at some length by several speakers in this debate, and which, I think, has been misunderstood, is

the application of the provisions of the Immigration Restriction Act to the six hatters who were refused permission to land in Sydney. I cannot help thinking that the indignation of the honorable member for Gippsland was directed not so much against the Government—the Administration—as against the Act. I do not think that any one has asserted that the Government did more than administer the Act as they found it, and if there is anything for which I should commend a responsible Ministry, it is for administering the law, so long as it is the law, whether they like it or not. If there is anything which has marked the course of British liberty, it is the insistence of the people that governments shall administer the law as it stands. Briefly the facts were these :—There is in existence an Act which says that no person who comes to Australia under contract to perform manual labour shall be allowed to enter unless he obtains an exemption from the Government because of the possession of special skill required here, and any one so prohibited is liable to imprisonment if he lands. The Government, when they found that the six hatters were coming to Sydney in defiance of the law, saved the men from the ignominy of being locked up in gaol, and said to them, “We will wait before taking action until you show that you are entitled to land.” The person who brought the men out had made no application for exemption, and until such an application was made, no exemption could be given. When the application was very tardily sent in, the Minister looked into the case, and found that the men should be allowed to land, and they landed accordingly. I adhere absolutely to the words which were quoted by the right honorable member for Tasmania this afternoon. In my opinion it is not the policy of any Australian to exclude from this country white men who come here free to accept or refuse engagements. The Government carried out the law. As for the Act itself, until I see further reason to change my opinions, I shall continue to consider it a right one. I see nothing unreasonable in saying that we welcome to our shores honest white men, but only such as come here free to accept Australian conditions and rates of wages. A man cannot be said to come here free who comes with a chain round his leg. If there were no such law, and a strike or industrial difficulty occurred, and there

were men in Italy obtaining £1 a week for work for which £3 a week was being paid here, hundreds of them could be brought out under contract to do it for £1 10s. or £2 a week. But such a contract would really be made under constraint, and the men entering into it would be accepting conditions and rates of wages which were not Australian. There is nothing unreasonable in saying to people that if they come here they must not come under contract for three, ten, twenty, or any period of years. I listened carefully to the dialectical duel between the right honorable gentlemen who lead the opposing parties in this Chamber, and I was rather disappointed with it. It was a brilliant pyrotechnical display, but it failed to give the steady illumination which the country is entitled to expect at this very critical stage of its history. I do not think that the electors are much concerned in finding out the discrepancies between the Prime Minister's statement at Maitland and his subsequent actions, or between the speeches delivered by the leader of the Opposition at Sydney and at Perth. I did not hear the speeches which that right honorable gentleman delivered in Sydney, but I heard some of those he made in Perth, and I could a tale unfold if I were to tell tales out of school, which I am not going to do. If there is one thing which all Australians are anxious about, it is that the Federal Government shall not incur expenditure which is not absolutely necessary, and that there shall be no waste of industrial resources through strikes and lockouts, which have done so much damage to us in the past. I understand that Ministers wish to use the powers of the Constitution to introduce a measure providing for conciliation and arbitration, and I shall welcome the introduction of such a measure, as I think all other moderate men will. After grave reflection, however, I cannot agree to three of the proposals of the Government—to those to create immediately the Inter-State Commission and the High Court, and to that to pay £200,000 under a naval agreement. I should like to say something in regard to the expenditure upon the federal capital, but I cannot feel myself wholly free to refuse to give effect to the provision in the Constitution in respect to that matter, as it is part of a special stipulation upon the faith of which New South Wales entered the Union. I am, however, free from

responsibility for that provision. I opposed the acceptance of the Bill, and I thought the provision an unwise one; but as a bargain has been made, and one of the States was induced to enter the Union very largely upon the promise that the federal capital should be situated within its boundaries, we are bound to carry it into effect. I hope, however, that we shall find a wise means of borrowing the money without interest, under the Canadian system as has been suggested. With regard to the Inter-State Commission, I shall not speak at any length, but I desire to point out that the only purpose for which the appointment of an Inter-State Commission is essential is the abolition of preferential rates on the railways, the power to deal with this subject being contained in section 102 of the Constitution. Any other infringement of the Constitution, or of the laws made under the Constitution, may be dealt with in the ordinary courts. The Inter-State Commission cannot make laws; it can only adjudicate and administer the constitutional provisions and the laws made under them. The commission will have no power to prohibit anything which the Constitution or our federal laws do not prohibit, and its powers are absolutely restricted. Section 102 of the Constitution provides that as to railways we may prohibit any preference or discrimination that is undue, or unreasonable; or unjust to any State, and that such preference or discrimination is not to be regarded as undue, unreasonable, or unjust unless so adjudged by the Inter-State Commission. I frankly admit that that renders the Inter-State Commission necessary, if there are preferences shown in connexion with the railway traffic. The number and nature of the preferences now given, however, have not been disclosed to us. On three occasions last session I tried to obtain from the Minister for Home Affairs information as to the cases in which preferential rates were charged upon the railways. On each occasion he promised to supply particulars, but failed to do so. I do not blame the Minister, but I think the result shows that he found very great difficulty in discovering preferential rates. The instance quoted by the honorable and learned member for Darling Downs with regard to the rates charged upon cargo carried in ships from North Queensland, as against ships

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which comes within the scope of section 102, which refers only to preferential railway rates, and that is the only matter for which we really require the Inter-State Commission. I object, therefore, to an expensive commission, with a large staff, being created, and fixed upon us for a period of at least seven years. We do not even know of the existence of preferential rates such as would render it necessary to call the commission into existence.

Mr. THOMSON.—The Bill formerly introduced proposed to do more than deal with railway rates.

Mr. HIGGINS.—I admit that, but the commission is essential only for the purpose of dealing with preferential railway rates. I feel that there is no machinery so bad as that which is adopted before it is really clear what is required.

Mr. KIRWAN.—There is no doubt that preferential railway rates are in operation in Western Australia in connexion with the distinction made between imported coal and that produced at the Collie fields. The position there is very serious.

Mr. HIGGINS.—I had an opportunity of inquiring into the condition of affairs in Western Australia some time ago, and I found that special reasons were advanced for the difference in those charges. It was stated that certain coal was more expensive to carry than other kinds. If there are preferential rates on the railways to any extent, the whole matter might perhaps be settled by constituting the Railways Commissioners of the various States an Inter-State Commission for the purpose of adjusting matters.

Mr. V. L. SOLOMON.—In Western Australia beer brewed in Fremantle and Perth is carried on the railways at a lower rate than beer produced in other States.

Mr. MAUGER.—In New South Wales iron manufactured at Lithgow is conveyed over the railways at lower rates than those charged for carrying imported iron.

Mr. HIGGINS.—The only preferential rates prohibited by the Constitution are those which relate to the trade between State and State. I do not know of any State except New South Wales which produces iron in any quantity. There are iron deposits in Tasmania, but we know that they have not yet been developed. There are numbers of railway rates which are called preferential, but which really do not come within the scope of the Constitution. The

Federal Parliament has power to deal only with trade and commerce between the Commonwealth and other countries, and trade and commerce between the States. It has nothing to do with trade within the area of any State.

Mr. DEAKIN. — Unless measures are adopted which are intended to take away the trade properly belonging to any other State, or to divert trade. We have power to deal with cases of that kind.

Mr. HIGGINS. — Yes. Section 51, however, does not relate to all kinds of trade, but only to trade and commerce with foreign countries, and between the States. I do not wish to dogmatize too much upon this subject, because I have not the information necessary to render it clear whether or not preferential rates actually exist upon the railways. It is a great mistake, however, to suppose that the ordinary long distance or tapering rates can be affected by the Inter-State Commission.

Mr. JOSEPH COOK. — What does the honorable and learned member think that "trade amongst the States" means?

Mr. HIGGINS. — That is a very large question, and I do not feel prepared to discuss it now. What I say is that the ordinary long-distance rates charged upon the railways cannot be interfered with by the Inter-State Commission. It is only where a rate is intended to give an advantage to the produce of one State over the produce of other States that the federal authorities can intervene.

Mr. KIRWAN. — The Inter-State Commission would have power to deal with the case I have mentioned in Western Australia.

Mr. HIGGINS. — I know that the differential rates charged in Western Australia form a great matter of grievance with the residents of Kalgoorlie; but when I made inquiries into the subject an explanation was made to me ascribing a motive which I considered to be perfectly genuine and satisfactory.

Mr. KIRWAN. — The honorable and learned member was misinformed.

Mr. HIGGINS. — With regard to the naval agreement, I desire to know whether it will be necessary to make an annual grant of the £200,000 per annum proposed to be paid to the Imperial authorities, or whether a special appropriation will be made.

Sir EDMUND BARTON. — An Act will have to be passed making a special appropriation as long as the agreement lasts.

Mr. HIGGINS. — Then a special appropriation will be made for a limited term. The Prime Minister has very properly said, "As long as the agreement lasts." Either this £200,000 is to be the ultimate contribution, or it is not. If it is not to be the ultimate contribution, we shall begin by establishing a principle which will lead us how far we do not know.

Sir EDMUND BARTON. — We shall be perfectly free at the termination of the agreement.

Mr. HIGGINS. — Yes, but if we once admit the principle that we are to contribute money over which we are to have no control; that we are to pour money into the great gulf of the British naval expenditure, then we shall have no ground for objecting when we are asked to contribute our proportion according to our population or according to our trade. We must nip these new proposals in the bud. We all entertain the utmost good feeling towards the old country, but no one who understands the conditions of politics and life in Australia, and desires to maintain the good feeling which now exists, will propose anything calculated to cause friction. Such a result, however, must follow if we are called upon to divert money required for the development of our own resources to purposes which are to be carried out apart from our control. Our true policy is to try as far as we can to relieve the mother country of the burden of looking after us. It should be our object to protect our own floating trade, to train our own seamen, and to look after our own safety. I saw a letter a few months ago written by a very distinguished man in London to a resident in this State, in which the writer said that of all the Premiers who had attended the recent Conference in London the Prime Minister of Australia had created the best impression. He added that Sir Edmund Barton had promised least, but was esteemed the most. I was greatly pleased to read this letter, and it was afterwards that I learnt, to my chagrin, that the Prime Minister had been—if I may say it—wheedled into promising a contribution of £200,000. I think that in the absence of any instruction from this Parliament, the Prime Minister had no right to make any contract with the Imperial authorities.

Sir EDMUND BARTON. — Except subject to the ratification of Parliament.

Mr. HIGGINS.—I admit all that ; but if a promise is made subject to our ratification, it is very awkward for a supporter of the Government to refuse his vote under certain circumstances. I hope, however, this question will be treated as an open one, and that our allegiance will not be submitted to too great a strain. In a matter of national Australian policy such as this, the wishes of honorable members should have been ascertained to some extent before anything was done. Now I come to the matter of the High Court. I find, by referring to *Hansard*, that during the debate on the address in reply at the opening of last session, I expressed, in substance, the same opinions as those I now hold. I cannot help thinking that the Federal High Court is, under all the circumstances, unnecessary, and that we can easily delay incurring the expense that would be involved until some more suitable time. I was sorry to hear the leader of the Opposition to some extent supporting the Government in this matter. The right honorable gentleman was determined to find fault with the Government in some way, and so he complained of their having delayed the appointment of the court. So we have the curious spectacle of the Prime Minister and the leader of the Opposition strongly advocating the creation of the court without further delay. Honorable members may think that I do not know much about the Inter-State Commission, or naval matters, but I do know a little about the High Court, and I do say deliberately, and after thinking the whole matter over very carefully, that its creation at this juncture will involve the placing of an unnecessary burden upon the people of Australia. The leader of the Opposition stated that the country was crying aloud for the creation of the court, but I fail to find any evidence in support of his statement. I urge honorable members to ask themselves what the High Court can do that cannot be equally well done by the Supreme Courts of the States, with the Privy Council over them to give uniformity. Several grave questions which have arisen in regard to our Acts and the Constitution have been very ably dealt with by our Supreme Courts. I do not think that the Attorney-General has cause to object to the last decision of the Victorian Supreme Court in connexion with a case in which he was interested. It has been said that the

Supreme Courts of the different States may differ. That is so ; but at the same time we have the Privy Council which can make decisions uniform, and to which the Supreme Courts will, and must bow. The Privy Council can deal with constitutional points sent to it by the Supreme Courts as freely as it can with ordinary appeals. There is a provision in the Constitution that the Privy Council is not to deal with appeals from the High Court upon constitutional points except in very special circumstances, but there is no prohibition—and we cannot make one—against the Privy Council dealing with appeals from the Supreme Courts upon constitutional points.

Mr. JOSEPH COOK.—Would not the Privy Council proceeding be too long in the settlement of trading disputes ?

Mr. HIGGINS.—I do not think that there would be any difference between the time occupied by the procedure in the case of the Privy Council and that of the High Court. How could there be ?

Mr. JOSEPH COOK.—It would take longer to obtain a decision from the Privy Council than from our own court.

Mr. HIGGINS.—Of course there would be a difference between the time absorbed in going to London, which involves a journey of a month or more, and that occupied in travelling to some place in the heart of New South Wales. Of course the idea underlying the establishment of the High Court is that we should have a tribunal to deal with appeals in the federal capital. But the members of that tribunal—five of them—will go on circuit to the different State capitals. They will have to travel a good deal, and I think that there must necessarily be long delays before a man in Western Australia, for example, could have his case settled by the High Court Judges. It would be far better to allow him to appeal to the Judges of the Supreme Court of his own State. I have carefully re-read the speech delivered by the Attorney-General last session in submitting the Judiciary Bill to the notice of this House. I did so for the purpose of ascertaining whether I could not modify my views upon this matter. After recognising the graceful diction, the charm of manner, and kindness of feeling exhibited throughout that speech, I cannot help saying that when its columns are boiled down, the residual product of ground why this court should be

created now is very small indeed. The Federal Constitution is merely a new law interposed between the Imperial law and Colonial law. The Judges of the courts simply have to endeavour to apply this Constitution in place of applying only the State Constitutions. Hitherto the Supreme Courts of the States have had to deal with Customs Acts. They will now have to deal with one Customs Act only. The same remark is applicable to the Defence, the Public Service, and the Post and Telegraph Acts. Of course the Privy Council is not an ideal court. It partakes more of the nature of a chamber or a board than of a court, but, at the same time, it contains some of the best jurists in the British Empire, and there is a good deal to be said in favour of the contention that British law ought always to keep a connexion with the parent stock. There is no system of law so great as was the Roman law, for the Roman Empire, except perhaps the British law. To hope that the principles of British freedom, which are involved in British law, shall extend all over the Empire is a great ideal to cherish. In Canada they did not create a High Court till ten or twelve years after the establishment of the Federation. It is quite true that our Constitution says in effect that a High Court shall be established, whilst in the case of Canada the provision was permissive. At the same time I would point out that in the Canadian Constitution the power was obviously one which ought to be exercised. I should like to see it exercised in Australia, but there is no obligation on our part to exercise it immediately, at a time of transition, and when the States Treasurers are straining to meet their liabilities. When we find the whole of the Tariff revenue of the Commonwealth practically appropriated for the purpose of paying interest upon the debts, and when we know that there is no great degree of prosperity at present throughout Australia, it is only reasonable to urge the postponement of the creation of the High Court for a time. In the case of the United States there were special reasons why that court should be established without delay. The honorable and learned member for South Australia, Mr. Glynn, has referred to some of these. The Federal High Court was created in America because the courts of the States could not be trusted. In support of that contention I would direct attention to the following

passage from Elliott's Debates, volume 5, page 331 :—

Mr. Randolph observed that the courts of the States cannot be trusted with the administration of the national laws. The objects of jurisdiction are such as will often place the general and local policy at variance.

The fact is that the courts of the States in America at that time were not comparable in power and independence with those of our States. An instance of this occurred about three years prior to the holding of the Federal Convention in America. The legislature of Rhode Island had passed a law making paper a legal tender, and imposing penalties upon people who refused to accept it as such. A butcher declined to accept it, and an informer laid an information against him. The matter was tried before the Rhode Island court, and all of the judges held that the law was unconstitutional and void, because under the Constitution they could make only enactments which were consistent with the laws of England, and it was inconsistent to pass a law which directed that penalties could be recovered before a magistrate only as distinct from a jury. What happened? The Judges, I repeat, held that this law was unconstitutional and void. As a result they were hauled before the Legislature, and asked how they dared to declare one of its laws void. They explained that they were compelled to take that course in accordance with their oaths of office. A motion was tabled for their dismissal, for it must be borne in mind that they had not a permanent tenure of office. They were not dismissed, however, for the reason that they had to be elected every year by the Legislature, and the Legislature took good care not to re-elect them next term. But the difference between that case—which was rankling in Mr. Randolph's mind when he spoke—and that of the judges of our Supreme Courts, is that the latter have a life tenure of office during good behaviour, and cannot be removed. Surely it is not fair to say that because a special court was necessary under such a loose system as prevailed in America in 1789, it is imperative that we should immediately establish a Federal High Court in Australia. There are two objects for which the proposed tribunal is to be created. One of these is that it may deal with Federal matters. I altogether dispute that Judges with a permanent tenure, such as is enjoyed by the occupants of the

benches of our Supreme Courts, have any more sympathy with their respective States than they have with Australia as a whole. Any one who knows them, must admit that they have no State allegiance as distinct from their allegiance to Australia. The chief ground upon which it is urged that we ought to have a special court to interpret our Constitution is that its members should be in sympathy with the spirit of that instrument of Government. Now, if there is one thing which a judge ought to do, it is to dispense justice without fear, favour, or affection. I do not think that sympathy is essentially a good quality to possess in dealing with matters of law. At the same time, when our Supreme Court Judges come to interpret a law made under the Constitution, they will deal with it as they would with a problem in mathematics, without any sympathy one way or the other, and with a determination to do what is right. In conclusion, I want to reconcile my attitude with the attitude I took in the Federal Convention, where I voted for a strong High Court. Right through I gave my vote in favour of the strongest High Court that could be created; but I voted in favour of there being no optional appeal to the Privy Council. I found that at the final drafting of the Constitution there was a clause omitted which prevented appeals to the Privy Council. The attention of the Prime Minister was called to the matter at the time, and Sir Josiah Symon, as well as the Prime Minister, gave expressions of opinion. If the honorable and learned member for South Australia, Mr. Glynn, who spoke on the subject or any one else will take the trouble to look at the report of the Federal Convention in Melbourne, volume 2, page 2455, they will find that Sir Josiah Symon said distinctly that there was no optional appeal to the Privy Council. Sir Josiah Symon said—

It appears to me that the point to which the honorable Mr. Glynn has directed attention will not, in practice, arise at all. The intention certainly was not to multiply appeals, or to give an alternative option to an appellant in a State court to appeal either direct to the Privy Council or to the High Court. We have dealt simply with appeals from the High Court to the Privy Council. Under clause 73, a general jurisdiction in regard to appeals is given to the High Court. The natural anxiety of the honorable member is that there should be a power in the Parliament to put an end to appeals direct from the Supreme Court of a State to the Privy Council without

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going of course, through the High Court. It appears to me that under clause 73 the appeal direct to the Privy Council is practically abolished.

Mr. CONROY.—That was altered, of course, in England.

Mr. HIGGINS.—No; I think the only discussion in England was as to appeals from the High Court, and not as to appeals from the Supreme Courts of the States. As the law at present stands in the Constitution, a man who is beaten in the Supreme Court in Melbourne or Sydney can choose his appeal court. That is a most unwholesome thing, because neither court is bound by the other's decisions, and an appellant always chooses the court which is most likely to decide in his favour. The effect of the omission in the Constitution will be that most appeals in ordinary cases will go straight from the Supreme Court to the Privy Council. If I had to advise, as I have often had to do, a beaten litigant in a Supreme Court, I confess that, having regard to present conditions and to the prospects in Australia with our existing population, I should tell him to appeal to the Privy Council in preference to the High Court. I should give that advice because in the Privy Council there is certainty of finality, which is a great point. People do not enjoy going from appeal court to appeal court; that is a burden they would rather not bear. What is wanted by a litigant is finality, and, of course, success. He does not care about paying money in order to support the Constitution, or to support a High Court; his only desire is to win and gain money or avoid paying money. In 99 cases out of 100, I am sure that litigants will choose to appeal to the Privy Council. I say, without doubt, that under present conditions there will not be obtained for the High Court stronger men or better lawyers than are now in the Supreme Courts of the States. If we had a prospect of getting men of better calibre on the whole for the High Court than we have in the Supreme Courts, there would be a great deal to be said for the proposal of the Government. In the course of time, when our finances are in a better state, I have no doubt we shall be able to get as much competition and as many men to select from as there are in England. Owing to the strong tenure and the exalted position which the Supreme Court Judges occupy, there is no doubt that the position

attracts the best men at the bar. We have therefore to ask ourselves what is there to be gained by creating now a High Court? What is there that the High Court can do that the Supreme Courts, with the Privy Council over them, cannot do? I speak strongly because I know there has been a great deal of glamour and mystery about this matter. One would think that the Federal Constitution was something mystic, and not merely a means to an end—a means to order and progress. We do not want Judges to expand the Constitution; we want them to interpret it. It is with the people and not with the Judges, who are responsible to no one, that the expansion of the Constitution must rest. One of the greatest dangers is to commit to any bench—the members of which have their own idiosyncracies, and have no direct responsibility to the people—the moulding and shaping of the Constitution.

Mr. FOWLER.—Do not English Judges expand the law?

Mr. HIGGINS.—I think they unfold the law; I should not say that they expand it.

Mr. MAHON.—I know a few cases in which English Judges have expanded the law pretty considerably.

Mr. HIGGINS.—That may be so in Ireland, but I do not think that the judiciary in Ireland ought to be taken as a model for Australia. I know only too well how things are managed in Ireland. I feel I have taken up enough time. I merely wanted to indicate the three items of expenditure on which I do not feel justified in voting with the Government. I think, however, that the country is grateful to the Government for having administered up to the present the laws as they stand on the statute-book.

Mr. SKENE (Grampians).—After the very able speeches to which I have listened, dealing retrospectively with the work of the Government, I shall not add anything to the debate in that respect. I propose to confine myself to the speech of His Excellency, and only in such a way as to deal with general principles, leaving matters of detail until the various Bills are before us. I am very glad to hear the expression of opinion which came from so able a lawyer as the honorable and learned member for Northern Melbourne on the matter of the proposed High Court of Australia. I was further pleased to hear the able remarks which were made by the honorable member for Gippsland

to-day on the same subject. I regard this question simply from the point of view of economy, though I should not continue to do so if I thought the creation of a High Court would lead to any greater efficiency in the administration of the law. I attach great weight to the arguments which have been put forward in favour of the view that this court can be done without for a time; and, in passing, I may say that I think the creation of an Inter-State Commission might also be postponed. There is one matter which has so far not yet been touched on, and with which I wish to deal in a broad way. I refer to the proposal to introduce a Conciliation and Arbitration Bill. In this proposal, it seems to me, there is a very great principle at stake, and, so far as I know, there is no precedent for federal legislation of the kind. The laws of the United States are quoted very freely in this House, and naturally so, considering that we have practically adopted the Constitution of that country, and I think we may fairly look to the experience of that country to guide us in this matter. I shall not say anything at present in regard to the merits of courts of conciliation and arbitration, but confine myself to the desirability of confining their creation to State legislation. I find on reference to the excellent work of Quick and Garran, that there was great diversity of opinion in the Federal Convention as to whether the creation of these courts should be one of the subjects to be dealt with by the Federal Parliament. Quoting from Quick and Garran's book, I find that the present leader of the Opposition said—

He believed in the compulsory investigation of trades disputes by State authorities, but he was of opinion that the proposed sub-clause would tend to enlarge the area of trade disputes, for the reason that the employers or the men might be disposed to extend the area of a dispute, in order to get the advantage of having it settled by the Federal tribunal. The arguments presented in opposition to the proposal were—that to interfere with the State in the settlement of trade disputes would be an undue and unnecessary intrusion on the local industrial life of the State.

Mr. Wise, who is responsible for the passing of an Act of the kind in New South Wales, is reported as saying—

He did not think that it would be prudent to create a Federal court having authority to fix the rate of wages for the whole of Australia.

Turning to a very able American writer for whose opinions we all have great respect,

namely, the great late Professor Fiske, I find that, dealing with this subject, he said—

The chief problem of civilization from the political point of view has always been how to secure concentrated action amongst men on a great scale without sacrificing local independence.

The durability of the federal union lies in its flexibility. States so unlike one another as Maine, Louisiana, and California, cannot be held together by the stiff bonds of a centralizing Government.

It is in this complete independence that is preserved by every State in all matters save those in which the federal principle itself is concerned that we find the surest guaranty of the permanence of the American political system.

Those remarks were illustrated by certain legislation which had been passed in the State of California, and which, had the subject been one for federal control, would have become the law in the whole of the United States. The legislation was, however, confined to the one State, and after a few years, to use a homely phrase, it "fizzled out," without causing excitement in any of the other States. This is a subject we should approach very cautiously, and so far as I can see at present, experience, evidence, and argument are against the taking of this power out of the hands of the State Parliaments. The argument of the leader of the Opposition that employers or employees might push the matter so as to have the matter dealt with by the State authorities commends itself very strongly to me. In reference to the proposed agreement with the Admiralty, I am very much disposed to follow the Government lead; but there is one point which strikes me very forcibly, namely, the proposal, as I understand it, to do away with the torpedo boats. Even if we had a good strong squadron here, I think that to do away with the torpedo boats would be to create a hiatus in our line of defence which might lead to considerable suffering and loss. If there were no torpedo boats, and the squadron were ordered away, we should have only our forts and torpedoes to depend upon, and they would be practically useless against a vessel which could lie hull down off the coast and shell such a town as Sydney. The best authority I can quote on this subject is Captain Mahan, who in a very able article—as all his articles are—writing upon preparedness for naval warfare, says—

Coast defence implies gun power and torpedo boats; but coast defence, though essentially passive, should be an element of offensive force local character. This offensive element of coast

Skene.

defence is to be found in the torpedo boat in its various developments. There should be a local flotilla of small torpedo vessels which, by their activity, should make life a burden to an outside enemy.

He goes on to quote a distinguished English admiral, now dead, to the effect that the conditions of modern warfare, owing to the invention of torpedo boats, are such as are calculated to drive the captains of a blocking fleet crazy. We require, in the first place, heavy gun power within our forts, and in addition, torpedoes. Ships in motion are, like birds on the wing, not easily hit, and it has been demonstrated that fast ships can often steam past a fort almost without injury. Captain Mahan, therefore, lays it down very plainly that coastal defence is not sufficient without some sort of aggressive power which can be used to raise a blockade or to disturb a ship which may be shelling a town, perhaps with smokeless powder, from a great distance. Perhaps the Prime Minister can tell us whether the torpedo boats are to be done away with.

Sir EDMUND BARTON.—I do not think that that has been decided.

Mr. SKENE.—At the end of last session I dealt with this matter from another point of view. At that time the Minister for Home Affairs was administering the Department for Defence, in the absence of its proper head, and I asked him what was to be the position of the men who are now engaged in our local defences. I understand that there is nothing in this agreement to provide for these men, who have spent a good part of their lifetime here, and I gathered that that arm of our defence force was to be done away with altogether. I admit that it is necessary that a squadron should be free to be sent about anywhere within southern waters; but, in addition to our forts, we must have a fleet of light torpedo boats for coastal defence. Captain Mahan puts forward a very strong argument for the employment of torpedo boats. He says that—

In such a flotilla, owing to the smallness of its components and to the simplicity of their organization and functions, is to be found the best sphere for volunteers. The duties could be learned with comparative ease, and the whole system is susceptible of rapid development.

He points out that the largest warship could be built before you could train men to manage her, whereas men can readily be trained to take part in the defence of

the coast by means of torpedo boats. So far as the general question is concerned, I may say at once that I will support the agreement, but that I should be very sorry to see the boats that are here now done away with, unless they are to be replaced with others. The Prime Minister last night referred to the attitude taken by Canada. I agree with him that Canada, so far as outsiders can form an opinion, has not taken a very broad view of this question. I hope, however, that that country will yet see its way to accept the idea that the British navy should be used for the general protection of the Empire. The position of Canada has been very clearly dealt with by Captain Mahan, so that I cannot understand the view taken in that country. Writing at the time of the Behring Sea disputes, he said—

It is upon the Atlantic seaboard that Great Britain will defend Vancouver and the Canadian Pacific. In the present state of our seaboard defences she can do so absolutely. What is all Canada compared with our exposed great cities? What harm can we do Canada proportionate to the injury we should suffer by the interruption of our coasting trade and the blockade of Boston, New York, the Delaware, and the Chesapeake.

Those words apply, not only to the position of Canada, but to that of other countries. The best way to defend ourselves is to be ready within reasonable limits to pursue an offensive policy. The matter of preferential trade is hardly brought by the Governor-General's speech within the arena of practical politics. It may do for us to fall in with some arrangement of the kind, but I cannot see how the telegraphed report of Mr. Chamberlain's speech, which is all we have as yet before us, can be taken to convey its full meaning. When Mr. Hofmeyer, the leader of the *Africander Bond*, made the suggestion, long before the Boer war, that a tax should be placed upon foreign goods for the maintenance of a fleet, it was pointed out by Sir Edward Giffen that the people of Great Britain would have to bear most of the cost, and that the colonies would get off with very little. That was the burden of the song all round. We were told that the home country could not afford to put us into the position of which Mr. Chamberlain seems to approve. I have here a telegraphed report of a speech delivered by the Prime Minister in Vancouver, and I do not think honorable members will be disposed to adopt the view there put forward, though, of course, the report may not

be absolutely correct. It is taken from the *London Weekly Times*, and reads as follows :—

Referring to the preferential Tariff question, Sir Edmund Barton said that Australia would favour the mother country not by concessions from the existing Tariff, but by imposing duties on foreign goods, principally on those from Germany and the United States.

Sir EDMUND BARTON.—I never said anything in any speech which amounted to expressly indicating that Australia would take a certain course.

Mr. SKENE.—I am quoting from a short report telegraphed to the *Times*, through Reuter's agency.

Sir EDMUND BARTON.—I never pledged Australia in any way or at any time.

Mr. SKENE.—I do not regard the words I read as a pledge, but as an indication of a policy which I do not think Great Britain would be likely to accept, or that we would accept. With regard to the six hatters' question, which has been so ably dealt with, I desire to say that, like most other honorable members, I had no idea that the Act could be used in the way in which it was used. I find, on referring to *Hansard*, that the honorable member for Bland was the first to propose the provision under which action was taken, and he did so for the reason that it would

cover most of the classes of labour likely to be affected through people being inveigled into unfair agreements in ignorance of the conditions obtaining in Australia.

The Attorney-General, who is responsible for the nice way in which the committee was led on, would not accept the proposal without this proviso—

Provided that this paragraph shall not apply to workmen exempted by the Minister for special skill required in the Commonwealth.

Everything turns upon the words "required in the Commonwealth," but, read in conjunction with the remark of the Attorney-General, honorable members were justified in the view that the provision would not do very much harm. The honorable gentleman told us that—

It is necessary to make provision to permit skilled labourers to enter the Commonwealth if they are of such a character as to be able to add to the industrial wealth of the community.

Therefore I take it that the question to be decided when the men arrive here is simply this—"Were they skilled workmen?"

Mr. TUDOR.—Under that interpretation of the Act you could crowd the place with

skilled workmen and turn out those already here.

Mr. SKENE.—That is another aspect of the matter. When the honorable member for Bland moved the insertion of the provision, he did so in the interest of people who are not here now, but who may be coming here, so that they might not be inveigled through ignorance into entering into a wrong agreement. The Prime Minister read into the provision another intention—the intention to protect men already here.

Sir EDMUND BARTON.—Only so far as the words “required in the Commonwealth” necessitated an interpretation.

Mr. DEAKIN.—One must regard the conditions of the Commonwealth in order to discover what is required in it.

Mr. SKENE.—Such an inquiry, to be of any use, would have to be most exhaustive. The Prime Minister required an affidavit.

Sir EDMUND BARTON.—No. What I said was that some statutory declarations were laid before me.

Mr. SKENE.—The Prime Minister, in speaking upon this matter at Hobart, on 14th February, is reported to have said—

He would explain the circumstances connected with the six hatters. The law which he was charged to administer said that he must satisfy himself that the persons who came to Australia under contract were only to be admitted if they possessed the skill that was required in the Commonwealth. It was the duty of the gentleman into whose employment the immigrants were going to satisfy him (Sir Edmund Barton) by affidavit or otherwise on that point.

Sir EDMUND BARTON.—“Affidavit or otherwise.” What I received were statutory declarations, which are not sworn. I received no affidavits.

Mr. SKENE.—The point I wish to make is that a statutory declaration or an affidavit contains the opinion only of one man, which is not much evidence as to the requirements of the Commonwealth. I was quite satisfied with the explanation of the Prime Minister with regard to the reasons why information was asked for regarding the necessity for importing skilled labour, but my recollection is that after Mr. Anderson had given the necessary assurance he was required to show that he had advertised throughout the Commonwealth for men, and that he had used every effort to find out if the necessary labour were available in Australia before taking measures to

import workmen. I understood that this was done by the Prime Minister.

Sir EDMUND BARTON.—My recollection is that Mr. Anderson was not asked to do anything of the kind, but that he came forward and acted very properly. He should have supplied us with the information six or eight days before.

Mr. SKENE.—No doubt the provision may be regarded as one for the protection of the workmen who are already in the country, but it is not fair that any undue restriction should be placed upon the introduction of skilled workmen who may be necessary for the purpose of carrying on our manufacturing industries with success.

Mr. TUDOR.—Does not the honorable member consider that the people of this country are entitled to some protection?

Mr. SKENE.—I differ from the view taken by the honorable member, because I think that there should be no obstacle to fair competition between British subjects. It is not fair that a State like New South Wales, which desires to start a new industry, should be limited in its selection to the cast-off workmen of other States.

Mr. MCCAY.—But no such limit was imposed. As soon as it became apparent that these men were needed they were admitted.

Mr. SKENE.—With reference to the point raised by the honorable member for Tasmania, Sir Edward Braddon, I notice that during the debate upon the Immigration Restriction Bill the honorable and learned member for Northern Melbourne said—

There is no desire to exclude men who voluntarily seek to make their home here for the purpose of engaging in manual labour or anything else, so long as they belong to a civilized white race and are themselves desirable immigrants. As I understand it, we have never in Australia taken up that narrow view of saying that we must keep Australia for ourselves and our children.

I do not know whether that expresses the view of the honorable member for Yarra.

Mr. TUDOR.—All I want is that all immigrants shall come as free men.

Mr. REID.—Then the judge who recently came from England to Western Australia was not a free man?

Mr. SKENE.—I do not think the attitude taken by the honorable member for Yarra is a sound one. If we are to obtain skilled labour from other parts of the world, we should obtain the best, and the best men will not leave the old country

unless we give them some guarantee of work when they arrive here.

Mr. PAGE.—The leader of the Opposition told us that any agreement that might be entered into was valueless.

Mr. REID.—I said that the agreements had no effect the moment the men landed in Australia, if they were contrary to the law.

Mr. SKENE.—A question was raised as to whether the men came here under agreements embodying terms prescribed by the trades unions. It appears that there was no infringement of the trades union rules in their agreements, but I do not see why that should in any way influence the action of the Federal authorities. The States have different laws relating to labour questions, and we find that in Victoria the value of labour is fixed to some extent by the minimum wage provisions of the Factories and Shops Act, but the Prime Minister should not be placed in the position of practically dictating the labour conditions under which men should be admitted into the Commonwealth. Still less should he be subject to any dictation on the part of the trade unions. So much has been said regarding this question that I need not dwell upon it any further than to remark that I shall be glad to take advantage of the opportunity which I understand the leader of the Opposition intends to give us to vote for a repeal of this law.

Mr. McCAY.—The honorable member for East Sydney has not said that.

Mr. SPENCE.—He wants to make the law more drastic.

Mr. REID.—Let me speak for myself. By the time that all honorable members who desire to do so have spoken for me I shall be charged with inconsistency.

Mr. SKENE.—A matter outside of the speech to which I wish to refer is the disorganization of the mail service during the recent strike in Victoria. It seems to me that if there is no power within the Constitution at present to enable the Government to step in and insure the carriage of the mails, some authority should be sought by the Federal Government. I find that in the United States there is no such thing as a stoppage of the mails. No matter what strikes may take place, the Federal authorities there have the necessary power to secure the carrying out of all contracts connected with the postal service. If we do not at present possess power we should acquire authority

in some way. Quick and Garran, in their *Annotated Constitution of the Australian Commonwealth*, referring to the position of the Federal Government of the United States in this connexion on page 964, say—

If domestic violence within the State is of such a character as to interfere with the operations of the Federal Government, the Federal Government may, without a summons from the States, interfere to preserve order. Thus, if a riot in a State interfered with the carriage of the federal mails, &c., the Federal Government could use all the force at its disposal not to protect the State, but to protect itself. These principles were conclusively settled in the United States in 1895.

If during the recent strike in Victoria an application had been made to the State Government by the Federal Government, the rolling stock and other railway plant and material necessary for carrying the mails probably would have been supplied to them, and the postal service might have been continued without interruption. I quite approve of the attitude taken by the Prime Minister in connexion with the recent strike, because the policy of non-interference on the part of the Federal Government left them free to act impartially in the event of any application being made to them for their assistance in an extremity. But the federal authorities occupy a very humiliating position when they are powerless to prevent the stoppage of mails through strikes or other labour disturbances. During the recent strike a train started from Adelaide on Friday night, and did not reach here until Tuesday morning.

Mr. JOSEPH COOK.—Has the United States Government ever exercised its power with regard to the conveyance of mails?

Mr. SKENE.—I do not think it has ever been found necessary to exercise it. There has never been a stoppage of the mails.

Mr. JOSEPH COOK.—Oh, yes; they have been stopped many a time through strikes, and the power referred to by the honorable member has never been exercised by the federal authorities.

Mr. SKENE.—The United States Government may not have exercised its powers, but I think it is due to us that some control similar to that which they can exercise if they choose should be vested in the Federal Government. I do not know whether the State Government is under any penalty for a breach of contract in connexion with the carriage of mails, but I know that very serious

penalties are incurred by mail contractors in the country, and that they have no redress, however unfortunate may be the conditions in which they are placed through drought or other adverse circumstances. In any case some means should be adopted for obviating a recurrence of difficulties such as those experienced in Victoria recently. I need not deal any further with this matter. The Governor-General's speech indicates that a large number of measures are to be brought forward for our consideration. We are to be called upon to deal with a Bill providing for the incorporation of New Guinea as a territory of the Commonwealth. I have been altogether opposed to any such course, and if we could honorably do so, we should retrace any steps that may have been taken in that direction. I fear that if we take over New Guinea, we shall be brought face to face with a very serious race problem in the near future. There are 350,000 natives in New Guinea, and I am afraid that we shall experience difficulties similar to those which beset the Cape Government in connexion with the control of Basutoland. That Government found it desirable, after having assumed control of that territory, to hand it back again to the Imperial Government, and I understand that they now contribute £18,000 a year towards the expenses of governing it as a Crown colony. It will also be a serious matter for us to depart from the conditions under which we now find ourselves in regard to having a continuous sea-coast border line. If we incorporate New Guinea within the Commonwealth, we shall have 1,500 miles of boundary line contiguous to nations which are on the whole hostile to us, and we can easily imagine the possibility of serious complications arising under such circumstances. However, I do not consider it necessary to deal with these matters at any greater length at present. I shall take the opportunity when they are submitted to us in detail to discuss them more exhaustively.

Mr. HUME COOK (Bourke).—I do not know that we can quarrel with the quality of the work outlined in the Governor-General's speech, but I think that we may very well ask for a reduction in quantity. During last session a great deal of discussion took place upon measures which were eventually abandoned, and the whole of the time devoted to them was virtually wasted. I

have no objection to devoting attention to measures which we have a reasonable prospect of passing, but it is requiring too much of honorable members to ask them to spend night after night discussing measures which in the end are set aside for lack of time. It would be wiser, under the circumstances, for the Government to reduce the work of the session to the smallest possible proportions, and to confine attention to Bills which it is absolutely necessary to pass before the expiration of the present Parliament. I propose to deal briefly with a few matters which in my judgment are worthy of special notice. The administrative work of the Ministry has been the subject of several compliments, and I think that we should specially recognise the splendid services which the Attorney-General rendered by his advocacy before the Full Court of Victoria of the interests of the Commonwealth in the Customs case which was recently decided. The very great importance of the services he then rendered, and of the decision which he was instrumental in obtaining can hardly be overestimated. I think it is due to him that we should mention the appreciation which we individually feel for the very fine work indeed which he did upon that occasion. I wish also to commend the Government for the stand they have taken with respect to one or two matters relating to assurance, which were mentioned here during the course of last session—matters in which I was particularly interested. It will be within the recollection of honorable members that I submitted several motions in reference to them, and I am exceedingly glad that there will now be no necessity to deal any further with two of them at least. I asked that the Government should take in hand the work of guaranteeing its own officers. I urged that the Government itself ought to create a fund into which guarantee premiums could be paid, and out of which any losses might be made good. This has now been done, and I think that the Ministry are to be complimented upon the step which they have taken. It is one which will eventually be commended upon all hands, and one which must bring about very good results. I understand, too, from a letter which I have received from the Prime Minister's department, that it is proposed to institute a system of fire insurance in connexion with the properties and plant of the Commonwealth. These two systems

to which I have referred have already been practically adopted, perhaps there may be some hope for the proposal which I put forward last year in regard to the establishment of a Commonwealth Life Insurance Department. That of course is a very much larger order. It is a subject upon which there may be very wide differences of opinion, but it is within the recollection of honorable members that last session the principle was defeated only by the narrow majority of one, and the probability is that if the issue were made a direct one, the proposal would be carried. Under these circumstances I trust that the Government will anticipate any motion upon the subject and declare in the readiest manner possible what their proposals are. Perhaps one of the most important statements made during the debate was that of the leader of the Opposition last night in regard to his policy concerning the Tariff. Honorable members upon the protectionist side of the Chamber had hoped that that matter had been definitely settled for some time at least. Personally I do not think that it should be touched again during the whole of the book-keeping period. But, from the right honorable member's statement, it appears that some of the items of the Tariff are to be made the subject of contention at the next general election.

Mr. THOMAS.—We ought to have free timber.

Mr. HUME COOK.—The trouble is that if the Tariff be re-opened at all, every honorable member who is interested in any particular item will want the duty upon it reviewed, and there will be no means of preventing that from being done. For example, I might desire to see an increased duty upon nails, just as the honorable member for Barrier might wish to have mining timber placed upon the free list. But, though I was very sorry to hear the declaration of the leader of the Opposition, I am hopeful that now we understand exactly what he proposes, the result may be placed beyond doubt. As far as I can understand the electors of Australia, free-traders and protectionists alike, are heartily sick of the Tariff question for the present. Therefore I hope that the electors will see that that matter will be left severely alone for a certain period at any rate, so that that peace may be conferred upon the community which is necessary to commercial prosperity. In the

Governor-General's speech a passing reference is made to the recent great utterance of the Secretary of State for the Colonies. No further reference could be made to it in that deliverance, especially as the Government do not propose to re-open the Tariff question. At the same time it is encouraging to find a great statesman like Mr. Chamberlain at last indicating that he will put forward some proposition in respect of the matter of preferential trade. I do not know that we can give a preference of 5 or 10 per cent. to all classes of British goods. I have carefully thought the matter over, and it appears to me that the only way in which it could be dealt with effectively, would be by scheduling three or four items of commerce which might be advantageously admitted to Australia, and a similar number of articles which might be thus admitted into Great Britain. Amongst our chief exports are such articles of commerce as meat, wine, hides, tallow, and possibly wheat. These might be scheduled, and admitted to Great Britain at a lower rate than would be charged upon similar articles coming from the continent and elsewhere. On the other hand, there are items which would correspond to the export value of those I have mentioned, and which might be admitted into Australia. Of course it is a matter for mutual arrangement but in that way I think we might arrive at the efficacy and practicability of reciprocal trade. I do not think that we should give any general preference to British goods, because a difficulty will always arise as to their origin. We know perfectly well that quite a number of articles which are imported as British goods are not made in Britain at all. They are made in Germany and elsewhere, and simply pass through commercial houses in the United Kingdom. By a system such as I have suggested, we could admit articles which are known to have been manufactured in Great Britain as a *quid pro quo* for the admission of certain articles from Australia into Great Britain. If the latter country is prepared to give us a preference representing £500,000 or £600,000 worth of her trade, we should be prepared to reciprocate. It is merely a matter of adjustment between the two countries. The question of the establishment of a High Court has been discussed at some length. As a layman I am not the best qualified to express an opinion on the

subject, but I do feel that there is a necessity for the establishment of that tribunal. I am therefore inclined to follow the Government, notwithstanding what has been said by such able lawyers as the honorable and learned member for South Australia, Mr. Glynn, and the honorable and learned member for Northern Melbourne. Next to the Judiciary Bill the most important measure referred to in the Governor-General's speech is the Conciliation and Arbitration Bill. For the most part I indorse all that has been said in reference to that measure, and I hope to witness its speedy passage into law. Legislation of the character promised is in the interests of commercial peace, and will make for prosperity amongst all classes in Australia. What will prove the chief topic of discussion, and the principal cause of disension during the present session is the naval subsidy. By listening to what the Prime Minister had to say to a Melbourne audience upon this subject, and by reading all that I possibly could in regard to it, I have endeavoured to arrive at its true bearings, but I am not yet convinced that the Government have adopted the right policy in this connexion. I feel that at this stage we are about to establish a precedent which, if followed to its logical conclusion, must lead to further contributions towards supporting the Imperial Government. To my mind there is another ideal at which we should aim—namely, the control and management of our own naval forces, seeing that we have to find the money for our own defence. Though I do not definitely commit myself to oppose the Government in this matter, I feel very grave doubts as to whether they are asking us to take the right course, and I shall, therefore, reserve my decision until the Bill is actually before us. It is worthy of notice, however, that, though we are told by the Prime Minister that the Commonwealth has not been committed to anything until Parliament ratifies the agreement arrived at, the additional sum which Australia is asked for has been placed upon the British estimates.

Sir EDMUND BARRON.—Not the money which this House is asked to vote.

Mr. HUME COOK.—The additional sum which we are asked to vote has been included in the Estimates submitted to the House of Commons, with an explanatory note to the effect that this money is expected

to be received in accordance with the promise of the Prime Minister. It is also worthy of remark that men like Sir Charles Dilke and others affirm that this additional sum of money is of no value whatever to the British people. I cannot quote the exact phraseology, but the effect was that the spontaneous offering of the Commonwealth, and of the various States in connexion with the African war, were of value, while the sum of money now asked for was of no value. I am inclined to agree with that opinion, because it is not exactly a question of money, but a question of principle. My aim is that all expenditure of money on our own defences should be controlled by ourselves, and that the men to be paid with that money to manage our ships should be Australians. Whether we take these ships for our defence on lease, licence, or conditional purchase, they should be officered and manned by Australians receiving Australian money, and under the control of the Australian Parliament, rather than the control of some other body thousands of miles away. That is my present opinion, which I shall venture to voice and maintain until I hear good reason to the contrary. Such a policy would do much more towards fostering a genuine patriotic sentiment in our naval defence force, than could possibly be created amongst Britishers imported in ships which do not belong to us, and receiving our money merely in order to carry out a contract. We desire to stimulate an Australian feeling and sentiment in respect to Australian affairs, and that sentiment cannot be purchased, but must be created by giving a live and genuine interest in our own concerns. There is another matter in connexion with the defences on which I should like to say a word or two. I was not altogether pleased or satisfied with the action of the Ministry in an episode connected with the Easter encampment. It will be recollected that as a result of the orders of the general officer commanding, two of our most highly trained and respected volunteer officers have asked to be placed on the retired list. Both are citizen soldiers, one with eighteen years' experience, and the other, I believe, with 24 years' experience. So far as I am able to judge, both were quite fit to take command of a battalion or brigade at the encampment, and being senior officers they were, as I read the regulations, entitled to

do so. But owing to some idea which the general entertained as to their incompetency to give instructions in camp, they were passed over, and a junior officer appointed. The volunteer officers naturally enough felt aggrieved, and protested ; but the Ministry, unfortunately, felt obliged to support the general officer commanding. A most regrettable result is that the services of these two officers are lost to the Commonwealth. It is deplorable that after men have given years of volunteer service at a cost to themselves of not only labour and time, but also of a good deal of money, they should by reason of what they conceive to be an affront be compelled to retire. Had a strong stand been taken by the Ministry there might have been a different result. At this stage I do not wish to say more, because the question will arise again in connexion with defence matters, when the subject of a citizen soldiery is being discussed. I am not devoting any more than passing attention to the men concerned ; it is the principle underlying their retirement and the slight put on the citizen soldiery which affects me. In the first Governor-General's speech we were promised that in the Defence Bill special care would be taken by the Government to avail themselves of a citizen soldiery. Emphasis was laid on that in the speech, but the first Defence Bill did not disclose any great evidence of the fulfilment of the promise, and the episode to which I have referred tends to show that the Imperial idea and regular soldiers are to have the consideration of the Ministry rather than the Australian idea and citizen soldiers whose conduct has been so lauded. The last, but by far the most, important point in the Governor-General's speech to which I wish to direct attention concerns the finances of Australia. The Federal Parliament has been charged outside with passing Acts which tend to increase the burden of debt borne by the people of Australia. No later than to-day it was pointed out in debate that the expenditure is increasing, and that some of the benefits which federation was to bring about are not yet in evidence. That is quite true.

Mr. DEAKIN.—The Sydney *Daily Telegraph* expresses the opinion to-day that at no point can the Commonwealth be charged with extravagance.

Mr. HUME COOK.—Federal expenditure and federal extravagance are two

different things, and I think the Sydney *Daily Telegraph* is right when it says we cannot be charged with extravagance, though it may be successfully maintained that the expenditure is increasing. But there must necessarily be an increase of expenditure when new departments and officers are created and new work undertaken. The proposals for a High Court, a naval subsidy, an Inter-State Commission, and the appointment of a High Commissioner, all prove that there is very soon to be increased federal expenditure. As one who strongly advocated federation, I feel I am not keeping my contract with the people whom I asked to support the Bill. We are not making some of those savings which I believe can and ought to be made. When the Constitution Bill was before the people, it was freely stated by the advocates of federation that by its adoption large sums would be saved. I then believed that to be so, I believe it now, and I was honest in advocating the Bill ; but up to the present we have not seen any great evidence of those savings. The only direction in which any reduction has taken place is in the military estimates.

Mr. TUDOR.—The expenditure is no less than under the State Legislatures.

Mr. HUME COOK.—Speaking from memory, I think that in the pre-federation days the expenditure was about £860,000, and is now about £700,000, showing a saving of £160,000. But the whole of that saving will be more than eaten up if the proposals for a High Court, a naval subsidy, and other matters have to be provided for. In view of these facts, what are we to do to keep faith with the public as to the savings to be made? My opinion is that the savings ought to be effected by consolidating the loans of the several States. Almost every speaker in the course of this debate has made reference to the matter, but only two ideas have been put forward, first that there should be consolidation, and next that there should be restriction on future borrowing by the States. No suggestion has been made, however, as to how the consolidation should take place or how the restriction should operate. With consolidation there should, in my opinion, be some restriction, but not the absolute restriction indicated by the honorable and learned member for Northern Melbourne. It would be ridiculous to tie up the States and render it impossible for them to borrow, seeing that

they have had left to them matters of internal development and of social and domestic legislation which must necessarily entail the raising of loans in the future. The States have work to do which, as I say, can only be done by further borrowing, though, on the other hand, almost all the States have now borrowed up to what may be called the limit of their powers. Taking it for granted that the loans are to be consolidated, the restriction should take the form of limiting future borrowings on a population basis; that is, any future debts contracted by the States might be at the rate of so much per 100,000 inhabitants. If that were taken as the basis for Victoria, and the raising of £1,000,000 allowed, for each 100,000 people, the future borrowing power of the State would amount to another £10,000,000. I do not think Victoria should borrow that amount, or any amount, I merely use these figures for illustration. The idea of a population basis may not be wholly scientific, but at any rate it is sound and safe. Other elements must necessarily enter into consideration. There are possibilities of development in some States which are not in evidence in other States; but in the last analysis we come to the conclusion that the individuals composing the State have to pay the interest. On the units depend the burden; and if the population increases the State debts may increase, but if the population does not increase there must be no further borrowing. All future State borrowing should, in my opinion, be done through the Commonwealth. If the Commonwealth is going to take any interest in the matter at all, it has a right to see that the conditions as to the restriction are enforced, and there is the more special reason that if the loans are floated through the Commonwealth agency, we shall be able to avoid conflict between State and State and between the States and the Commonwealth in the money market. Such regulations would all tend to the benefit of the States. The position seems to be, taking the Premiers' conference as a guide, that the Premiers of the States are anxious for the Commonwealth to take over the debts of the States, and to have unrestricted borrowing powers. What then should be the position of the Commonwealth? Under the Constitution, the Federal Parliament may act in this matter upon its own discretion; there is no obligation upon it to act. That

being the case, this Parliament will probably not interfere until it is asked to do so by the Governments of the States concerned. When the States learn that by utilizing the credit of the Commonwealth they can obtain an advantage which their own credit will not give them, they will probably be prepared to submit to the conditions which we shall seek to impose upon them, and we shall be entitled to impose conditions and restrictions if we lend them our credit, because credit is capital, and will be proved to be so, when the consolidations and conversions of State loans take place. Let us therefore consider what are the advantages of consolidation and conversion, and how they may be brought about. The opinion is held by a large number of people that a conversion cannot be brought about until the due date of the loan concerned, or somewhere near that time. That is a fallacy. I think the Commonwealth could begin the conversion of the State debts at any time, and convert any amount of indebtedness it, in its discretion, chose to so convert. That being so, the States could at any time obtain the advantage which the use of the credit of the Commonwealth would bring to them. I do not know that many people recognise how much profit there is to be obtained by the conversion of State loans. I hold—I may be wrong—that the Commonwealth could immediately begin to convert £100,000,000 of State debts. In converting that amount of State indebtedness there would be a very substantial initial profit. The average interest paid on the States' debts to-day will be found upon careful analysis to be something like 4 per cent. Now, if we take the Canadian figures as a basis, the Commonwealth Government could convert the States' debts upon an interest charge of $2\frac{1}{2}$ per cent. To be on the safe side, however, I will put the interest charge at 3 per cent., and the difference of 1 per cent. would give a clear saving upon £100,000,000 of £1,000,000 per annum. That saving could be very largely supplemented by the profit to be made by the conversion. From an analysis of the Australian stocks upon the London market at the present time, it will be found that the average ruling price is about £92 or £93. That is fairly high as stocks go, but I make bold to say that Commonwealth stock would probably bring £97 or £98, a difference of £3 or £4 upon every £100. That would give, in the conversion of £100,000,000 of stock, a clear

profit less charges and expenses of some £3,000,000. That being so, I marvel that the States do not immediately ask the Commonwealth to lend them its credit, so that the advantages I have pointed out may be obtained. But though those advantages can be obtained—

Sir LANGDON BONYTHON.—Not now.

Mr. HUME COOK.—I think so. Perhaps the advantage would not be so great at the present time, but the gain upon so large an amount in any case would be very substantial. I think, however, that the £3,000,000 or £4,000,000 of profit should not be handed back to the States' Governments to spend as they like, but should go to the immediate redemption of the States' debts, the total amount of their indebtedness being reduced by the profit secured. That would be the first step. The next step would be the creation of a sinking fund, such as has been outlined by the Attorney-General in his reply to the Premier of Victoria. There are several ways of creating a sinking fund, and some of them are open to objection. It is suggested that the States should be asked to pay so much per annum out of their revenue account towards a sinking fund which would gradually reduce their indebtedness, but I think that if that were done it would probably be found in the working out of the scheme that the States would actually be paying more than they are now paying. My suggestion is that the difference between the rate of interest which the States are now paying, and the rate which will have to be paid for the Commonwealth loan should be devoted to the creation of a sinking fund. If the average rate of interest now paid is 4 per cent., and the average rate charged on Commonwealth stock is 3 per cent., the States would contribute 1 per cent. towards the gradual reduction of their indebtedness, and yet they would not be paying any more money on the whole than they now pay. That contribution should be vested in a board of commissioners, who would not be subject to the control of either this Parliament or of any of the Parliaments of the States. They in their discretion should have the right to purchase States stock, or otherwise invest the money intrusted to them as they deemed most profitable and fitting. Thus two benefits would accrue to the States from the conversion of their loans. They would benefit in the reduction of their indebtedness by the amount of the

profit made by the conversion, and they would gain in the gradual reduction of their indebtedness through the medium of a sinking fund created and used in the way I have indicated. I do not suppose that matters of this kind will be dealt with during the present session, but I feel that it is not exactly a waste of time to discuss methods of conversion and the proper conditions and restrictions to be imposed upon the States in connexion with them, because public opinion must be educated on the subject, and we must have the support of the people outside before any economic proposals can be put forward. The Commonwealth is in the position of being able to render the States a great financial service, but in doing so it is entitled to impose conditions and restrictions such as I have outlined. All these matters should be placed before the public, and therefore, although the subject has not been given great prominence in the Governor-General's speech, I have ventured to put forward two or three suggestions in regard to it in the hope that they may form the basis of further consideration. Having said so much, I will conclude by repeating that, until some of the great and substantial savings which were promised to the electors when they were asked to accept the Commonwealth Bill have been obtained, we shall not have kept faith with them. Until this be done, this Parliament will hardly have justified its existence, notwithstanding the fact the federation is growing in favour with the public, and that there is an increasing disposition to clothe the federal authority with greater powers and privilege. As a Legislature, the people are getting greater confidence in us, but our chief aim must be to secure those financial and economic advantages for which federation was primarily adopted. Until we do that, we shall not have made the progress we hoped for, nor have kept our promises to the electors.

Mr. F. E. McLEAN (Lang).—I find myself in agreement with a great deal which the honorable member for Bourke has said, though at the outset I differ from him as to the inadvisability of reopening the Tariff question in connexion with the approaching elections. I do not see how it is possible for honorable gentlemen who have taken a vigorous stand against many of the duties in the Tariff to recede from their position, and accept it as a fair compromise

between the opposing doctrines of free-trade and protection. However much we may have hoped at one time to settle the fiscal question during the first Parliament, no honorable member who took part in the discussions of last session, can have any reasonable hope that the question has been finally settled. I do not wish at this stage to advance particular arguments in favour of the re-opening of the matter, but it appears to me that the high feeling which prevailed during the discussion of the Tariff in this Chamber, and the evident dissatisfaction shown in the States at the result of our labours, make it abundantly clear that it must be reopened, and that a more satisfactory settlement must be obtained before anything like fiscal peace can rule throughout the Commonwealth. I hope, however, that when the question is again referred to the electors, and dealt with in Parliament, we shall, after reasonable deliberation and discussion, reach a settlement which will last for some years. The programme placed before us by the Governor-General brings very forcibly to mind the fact that we are very far from having accomplished the constructive work of federation, and that a great deal remains to be done before the federal machinery can be said to be in complete working order. I listened with a very great deal of attention to the speeches of the honorable and learned member for South Australia, Mr. Glynn, and the honorable and learned member for Northern Melbourne. They advanced very strong arguments in favour of the House pausing before committing itself to the great expense involved in the creation of a High Court. I am not prepared to express off-hand a definite opinion upon the subject; but such a pretentious establishment as it was proposed to create does not seem to be called for by the necessities of the situation, and in view of the very serious financial strain which the people of the Commonwealth have been labouring under during the past year or two, we should be very slow to commit them to any huge expenditure which is not absolutely necessary. I think that Ministers are deserving of very great censure for having allowed the citizens of the Commonwealth to remain for so many months without any legal redress against the Federal Government. The passage of an Act of Parliament at the close of last session conferring federal jurisdiction upon the States' courts seemed to

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constitute a sort of death-bed repentance on the part of the Government for long neglect of what should have been one of its first duties. We are assured by the Government that an early opportunity will be offered Parliament for considering the report of the commission appointed to inquire as to the sites most suitable for the federal capital. I cannot congratulate the Government upon the measures they have adopted to carry out the compact between the States regarding the federal capital. There was absolutely no reason why the commission, if necessary, should not have been appointed within six months of the assembling of Parliament, but fully eighteen months elapsed, and it was only at the expiration of last session that a roaming commission was appointed to obtain evidence which was already in the possession of the State Government. The commission should have been appointed at least twelve months before, so that the results of its deliberations might have been placed before the Parliament within a reasonable period. It is to be hoped that the Government will be true to their promise, and push on the selection of the federal capital site as a matter of urgency. I find myself in agreement with the Government and with the leader of the Opposition in the matter of the proposed subsidy to the Imperial navy, and I altogether dissent from those who think that we should at this stage take upon ourselves the responsibility of forming an Australian navy, with all its attendant huge expenditure. I believe that questions of defence must necessarily assume an Imperial aspect so long as we remain a part of the British Empire, and I am certain that it is the desire of this Parliament, and of the vast majority of the people of the Commonwealth, to remain a part of the Empire. I am satisfied that our most efficient means of naval defence will be provided by an Imperial squadron stationed in these waters, and it is our duty to the Empire and to ourselves to contribute as liberally as circumstances will permit. I know that Sir Charles Dilke, and others, have urged that a contribution of £200,000 would be a paltry one, and that it would not materially help the Imperial Government, but I believe that in our present circumstances that amount is quite as large as the people of Australia are able to afford. We cannot burden the Commonwealth in these early days of its career with any extravagant expenditure,

but I think we are bound to respond to the demand made upon us by the Imperial Government to contribute somewhat more liberally than in the past towards the maintenance of an efficient squadron in Australian waters. It has been urged by some honorable members that we should endeavour to create the nucleus of an Australian navy, that we should have our own ships and our own sons manning them. It is held that, in this way, we should build up a patriotic sentiment. But I would ask honorable members what they understand by those words? It seems to me that every loyal Australian is a loyal Briton, and if our sons show their loyalty by desiring to serve in the Imperial naval service, they will be manifesting just as high patriotism as if they entered an Australian naval service. In this matter we must stand or fall together, as part of a great Empire, and the true patriotism we ought to encourage in our sons is one that will not be bound by geographical limits, but will embrace the whole Empire of which we form a part. It has already been pointed out that to create even a small Australian navy, which would probably be inadequate to the service demanded of it, would require a large initial outlay. I am not prepared to say how much, but, knowing what we do of the large expenditure involved in the construction of first-class battle ships, we can realize that some millions would be required to provide vessels, and that we should then have to incur very heavy expense for maintenance. If we can enter into an arrangement with the Imperial Government to give us an efficient squadron, we shall make an excellent bargain, and secure for the smallest amount of money the best service we could have. I understand that an arrangement has been made by which Australian youths can derive the full benefit of training in the Imperial navy.

Sir EDMUND BARTON.—There are provisions in the agreement by which the crew of one of the second-class cruisers shall consist wholly of Australians and New Zealanders. There are also provisions that the minimum crews of three training ships shall be Australians and New Zealanders, and that their reserves shall be similarly constituted, so that with active sailors and reservists we shall have about 1,600 Australians and New Zealanders among the men required to fully man the squadron.

Mr. F. E. McLEAN.—The provisional arrangement, entered into subject to the approval of Parliament, must commend itself to us on the ground of economy, and as one that is just and equitable. We are bound by every consideration of Imperial patriotism to contribute to the defence of the Empire. Even if it were possible for us to provide a fleet for our own defence, the obligation would still rest upon us to contribute if we could towards the maintenance of the Imperial navy, and the defence of our great trade routes and interests in far distant waters. I believe that in a general way our highest duty to the Empire is to be discharged by our looking after that portion of it which has been committed to our charge; but we are not departing from that principle when we contribute to the maintenance of the Imperial squadron in these waters. We could not expect to be able to give our own people a better training than they would receive in the Imperial squadron, even if we had vessels of our own, and I believe the arrangements made as time goes on will secure the highest advantages to those Australians who wish to enter the Imperial naval forces. The Governor-General's speech foreshadowed one of the most important measures that can come before Parliament. I refer to the Patents Bill, which I understand is to be introduced into this House by the Minister of Trade and Customs. I would urge the Government to press on with that measure at the earliest possible moment. No advantage that we can derive from the Federation is likely to prove of greater service than the establishment of proper patent laws. Already a large number of small inventors, who are not able to incur the expense of registering their patents in the various States, are waiting for the passage of this legislation, which, I understand, will reduce the cost of protecting patents to a material extent. At any rate, we are sadly in want of some comprehensive law relating to patents. The honorable member for Bourke has referred to a question in which the Attorney-General is taking a very great interest—namely, that of converting the State loans into Commonwealth stock, and has spoken generally of the effect of such a course upon the finances of the various States. I think it should be impressed upon all the State Parliaments, as I am sure it has been upon the minds of honorable members of this

House, that Australian credit is affected by the conditions prevailing all over the States. It is necessary that we should preserve the solvency of the weakest State in the union—that in some way or other we should come to its assistance—because Australia is bound to suffer as the result of State misgovernment or extravagance, or of any repudiation of State loan obligations that might be brought about by unfortunate circumstances. Therefore, by assisting in the conversion of the State loans, the Commonwealth Government are in a position to very materially enhance the credit of all the States. But it is obvious that this work must be proceeded with very cautiously. There can be no forcing of federal offices upon the State Governments. The friendly services which the Commonwealth is willing to undertake on behalf of the States can be undertaken only at the request of the State Governments, and at the present time there appears to be a reluctance on their part to give the assurances required before the Commonwealth can assume any obligations in this respect. I hope that this Parliament will pursue a policy of rigid economy in the administration of public affairs. It has been said by some newspapers that so far the Commonwealth Parliament cannot be accused of any very great extravagance in the management of its affairs. I hope that it will adopt a similar course in the future, that no great extravagance will be manifested, and that it will afford an object lesson to all the States in the union. We should be careful not to commit ourselves to any obligations on behalf of the States unless satisfactory assurances are forthcoming that the latter will not be guilty of extravagant borrowing. If the Commonwealth is to assume any responsibility in regard to State loans, there must be a limit put upon State borrowing. I am not prepared to follow in the footsteps of the honorable member for Bourke, by declaring that we could limit the borrowings of the States proportionately to their population. After all, these matters must be determined by the credit of the States themselves, by the nature of the works which have been undertaken with loan moneys, and by the revenue derived from those works. We must be painfully aware of the fact that throughout Australia a strong feeling has been manifested that federation has not come up to expectations. That may be a natural result proceeding from

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high expectations. Possibly the people of Australia expected that the very existence of a federal union would itself enhance their credit, improve their trade, and bring about conditions altogether favourable to them. If so, there is naturally a feeling of disappointment. At the same time, I think that much disappointment has arisen from the fact that the Government themselves have not been firm in their administration in some directions, whilst they have been very much too firm in others. I cannot allow the question of the exclusion of the six hatters to pass without expressing my very strong opinion that the Government in that case strained the law very considerably. I cannot help thinking that, at the outset, they might have allowed the exemption which was subsequently granted, instead of exposing this Parliament and themselves to a very great deal of ridicule. The honorable member for Bland, who was responsible for the amendment under which the hatters were for a time excluded, has expressed himself as being in thorough accord with the Prime Minister upon that matter, and the latter has urged again and again that he merely carried out the law. I hold that there should have been no hesitation on the part of the Government in admitting these men at once. The proviso which was introduced by the Attorney-General in connexion with the amendment of the honorable member for Bland was intended to be used by the Government in such a case, and certainly not after the rigid inquiry which the Prime Minister deemed it his duty to undertake. It seems to me a humiliating spectacle for the Prime Minister to constitute himself a court of inquiry to determine the capacity of certain workmen from Great Britain who seek to land here, and the necessity for that class of labour in Australia.

Sir EDMUND BARTON. — The honorable member would not have had me decide without inquiry?

Mr. F. E. McLEAN.—The Prime Minister's inquiry need only have been of a very limited character.

Sir EDMUND BARTON.—Would not the honorable member have me take the trouble to ascertain what those men were?

Mr. F. E. McLEAN.—Yes, I would justify the Prime Minister in demanding both from the gentleman responsible for bringing the hatters to Australia, and from the men themselves, some affidavits as to the

trade and occupation which they were about to follow, and the nature of the agreements into which they had entered. But the agreements into which they had entered bore on their face sufficient evidence that that class of labour was required in the Commonwealth. The Prime Minister cannot constitute himself a competent court to inquire into the necessity for obtaining men in a particular trade at a particular time. The very fact that a large manufacturer had sent to the old country to bring men to Australia, and contracted to pay them the current rate of wages, is in itself evidence that that class of labour was required. It was not cases of that kind that the amendment of the honorable member for Bland was intended to meet. It was designed rather to prohibit the importation of large bodies of men who might be brought to Australia under contract for the purpose of depressing wages here, or of interfering in times of strikes with the arrangements between masters and men. In the light of what has happened, however, it will be absolutely necessary for the Commonwealth Parliament to deal with the question of immigration again, and to liberalize the law so that no white British subject coming to Australia to work at an honest trade shall be prohibited from landing.

Mr. WATSON.—How can that fact be ascertained without some sort of preliminary inquiry?

Mr. F. E. McLEAN.—I do not know that any elaborate inquiry would have to be made to discover that. A man's agreement in itself is evidence that he is coming here to accept *bonâ fide* employment. The honorable member for Bland knows perfectly well that no manufacturer would send to the other end of the world to secure workmen, and agree to pay them the wages current in Australia, unless he believed there was a necessity for so doing. Naturally, upon starting a new industry a manufacturer would desire to obtain the most highly-skilled labour procurable, and, consequently, he would go to those centres where men had an opportunity of becoming thoroughly efficient in their trade.

Sir EDMUND BARTON.—The fact that they are under contract is sufficient evidence that they are exempted from being under contract?

Mr. F. E. McLEAN.—The fact that they are under contract at the rate of wages

current in Australia is evidence that their services are required here. Undoubtedly those men should have been admitted without exposing the Commonwealth to the ridicule of the whole world. Now the impression prevails abroad that Australia does not extend a hearty welcome to British workmen. So far from encouraging their presence here, we discourage them by leading them to believe that they will be exposed to a kind of Ministerial inquiry as to their fitness before they are allowed to land. I suppose we are all agreed that Australia requires a very much larger population to develop her resources, and to place her in a foremost position amongst the nations of the world. But the Government have broadcasted to the world a notification that Australia does not welcome British workmen—that Australia is in no need of population. It is practically a placard to the whole world that Australia wishes the work here to be shared amongst the men who are here. Every other new country in the world is seeking to attract population by offering inducements to able-bodied men to come and settle. Here, however, we are pursuing a policy of discouraging such men. I am thoroughly with the Government in their desire to restrict undesirable immigration and in trying to prevent an influx of coloured and inferior races, or the landing here of men not capable of existing by their own labour. Thus far, the Government will find members of the Opposition supporting their policy as vigorously as honorable members behind the Ministerial benches. But when it comes to refusing to admit our own flesh and blood—men with no blemish in health or character, who have a trade at their fingers' ends, and are coming here under contract to pursue that trade—it is time to seriously consider whether we have not gone too far, and whether we should not at once liberalize this Act in such a way as to admit any free white man—or free Britisher, at any rate—who comes here to earn his livelihood. The Minister for Trade and Customs is not at present in the chamber; but a great deal has been said about his administration of that department. I do not propose to go further than express a hope that, for the future, the Minister will recognise that all the mercantile community in the Commonwealth are not dishonest men seeking to defraud the Customs, and that they

should not be treated as criminals for the making of purely clerical mistakes. It was never the intention of Parliament when the Customs Act was passed that respectable honest traders would be placed in such a position. This view has been so often expressed before, and the matter has been so thoroughly discussed in the newspapers and on public platforms throughout the Commonwealth that it is almost like wearing the subject threadbare to make any further reference to it. This, however, is the first opportunity honorable members have had of expressing their opinions since last session on what must be considered the unnecessarily severe administration of the Customs Act by the Minister. I do not for one moment attempt to defend a person who may try in any shape or form to defraud the Customs revenue. Much as we may deplore the existence of so high a Tariff as has been imposed, and much as we may regret the mistaken policy that has been accepted by a majority of honorable members, we still recognise that it is the duty of the Government to see that the duties are paid according to law. But it is no part of the duty of the Government to persecute and harass traders, or to treat mere clerical mistakes, which may be made by even careful men in any office, as if they were crimes. I hope that the Minister, without relaxing the severity of his treatment of those who seek to fraudulently escape their obligations, will at least show some consideration for those who, as his own officers know, have only made mistakes. A number of subjects are touched on in His Excellency's speech which, it is unnecessary to say, this Parliament will have no opportunity of dealing with in the present session. His Excellency's speech refers to other measures which are in course of preparation, or are already prepared, but which, it is feared, there will be no time to consider; and I join with the honorable member for Bourke in expressing the hope that the Government will not try to do too much, but will content themselves with passing measures which are absolutely necessary. If it is proved to the satisfaction of the House that a High Court must be established before the federal machinery is in perfect working order, let the Bill be pressed forward, and a decision come to at the earliest possible moment. But I repeat that the business of the session should be confined to measures which are absolutely

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necessary. No mere "show" legislation should be attempted. We are on the eve of an election, and there is great temptation to members and Ministers to bring forward measures which will commend themselves to the public; but I hope that during this short session in which it is not possible to achieve a very large amount of legislation, we shall approach the consideration of those questions only, the settlement of which is absolutely demanded by the necessities of the situation.

Debate (on motion by Mr. V. L. SOLOMON) adjourned.

SPECIAL ADJOURNMENT.

Resolved (on motion by Sir EDMUND BARTON)—

That the House, at its rising, adjourn until to-morrow, at half-past two o'clock.

ADJOURNMENT.

NORTHERN TERRITORY.

Motion (by Sir EDMUND BARTON) proposed—

That the House do now adjourn.

Mr. V. L. SOLOMON (South Australia).—I desire to ask the Prime Minister whether, since the House last met before the recess, the promise to make inquiries as to the terms on which South Australia was willing to part with the Northern Territory to the Commonwealth has been carried out? I should like to know what communications have been entered into with the South Australian Government on the matter.

Sir EDMUND BARTON (Hunter, Minister for External Affairs).—*In reply.* Before Parliament prorogued, there was a communication before the House on this subject. Soon after Parliament went into recess, it became apparent that the Government of South Australia intended to construct, or desired to construct, a transcontinental railway on the land grant system, and shortly afterwards a Bill was passed by the South Australian Legislature giving the necessary powers. It was not possible, by any means known to the Constitution, for the Commonwealth to interfere in a matter of the kind—not that the Commonwealth would have interfered had it been possible to do so—but the action taken by the South Australian Government justified me in making inquiries as to whether there was still a desire that the Northern Territory should be taken over by the Federal

Government. If I recollect rightly, a modified reply was given at first to the effect—I do not put this as a certain statement, because, in order to do that, I should have to refer to the papers—that it was not intended for the present to press the offer of the territory to the Federal Government. Then I think I wrote another letter asking the South Australian Government to put the matter in a more certain way, and I was informed in reply that the offer was withdrawn, the words being added “for the present”—but whether for the present or not, the offer was withdrawn. I think the first reply I got was that the offer must be considered to be in abeyance, and, when I asked for something more definite, I was told it was withdrawn for the present. To the best of my recollection that is how the matter stands.

Question resolved in the affirmative.

House adjourned at 10.25 p.m.

Senate.

Thursday, 28 May, 1903.

The PRESIDENT took the chair at 2.30 p.m., and read prayers.

POST AND TELEGRAPH OFFICE, MOUNT GAMBIER.

Senator MCGREGOR.—I desire to ask the Postmaster-General, without notice, if it is the intention of his department to take any steps to improve the postal and telegraphic facilities at Mount Gambier?

Senator DRAKE.—The matter is now under consideration. It is a question as to whether the present post-office building shall be enlarged and improved, or whether a new one shall be erected. That is a matter which for certain reasons—obvious ones, I think—has not yet been decided. If the honorable senator will give notice of his question I might be able to furnish him with fuller information.

PAPER.

Senator DRAKE laid upon the table the following paper:—

Regulations under the Post and Telegraph Act and Post and Telegraph Rates Act.

Ordered to be printed.

METEOROLOGICAL REPORTS.

Senator MACFARLANE asked the Postmaster-General, *upon notice*—

1. Will arrangements be made to permit the same amount of daily weather and general meteorological reports to be telegraphed to the Observatory in Tasmania as is received from Tasmania?

2. If this will entail expense and exceed the free transmission allowed by the Eastern Extension Cable Company, will he arrange to permit such free transmission to be equally distributed between Victoria and Tasmania?

Senator DRAKE.—The following are the answers to the honorable senator's questions:—

1. The matter is now under consideration, with a view to such arrangements being made.

2. The matter of apportioning any expense that it may be necessary to incur for transmission over the cable will be dealt with when arrangements have been completed.

SHIPS' STORES.

Senator PULSFORD asked the Postmaster-General, *upon notice*—

1. What was the total amount of duty collected on ships' stores during 1902, and what was the amount thereof credited to each State?

2. On what basis is the division made of the duty collected on ships' stores between, say, Fremantle and Sydney?

Senator DRAKE.—The answers to the honorable senator's questions are as follow:—

1. Total amount of duty collected during 1902 is shown in attached return (as regards Victoria and Queensland, however, the only available return is for the twelve months ending 30th September, 1902). No amount has as yet been credited to each State.

2. The basis of the division of the duty collected has not as yet been determined. Pending decision in the appeal case to the Privy Council, the crediting and distribution of the amounts collected have not as yet been effected.

The attached return is in these terms—

Total amount of duty collected on ships' stores during 1902, £19,208.

NOTE.—The Victorian and Queensland figures are from 8th October, 1901, to 30th September, 1902, the figures for 1902 not being available.

DEFENCE FORCE.

Senator BARRETT asked the Postmaster-General, *upon notice*—

Is it the intention of the Government to lay on the table all the papers in connexion with the proposed retirement of Lieutenant Colonel Braithwaite and Reay?

Senator DRAKE.—The following is the answer to the honorable senator's question :—

The Government is of opinion that no good purpose would be served by doing so, and would suggest to the honorable member not to press the question.

Senator DE LARGIE asked the Postmaster-General, *upon notice*—

1. In connexion with the parade of Commonwealth troops before the Japanese at Albert Park last Saturday, was the attendance of the men enforced by a threat of a fine of 7s. 6d. against every militiaman absent?

2. Will such fine be enforced against any militiamen who declined to attend?

3. Were the men ordered to remove their helmets and cheer the Japanese?

Senator DRAKE.—The answers to the honorable senator's questions are as follows :—

1. No threats were made upon the occasion mentioned.

2. The parade upon Saturday, the 23rd inst., was the half-yearly inspection by the commandant. In accordance with the Victorian regulations men absent on the occasion will be fined 7s. 6d.

3. Yes.

LANDING PERMITS: SOUTH AFRICA.

Senator Lt.-Col. NEILD asked the Postmaster-General, *upon notice*—

1. Was the Commonwealth Government requested by the Imperial authorities to issue permits granting permission to land in South Africa?

2. Did the Commonwealth Government arrange with the State Governments for the issue of such permits?

3. Over what period did the work of issue extend?

4. How many of such permits were issued by each State respectively?

5. Did not the Imperial authorities express a willingness to remunerate the officials employed in the issue of such permits?

6. Have any payments been made on account of the work of issue?

Senator DRAKE.—The following are the answers to the honorable senator's questions :—

1. Yes.

2. The work was carried out under the supervision of the Department of External Affairs, with the assistance of State officers, in States other than Victoria.

3. January to October, 1902.

4. No complete return is available, but to 31st August, 1902, the figures were :—New South Wales, 830; Victoria, 1,670; Queensland, 254; South Australia, 290; Western Australia, 443; Tasmania, 212.

5. No.

6. No.

ELECTORAL ROLLS.

Senator PULSFORD asked the Postmaster-General, *upon notice*—

Is the work of preparing the new electoral rolls sufficiently well advanced for the Government to be able to say that they will be ready without doubt in ample time for the elections that must be held towards the close of the year?

Senator DRAKE.—The answer to the honorable senator's question is as follows :—

My colleague, the Minister for Home Affairs, informs me that every effort is being made to expedite this matter, and he is confident that the rolls will be ready. In New South Wales and South Australia the collection of names has been completed, and the commissioners appointed for the purpose have issued their schemes of distribution into electoral divisions, these being exhibited at the various post-offices, and must, under the Act, await objections for a period of 30 days. Until the divisions are approved, the printing of the rolls must remain in abeyance. In Victoria the canvass by the police is practically concluded, and the commissioner will proceed with the distribution into electoral divisions forthwith. In Queensland the police have finished the house-to-house canvass, but all the lists have not yet been received. In Tasmania and Western Australia the collection of the lists is being pushed forward with all possible despatch.

SESSIONAL COMMITTEES.

The following Sessional Committees were appointed (on motion by Senator DRAKE):—

STANDING ORDERS.

1. That a Standing Orders Committee be appointed, consisting of the President, the Chairman of Committees, Senators Dobson, Sir J. W. Downer, Lt.-Col. Gould, Harney, Higgs, O'Connor, and Sir W. A. Zeal; four to be the quorum.

LIBRARY.

2. That a Library Committee be appointed, consisting of the President, Senators Barrett, Keating, Matheson, Millen, Stewart, and Sir J. H. Symon, with power to act during the recess, and to confer with any similar committee of the House of Representatives; four to be the quorum.

HORSE.

3. That a House Committee be appointed, consisting of the President, Senators Cameron, De Largie, Fraser, Glassey, Lt.-Col. Neild, and Playford, with power to act during the recess, and to confer with any similar committee of the House of Representatives; four to be the quorum.

PRINTING.

4. That a Printing Committee be appointed, consisting of Senators Charleston, Clemons, Dawson, Pearce, Pulsford, Staniforth Smith, and Styles, with power to confer with the Printing Committee of the House of Representatives; four to be the quorum.

CLAIMS AGAINST THE COMMONWEALTH ACT AMENDMENT BILL.

Resolved (on motion by Senator LT.-COL. NEILD)—

That leave be given to bring in a Bill to amend the Claims Against the Commonwealth Act 1902.

Bill presented and read a first time.

LEAVE OF ABSENCE.

Resolved (on motion by Senator MACFARLANE)—

That leave of absence for fourteen days be granted to Senator Clemons, on account of illness.

PARLIAMENTARY EVIDENCE BILL.

Resolved (on motion by Senator LT.-COL. NEILD)—

That leave be given to bring in a Bill to enable and regulate the taking of evidence by Parliament and Parliamentary Committees.

Bill presented and read a first time.

EASTERN EXTENSION TELEGRAPH COMPANY.

Ordered (on motion by Senator STANFORTH SMITH)—

That there be laid on the table of the Senate a copy of the agreement entered into between the Government and the Eastern Extension Telegraph Company, and also all correspondence and papers connected therewith.

GOVERNOR-GENERAL'S SPEECH : ADDRESS IN REPLY.

Debate resumed from 27th May (*vide* page 124) on motion by Senator DOWNER—

That the Address in Reply be adopted.

Senator DRAKE (Queensland—Postmaster-General).—I think the Senate may well congratulate itself upon the tone of the debate. It is very gratifying to me as a federalist—and I claim to be before all things a federalist—that the work which has been done up to the present time towards the federation of the States of Australia has been so completely recognised. I think the graceful references made upon the floor of the Senate represent not only the feeling of this House, but also the feeling of the country. I have nothing to say with regard to the tone of the criticism—if I may so call it—of the action of the Government. The honorable senators who moved and seconded the address in

reply—to whom I give my grateful acknowledgments—spoke perhaps in a tone of criticism in some respects with regard to what the Government has done, that seems rather to have surprised some members of the Senate. But the Government are not afraid of criticism, and would certainly prefer that their friends should state openly anything in their action that they may consider open to criticism. Then we may endeavour to meet them. But by those honorable senators from whom, perhaps, we might have expected that their criticisms would to some extent have been tinged with political animus, the Government have been altogether blest. No exception could possibly be taken to the remarks that have come from honorable senators opposed to us ; and I find, on looking through my notes of what has been said up to the present time in this debate, that although some statements have been made to which I am very glad to take the opportunity of attempting a reply, of hostile attack there has been really nothing to notice. There are, of course, many subjects upon which there are differences of opinion. The leader of the Opposition does not object to the work done during the last session on the ground that we did not do enough, but on the ground that we did too much. He does not agree with us with regard to the degree of importance attached to the measures which we dealt with during the session.

Senator Sir JOSIAH SYMON.—I think you did the wrong work.

Senator DRAKE.—That is a matter of opinion. We consider that those measures which were designed to preserve the race integrity of the people of Australia were of first importance, and that we did right in placing them in the position in which they appeared. With regard to the measures known as belonging to the policy of a white Australia, we held that they had special claims. There are one or two points which I wish to refer to in connexion with that subject. As to the sugar rebate, there seems to have been some misunderstanding in the Senate. The opinion was generally held during last session, when Parliament agreed to grant a bonus for the growth of cane by white labour, that the cost of that policy should be a burden borne by the whole of Australia, seeing that it was an Australian policy. The form in which the policy was passed was that there was to be a rebate from excise

paid on account of sugar grown by white labour. Under ordinary conditions, or under the conditions which will prevail, I hope, before very long, when the whole of Australia is supplied with sugar produced from Australian-grown cane, that provision for taking the amount of the rebate from excise would work fairly equitably. That is to say, if all the people of Australia were consuming sugar produced from cane grown in Australia—I do not say whether grown by white labour or black labour—then the contribution as a bonus to the growers of cane grown by white labour would be fairly equally drawn from the various States. But it happens, in consequence, to a great extent, of the drought and the comparative failure of the cane crop in Queensland, that the production fell very far short of the consumption. Consequently, in some of the States, the sugar consumed was nearly all Australian-produced sugar, whereas in other States nearly the whole of the sugar consumed has been imported. If the amount collected in excise had been distributed according to the consumption in each State, and if the amount of the rebate paid had been deducted from the amounts paid to those States, the result would have been that the people who consumed the sugar which was grown in Australia would have contributed the whole of the bonus paid to the growers of cane by white labour, whereas those who consumed sugar which had been imported, and upon which £6 per ton was paid, would not have paid their proportion. That would have been the result. I am sure that no one contemplated that any such injustice would be done as to provide that the amount expended to encourage the growth of cane by white labour should not be contributed by the whole population of Australia; and that is a measure which I think meets with general satisfaction. I will say a word or two about the six hatters, and then we can pass the matter by. It was an amusing, and at one time it looked as though it were going to be a tragical incident. I am glad that the leader of the Opposition has told us that he does not raise any question with regard to the administration of the section of the Act, but that he objects to the section itself.

Senator Sir JOSIAH SYMON.—I said I thought that the administration was a farce.

Senator DRAKE.—I understood the honorable and learned senator to say that

it was not the administration of the section to which he objected.

Senator Sir JOSIAH SYMON.—I said that I would not re-open the question.

Senator DRAKE.—The section itself was passed by Parliament after full discussion, without any division. I remember that I spoke upon it myself.

Senator Lt.-Col. GOULD.—And there was a belief that it would not be applied to such cases as have occurred.

Senator DRAKE.—It was not applied to the six hatters, because they were not excluded. When the section was discussed here, if honorable senators opposite thought that it should not form part of the measure of course they knew the steps they ought to take to give expression to their view. Speaking generally, however, I am convinced that the people of Australia agreed with the policy embodied in that section. With regard to the administration of the Act, I fail to see how any fault can be alleged against what was done. When the news arrived that these men were due, and they had given no proof of the special qualifications which would have removed them from the operation of the section, surely the Prime Minister was perfectly correct in putting the provision into operation. As soon as it was proved that the six hatters were exempt they were allowed to come in. But we are told that this section was shocking the conscience of the British people. Well, the section is still in the Act, and the conscience of the British people is not shocked now. We know now exactly what took place in connexion with the administration, and we know that the section is not shocking the conscience of the British, or of any other people. What was it—if there was anything—that caused distrust in England in connexion with that incident? It was not the facts of the case, but it was the telegram that was sent to England—the misleading telegram; and if you find out who was the person who sent the telegram you will find out the person who was instrumental in shocking the public conscience.

Senator Sir JOSIAH SYMON.—The Postmaster-General thinks then that a concealment is all that is necessary?

Senator DRAKE.—How can there be any concealment after all the talk there has been about it? We have now got all the actual facts, and having got them I say that

the people of Australia approve of the provision of the Act, and will acquit the Prime Minister of any possible blame in connexion with its administration.

Senator Sir JOSIAH SYMON.—It is universally disapproved of.

Senator DRAKE.—Not at all. Now as to the postal contract. Some honorable senators seem to think that a great deal of trouble is going to happen in consequence of the inclusion of the black labour clause in our postal contracts. I do not anticipate any great trouble.

Senator Sir JOSIAH SYMON.—How are you going to get out of the difficulty?

Senator DRAKE. — We have given notice, as we were bound to do, having that section in our Act of Parliament, that we cannot enter into an arrangement in the nature of a contract with the owners of vessels whose ships are worked by black labour. In consequence of that we understand that the British Postmaster-General in calling for tenders says that he cannot be bound by such a condition. He will call for tenders in the ordinary course. Whether the British Postmaster-General will enter into any contract with a company employing coloured labour or not we do not know. It is possible he may not. He may stipulate that in accepting tenders he will accept the contract from some company employing white crews, in which case we are open to an arrangement. But in any case we do not anticipate that there will be any delay whatever in the carrying of our mails. There is such a large amount of competition now between the different steamship companies, and they are running such close races for the purpose of delivering their mails and passengers and cargo—one against the other in ocean races—that there can hardly be the slightest doubt that the postal service will always be properly maintained, and that the vessels for the carriage of our mails will always be sufficient to enable us to ensure a quick delivery. Indeed, I have no doubt that facilities will increase. We must remember that the amount that has been paid to the P. and O. and Orient companies has been £170,000. It is not a very large amount, and we cannot suppose that if that £170,000 were withdrawn these two companies would slacken their efforts to make their passage as quick as it has been in the past.

Senator MACFARLANE.—But you now require them to deliver their mails on regular days.

Senator DRAKE.—The sum I have mentioned is the amount paid, and its loss would not be of sufficient importance to such big companies to prevent them from endeavouring to land their passengers and cargo in as quick a time as they possibly can. A fact which is overlooked by some people is that we have a statutory right under the British and our own Postal Acts to put our mails on board any of these steamers, and we have been doing so.

Senator Sir JOSIAH SYMON.—Notwithstanding that coloured labour is employed on board those ships?

Senator DRAKE.—Honorable senators know perfectly well that every steamer that leaves our ports carries away mails, whether it is under contract to do so or not.

Senator Lt.-Col. GOULD.—They are paid for doing so.

Senator DRAKE.—Of course; we pay them on a system of poundage. And so with the P. and O. and Orient Companies, if they carried mails, and were not under contract with the British Government, they would be paid by poundage. How that payment would compare with the subsidy of £170,000 I am not prepared at present to say. There is no need to fear that in consequence of the inclusion of this provision in the Postal Act our mails will not be carried expeditiously. While I do not altogether agree with the leader of the Opposition in believing that we did wrong in placing that legislation in a prominent place, I agree with him in regretting that we were not able to pass the High Court Bill last session. He has not overstated the case as to the importance of passing that Bill as soon as possible. It is, as he has pointed out, one of the pillars of the Constitution. Until the tersely printed sections of the Constitution are amplified and vivified by judicial decisions it must remain a thing of parchment. Until our High Court has had an opportunity of giving decisions upon disputed law points under the Constitution, the Constitution itself will never be what we desire it to be, but I hope that when the Bill is before the Senate honorable senators will not be disposed to fulfil the letter of the Constitution by means of some cheap substitute.

Senator Sir JOSIAH SYMON. — Better nothing at all than that.

Senator DRAKE. — Exactly. If we are going to have a High Court it should be fully equipped and efficient for the purpose. It should command and include the highest judicial talent obtainable in Australia.

Senator Sir WILLIAM ZEAL. — What will the Judges have to do? They will not have more than one day's work a month.

Senator DRAKE. — They will have to give decisions correctly interpreting the Constitution, and that is of more importance than the printed text. Considering the very great issues at stake, I think it would be a vitally false piece of economy to take any steps in the direction of sacrificing the efficiency of that tribunal for the sake of making a small saving. As to many other matters which have been referred to by honorable senators, I think it is unnecessary for me to reply at length. The Conciliation and Arbitration Bill will be a most important measure. The importance of such legislation has been shown, I think, by recent events. The Bill is to be brought forward during the session, and when it is before us it will be time enough to discuss its provisions. I may say the same with regard to the Navigation Bill. That is a measure which may or may not be brought up for discussion this session. It is of great importance, but in view of the uncertainty as to whether it will be introduced this session, it seems rather premature now to discuss what may be its provisions. Then there is the question which was referred to by one or two honorable senators as to the taking over of the State debts. The Governor-General's speech sets forth that the question will be discussed if an opportunity is afforded. Looking at the list of measures which have to be dealt with during the session, I am inclined to think that the probability of the Senate being called upon this session to pronounce an opinion upon the subject is somewhat remote. But it is a most interesting matter, and I am very glad to see that both in Parliament and outside attention is being directed to it. If Senator Millen, with his financial ability and acumen, can devise in the interval some provision for a sinking fund which could not possibly be got at by the Government of the day, he will do a very good service.

Senator MILLEN. — That is just what I think is impossible.

Senator DRAKE. — We can take care at all events that savings which are actually made shall be devoted to the purpose of a sinking fund. It is very hard, however, to devise any means by which to bind the Government of the day to continue a sinking fund. Senator Gould referred more particularly to the Customs administration, and I suppose it is due to him that I should say something on the subject. It must be borne in mind, however, that the department is not under my control, and I cannot speak with regard to any particular cases because I have not taken any careful note of them. But it seemed to me in listening to Senator Gould's remarks that the gravamen of his charge against the administration of my colleague the Minister for Trade and Customs is much the same as that of all the complaints I have heard on the subject. He complains that the Minister has not discriminated between innocent mistakes in connexion with incorrect entries or invoices and cases of fraud. I understand that the position taken up by my colleague is that it is not his business to decide those questions, and that he would have to try each case beforehand if he were compelled to decide whether each mistake was innocent or fraudulent.

Senator Lt.-Col. GOULD. — But he proceeds with a prosecution, and the counsel for the prosecution states deliberately that there is no imputation of fraud.

Senator DRAKE. — I am not dealing with any individual case, but that always seems to me to be the clear difference between the Minister for Trade and Customs and his critics. His critics say that he ought to decide whether a mistake is an innocent one or not—that he should exercise discrimination on those lines. The Minister says—"No; let them go to the court, and let the court decide whether the mistake is an innocent one or not." I do not envy my colleague the task that he had to perform, but I think it is a task which required great strength of mind and firmness.

Senator Lt.-Col. GOULD. — The very reverse.

Senator DRAKE. — It was a task which required a man of strong determination and will in order to cope with the difficulties which presented themselves in connexion with a Tariff that was new in every State, and which differed very widely from the

Tariffs which had existed in some of the States. It was necessary that he should be a strong man. Senator Walker made a remark last night which did not impress me in the way I think he intended it should do. He spoke about a gentlemanly, courteous administration and referred to section 156 of the Postal Act under which the Postmaster-General has a right to decide certain small cases and to inflict fines. But the two cases are not at all analogous. The little mistakes which occur in the Postal department are almost invariably cases in which some one has slipped a note into a packet or parcel and thereby defrauded the revenue of a penny or twopence which would represent the postal charge. Such occurrences are not analogous with those dealt with by the Minister for Trade and Customs. He has been dealing with cases which if not checked and stopped would eventually result in an enormous loss of revenue and prove a handicap to the honest and careful trader competing with one who is not.

Senator WALKER.—But the principle is the same.

Senator DRAKE. — No. I shall show now why Senator Walker's remark last night did not impress me as I think he intended it to do. I have been much shocked to find that the cases coming before me under the section referred to are very numerous. Whether it is that the officers are now more vigilant than they were I do not know, but the fact remains that the cases dealt with under this section, and in which I impose fines without any publicity being given to them, are becoming too numerous. What is the reason? I do not disagree with the policy of the section. I think it is right that it should be there, because it would be a most painful thing to have to prosecute a servant girl, for instance, for slipping a note into a parcel, or for some other offence of that kind. Still I cannot help believing that if there were prosecutions which would give publicity these cases would be less frequent. Now that we have adopted the principle of inflicting these fines in the Postal department I do not care to depart from it, because it seems to me that if I once commenced public prosecutions of this kind I should have to go on prosecuting all the way through. Nevertheless, I believe that if there had been public prosecutions in some of these cases, publicity would have

been gained, and people would have been deterred from offending against the Act in that particular.

Senator BEST.—What is to prevent the Postmaster-General from obtaining publicity by publishing his decisions from day to day?

Senator DRAKE.—I do not believe in doing that, because the very object of the section is to enable the Postmaster-General to dispense with that.

Senator BEST.—No.

Senator DRAKE.—I find that in nearly all these cases the offenders in their letters submitting to the jurisdiction of the Postmaster-General almost invariably say they were not aware that they were breaking the regulations. In some cases it may not be an excuse, but in a great many it is really true that the offenders did not know they were committing an offence. To come back to the point which I think Senator Walker desired to make, I would point out that, although the Minister for Trade and Customs has been compelled to adopt a stern system of administration, the benefit of it will be felt in the future. All the turmoil that has been worked up against his administration—and to a great extent it has been worked up by these complaints—is now dying away, and it will continue to die away as the decisions of the Customs department come to be known. As the working of the department by the officers goes on I am inclined to think that these cases which have been painfully brought before the public will become very less frequent.

Senator Lt.-Col. NEILD. — Painfully brought before the courts.

Senator DRAKE.—And I think that in increased revenue, and in the security of fairness of competition between merchants, we shall get the benefit of the results of an administration of the Customs which has been stern, just, and indiscriminating. I have a word or two to say with regard to the Western Australian railway. It will be generally agreed that the Government have been justified in the action they have taken in getting all the information available upon that subject. That line of railway, like other means of communication between different parts of Australia, cannot, I think, be judged upon absolutely the same grounds as those upon which the advisability of constructing an ordinary railway is decided. We must regard this work as desirable

or otherwise upon grounds of high public policy. I think I am right in reminding honorable senators that in connexion with the federation of the different portions of the Canadian Dominion it was a stipulation made by British Columbia that, upon coming into the Union, the Canadian-Pacific railway should be made in order to bring together the east and west of Canada. The Dominion, by means of granting large land subsidies, secured the construction of that railway, and it was constructed for high political purposes. We must admit that means of communication which are designed to bring enormous parts of this great continent into close touch should be regarded in somewhat the same way. I therefore think that no stone can be thrown at the Government for the action they have taken in this matter. We have gone steadily on endeavouring, without any unreasonable delay, to get all the information upon the subject which may be available. There is a matter upon which I must say a word, because we know there is some little feeling aroused in connexion with it. I refer to the selection of the site for the future capital of Australia. Certain honorable senators from the State of New South Wales seem to be a little hurt with the tone of some remarks which have been made in the State of Victoria. I do not think there is any justification for the feeling. I have no reason to believe that Victoria, or any one entitled to represent Victoria, would be disposed to depart from either the letter or the spirit of the Constitution. This provision of the Constitution is as binding upon us as any other part of it, and it is fully recognised that it was part of the federal compact that the capital of the Commonwealth should be in the territory of New South Wales. No unreasonable delay has taken place up to the present time in putting Parliament in a position to make a proper selection, and no blame in connexion with this matter can be cast upon the Government. It is said, and no doubt this has weight with some honorable senators, that it will be necessary to at once spend large sums of money upon the capital before it can become the seat of government. That aspect of the matter was very well dealt with by the leader of the Opposition. To my mind it is an unsubstantial bogey. I see no reason to fear the expenditure of large sums of money upon the capital site. We must bear in mind that it has been

Senator Drake.

stated by the Government, and I believe with the entire approval of the people of Australia, that the lands of the Federal territory, within which the capital of the Commonwealth will be, shall remain unalienated. That being so, any expenditure of money which takes place for the improvement of the land, and indeed the mere fact of the settlement of the people there, will give a continually increasing value to the land, which will itself be revenue-producing. I have no idea as to what site will be recommended to Parliament for its acceptance, but when a site is accepted, I see no reason to anticipate the expenditure of large sums of money before it becomes the capital. As soon as it becomes the capital, the expenditure of a certain amount of money in developing it, will be justified by the increased value which will be given to the land. I desire as much as anyone to see proper economy in Commonwealth expenditure, but there are few directions in which I think expenditure may be more safely incurred, supposing it to be incurred wisely and not too hurriedly, than in the development of the federal territory. Senator Fraser referred to the agreement entered into with the Eastern Extension Telegraph Company, but I think the honorable senator was not fully aware of the facts connected with that agreement. I should like for the information of the Senate to state briefly the circumstances in which the agreement was made, and the necessity for it. When the Commonwealth was established, four of the States had entered into contracts with the Eastern Extension Company, and those contracts were dissoluble, only by the mutual consent of the parties. That is to say that, at the wish of either party, they were practically interminable. The agreements were made for the purpose of obtaining from the Eastern Extension Company certain concessions in the matter of rates—practically for obtaining a 3s. rate. Western Australia, South Australia, Tasmania, and New South Wales entered into the agreements only just before the establishment of federation. The position, therefore, when the Post and Telegraph services were transferred to the Commonwealth was that four of the States had actually made these agreements, which were subject to termination only by mutual consent of the parties. An agreement has been made to substitute for these four agreements a

contract terminable in ten years, with two years' notice; that is to say, terminable in twelve years. So that the Eastern Extension Company gives up its interminable contracts with four of the States to get a contract with regard to the whole of Australia, which will be terminable in twelve years. Under this new agreement the whole of Australia gets the benefit of the 3s. rate, and the Eastern Extension Company can, under no circumstances, raise that rate. In certain circumstances, however, that is to say, given an extension of business up to a fixed limit the 3s. rate is to be still further reduced to 2s. 6d. I have spoken only of the general rate, but of course the Government rate and the press rates have been reduced in the same way. It seems to me that being a federation it would be almost impossible for us to have continued under such a state of things as existed when the postal services of the States were handed over to the Commonwealth, and I need hardly tell honorable senators that in the course of years it would certainly have been found to be most unsatisfactory if we had been bound to any company by a contract terminable only by the mutual consent of the parties. The agreement entered into was the result of prolonged negotiations, and it represents the best terms the Government were able to secure in the matter. Of course, we are animated by the hope that consequent upon the reduction of charges there will be such an expansion of telegraph business between Australia and Europe and Australia and Canada, that both of these great undertakings may prove remunerative. There is still room for a great extension of cable communication.

Senator PULSFORD.—When the Government Tariff is smashed.

Senator DRAKE.—Not at all. I am sorry to have heard the word "Tariff" mentioned again, but I suppose we must expect that from the honorable senator, because it is his particular bogey. Listening to the remarks which have lately been made in connexion with the very interesting address delivered in England by the Secretary of State for the Colonies I could not help thinking what an advantage it would have been if we could have had the full text of the speech cabled out here. We have now for some time past, here and elsewhere, been discussing a speech, the text of which we have not yet received. All

we know is that the Secretary of State for the Colonies made an important deliverance in England, which apparently expresses a deliberate intention to make some move in the direction of increasing the commercial ties between different parts of the Empire. That, I think, has given general satisfaction, not only to the Government, but to people outside. But we cannot discuss the matter or form any settled opinions upon it until we have the advantage of perusing the exact text of the speech. There is one other subject of very great importance upon which I must say a word, and that is the naval subsidy. The matter is one which I am afraid is not very well understood, and I would ask honorable senators not to be in haste in coming to a decision upon it until the proposal has been thoroughly discussed. An opportunity will be given to the Senate, as well as to the House of Representatives, of either ratifying or refusing to ratify the proposed agreement. But it is desirable when the time comes that the judgment, if it is to be pronounced, should be pronounced upon the facts. Senator Downer has explained the kind of ships of which the squadron will consist. We are at present in this position, that an agreement entered into now some ten or twelve years ago for an auxiliary squadron has expired, and has been renewed by the Admiralty from year to year. The ships forming the auxiliary squadron admittedly are, if not exactly obsolete, at least not up-to-date. What is proposed is that a squadron consisting of a very much better class of ships should be provided for the subsidy, and that an agreement for its services should be entered into for a period of ten years. A good many persons tell us now that they think it is time that we had a fleet of our own. Strange to say, some who profess the strongest views with regard to economy are the very persons who tell us that we should go in for a fleet. A fleet is a very expensive thing to have, and when I hear some of those who talk so much about economy in this department and the other speak about starting a fleet, I am reminded of the lines in *King John*, where Philip Faulconbridge says of the citizens of Angiers that they talk—

... as familiarly of roaring lions,

As maids of thirteen do of puppy dogs.

When some of these gentlemen talk to us about fleets as though it were like starting

some department, I wonder whether they have really considered all the intricacies as well as the enormous expense of maintaining a fleet.

Senator DE LARGIE.—Nobody talks about having an ocean-going fleet.

Senator DRAKE.—It is of no use to have any ships that we cannot send to sea. The principle of naval science at the present day is not to wait for the ships of the enemy to come and attack you at home, but, as soon as you learn that a hostile fleet is in any direction, to find it out and either destroy it or shut it up. Take, for instance, the war between America and Cuba. The Americans had their forces all ready to be transported to Cuba, but they would not allow a single transport to leave until every Spanish ship had been found and shut up or rendered harmless. That is the principle upon which naval warfare is now carried out. There are some persons who say that the cost of a fleet is so insignificant that it should not be considered at all. No doubt £200,000 is a very small sum to pay, but it puts us in this position, that we are getting this defence from the mother country for absolutely nothing. We are paying only five-twelfths of the cost of equipping and maintaining the squadron, and what do we get for that expenditure? We get a first-class squadron, very much better than any we could maintain ourselves, even if we paid the whole cost.

Senator HIGGS.—That is what they said of the present squadron.

Senator DRAKE.—That was said twelve years ago. No doubt at the time it was considered to be an up to date squadron, but it has been outclassed since then. We are told that it is desirable that we should make a commencement with a view to having a fleet of our own. In this agreement we have a provision for training our seamen. It is specially provided that the three drill ships and one of the other vessels shall be manned by Australians and New Zealanders as far as they are procurable, paid at special rates, and enrolled in proportion to the relative population of the Commonwealth and New Zealand. There is a provision for giving our seamen an opportunity to become effective, and the cost is very much less than it would be if we attempted to do the work ourselves. There are some persons who say that they do not object to the cost

or to the character of the fleet, but that they want a provision put in that the vessels shall not be removed from Australian waters without the consent of the Government. Let us look at this objection for a moment. Every man who asks himself the question must know that if that state of things existed the consent would never be refused. Only recently we sent away contingent after contingent, not waiting for the men to be asked for, but practically stating that whatever military strength we had would be placed at the service of the mother country if needed. Can we suppose for a moment, therefore, that if we had a squadron under these conditions it would ever happen that that consent would be refused? Certainly not. But the delay would be absolutely fatal. Supposing that the Admiral had first of all to communicate with the Governor-General of Australia, perhaps at a time when the cables might be cut, it would be absolutely useless for him to attempt to co-operate with any other portion of the British fleet, because the delay that would take place in obtaining that consent would be absolutely fatal. That brings me to another point which apparently has been overlooked—that in this scheme there are three squadrons on three different stations. The idea is that, in case of a hostile fleet ever making its appearance, the Australian, China, and East India squadrons should coalesce to attack it. The Australian squadron would, if circumstances so required, go from Australian waters and join the other two squadrons in order to attack the enemy. On the other hand, if the enemy ever appeared in Australian waters, we should get the benefit of the squadrons on the China and East India stations. The business of the Admiral in charge of the three squadrons, as soon as he heard of a hostile fleet being in any locality, would be to mobilize his strength and prepare at once to attack it. Surely we must take those points into consideration. I share with other honorable senators the aspiration that the time will come when we shall be a great people, and shall be able to maintain a fleet of our own, and perhaps have a naval policy, but that time has not come yet. We require protection, and we seek by this agreement to get at a very moderate cost this necessary protection from the mother country as a temporary arrangement for ten years in order to give us time, after

which we may perhaps be in a position financially and otherwise to maintain a fleet of our own. I do not know whether any other matters have been mentioned to which it was my duty to reply; but if I have omitted to refer to any such matters, it has been through inadvertence. I can only express the hope that the auspicious commencement of this session may be followed by a record of good work in the direction of building up the Commonwealth.

Senator Lt.-Col. NEILD (New South Wales).—I do not propose to follow closely on the lines which have been taken by previous speakers, but there are some other matters which I desire to bring before the Senate, and to some little extent I shall break new ground. If I have to animadvert on the administration of any departments, it is not my fault that the Postmaster-General will not have an opportunity of replying to me, because I told him what I proposed to do and suggested to him that he should reserve his speech until I had had my grumble, when he would be able to reply, which, by taking the course of speaking first, he has denied himself.

Senator DRAKE.—But the honorable senator could have spoken yesterday. I was nearly forced to speak at eight o'clock, when no one would get up.

Senator Lt.-Col. NEILD.—I could have spoken yesterday perhaps, but just at the particular moment—when the debate was petering out apparently—I was not prepared to speak. I had not contemplated speaking yesterday. As a matter of fact, I only got the materials of my speech together this morning. First of all, I propose to deal with a matter which I wonder no honorable senator has referred to. It is a matter arising out of the speech of the Governor-General to both Houses at the close of last session, and it affects the rights of the Senate and the position which it successfully assumed at the commencement of its existence as a deliberative body. When the Governor-General came to prorogue Parliament our mouths were closed, and, of course, we were unable to enter any protest, or take any objection to an attack made upon the rights the Senate assumed in the earliest days of its existence. I refer to this paragraph in the speech—

GENTLEMEN OF THE HOUSE OF REPRESENTATIVES—

I thank you in the name of His Majesty for the liberal supplies that you have voted.

If there was one matter of contest between the Houses it was the right of the Senate to have a potential voice in the granting of supply. The very first Supply Bill passed by the House of Representatives was sent to us with a preamble which contained these words—

We, Your Majesty's most dutiful and loyal subjects the House of Representatives in Parliament assembled towards making good the supply which we have cheerfully granted to Your Majesty in this session of Parliament have resolved to grant unto Your Majesty the sums hereinafter mentioned.

When the Bill came before the Senate, I gave notice of a motion to omit these words. I had no opportunity of moving the motion, because the Government put the Bill under the table in the other House, and introduced a Bill with another preamble, in which these words occurred—

For the purpose of appropriating the grant made by the House of Representatives.

The Bill came before the Senate in that form, and upon my motion and without a division we sent it back with a request for the omission of those words, and they were omitted. Every subsequent Supply Bill which has been sent up has recognised completely the right of the Senate to take part in the granting of supply, and not to be a humble subservient echo of the other Chamber. The preamble of the Act of which these Bills were the foundation is now as follows—

Be it enacted by the King's Most Excellent Majesty and the Senate and House of Representatives of the Commonwealth of Australia for the purpose of appropriating the grant originated in the House of Representatives . . .

Of course we recognise that under the Constitution, not as a matter of superiority, but merely as a question of convenience, certain money Bills must be introduced in the other Chamber. But we have fought out this question. After having had the first Supply Bill submitted to us thrice, and altered twice with the view of meeting the constitutional requirements of the Senate as provided in the very foundation of our rights—the enactment which gives us our existence—whether through an oversight or intentionally, a direct slight was cast upon this Chamber, inasmuch as the speech of the Governor-General contained the words to which I have alluded. The speech was one for which, of course, His Excellency was not responsible. But His Excellency's Advisers, after this Chamber

had twice over insisted on maintaining the terms of the Constitution, appear to me to have taken a most improper advantage of an occasion when our lips were closed, to place in the mouth of the august gentleman who is the apex of our Constitution words that could mean nothing else than a denial of the right of the Senate to participate in the granting of Supply. I think I have done my duty in mentioning this matter, but I will carry it further now that I have mentioned it. I shall ask the Senate on some future day to affirm a resolution in reference to it. At this stage of our existence, in the first Parliament of the Commonwealth, if we permit inroads to be made upon the Constitution—if we permit our statute rights to be frittered away—we are not discharging the duty that is cast upon us, but we are permitting a political offence that is worse than an error, in allowing an alteration to be made in the conditions provided by the statute that gives the Commonwealth of Australia its existence. Looking at the strangely long *menu* provided for our legislative digestion in the form of the Governor-General's speech, I regard it as filled with promises that cannot be fulfilled. In the last session we had a Governor-General's speech that contained a large number of promises, and no attempt was made to fulfil many of them. In respect of others, there was so feeble, so helpless, so abject an attempt to give a semblance of vitality to the promises which the speech contained, that I recognise in this document something worse than a second edition of that which we had two years ago. But though many of the propositions that are contained in the speech we are now discussing are old familiar friends by name, I hope that if they come before us again they will be dressed in different garments, and contain a different body within those garments. I find there are some questions here as to which I shall be at one with the Government. Therefore, in taking exception to much that I find in the speech, it will be understood that I am not offering a captious criticism. As to their first proposal in reference to the High Court, I shall be with the Government, though I do not pledge myself as to the number of Judges I shall eventually vote for. As has been very well said by many honorable senators who have addressed the Chamber, the establishment of the High Court is necessary to the completion of a very important part of the Commonwealth edifice. To my

Senator Lt.-Col. Neild.

mind the people of the Commonwealth, and the very constitution of the Commonwealth, are not safe from danger and from attack until the High Court has been properly constituted, in order that many questions that continually arise may be settled by an authoritative tribunal, and that we may not have the varying decisions that are now being given by the different Supreme Courts of the different States. We never shall be able to attain any degree of concininity in our judicial decisions if cases arising have to be referred to the States Supreme Courts. You will never find those Supreme Courts deciding things in the same manner. While it may be said that varying decisions might perhaps represent more justice than decisive opinions, it must be remembered that no plaintiff nor defendant is ever able to get absolute justice in a law court. They get more than they are entitled to, or less. I think it infinitely preferable that the decisions given in connexion with Commonwealth matters should at least have the merit of being stamped by the wisdom of the highest court we can establish within our borders, and that there should not be varying decisions, which may render the administration a by-word and a mockery throughout the community. There is another old friend mentioned in the speech—the Judiciary Bill. We are going to see that again. It was one of the kittens that were carried a little way and dropped and forgotten and left behind by the Government at last session.

Senator MCGREGOR.—Cannot the honorable senator put it among Mr. G. H. Reid's pups?

Senator Lt.-Col. NEILD.—No; but perhaps I can put the honorable senator among them! Another measure is the Conciliation and Arbitration Bill. My honorable friends on my left are, I believe, very strong in their desire to see that measure passed. Let me say at once that I am not going to stand in the way of putting the Bill through if it is made, as far as possible, a just one. I may state that in years past I have strongly supported compulsory arbitration, because I do not see what you will achieve if you only arrive at an agreement between employers and employes which cannot be enforced. I cannot see any advantage in an arrangement of that kind. But I will utter this word of warning: that, in the establishment of these courts of compulsory arbitration throughout

the land, the workers of the country, in seeking the ægis of the courts, will be parting with the freedom of action which they now possess. Whether the parting with that freedom will be eventually beneficial is a matter of absolute experiment ; but I do say that it is impossible to establish arbitrary courts of arbitration without the workers losing the freedom of action which they now enjoy. They will part from that freedom for good or ill, and the future alone will disclose the result. Then there are allusions in the speech to other matters, which it is not necessary to go into, and I will not discuss them. I will not allude to the question of preferential trade. The time to discuss that matter is when we have the facts before us. To start an academical discussion in advance of the facts of the case being submitted to us, would be a waste of time. I say the same with regard to the naval agreement, though to a large extent I am with the Government in that matter. I may be against them on details, but the consideration that weighs strongly with me is that there should be an opportunity for training colonial seamen in the duties of a fleet which we afterwards might bring into existence. I do not see how we can hope to bring into existence a fleet of our own immediately. We could only buy two or three war vessels, and at present we have neither the men, nor the supervision, nor the knowledge to enable us to succeed immediately in respect of an effective navy of our own. The part of the agreement that provides for the training of colonial sailors upon the vessels of the squadron seems to me to offer a ready method for the introduction and establishment of a colonial navy at the proper time. During the recess Ministers have been going about the country. I have not read many of the utterances of my honorable and learned friend the Postmaster-General, and I do not accuse him of being one of the Ministerial Hallelujah chorus singers who have been careering throughout the Commonwealth claiming credit for the accomplishment of results that do not appear to have been accomplished at all. They have been taking credit to themselves for the white Australia legislation. I say that the white Australia legislation achieved by the Ministry is a sham and a public fraud. I am justified in using a strong phrase for this reason—that

the whole claim for the exclusion of coloured workers is not based upon the conditions of labour competition, but is based upon the proposition that the exclusion of these hated aliens will preserve the white character of our population and its Anglo-Saxon blood. Those are the arguments which are invariably used. But what has been achieved by the Government and their white Australia legislation? All they have succeeded and all they have dared to do is to play the part of the school bully, who is prepared to kick a little boy who has no one to defend him. They are trying to persuade themselves and the rest of Australia that their cowardice has been an act of splendid virtue. They have taken authority to banish the kanaka from Queensland. The kanaka has been living in Queensland by thousands and tens of thousands for thirty years or more, with the result that, so far as the contamination of the white race is concerned, the official figures of Queensland disclose the fact that there are not 50 kanaka half-casts within the whole of the borders of that great land. Yet the Government has been willing to cast out the kanaka as an unclean thing, though the kanaka has done scarcely anything to contaminate the Anglo-Saxon race in Queensland, while at the same time they have made no effort—because they had not the courage to do so—to exclude from the cities and towns of the Commonwealth the evil-smelling and evil-doing opium dens and immorality shops that flourish throughout Australia unfortunately, and which are doing a deadly work upon the young womanhood and the young manhood of the Commonwealth.

SENATOR DRAKE.—We are stopping more from coming in.

SENATOR LT.-COL. NEILD.—Does the honorable and learned senator think that if one end of his house was on fire it would be sufficient to simply prevent the other end from igniting? Would it not be his duty to put out the fire rather than to satisfy himself by preventing a second fire?

SENATOR DRAKE.—But we prevent the fire from beginning.

SENATOR LT.-COL. NEILD.—I am satisfied that so far as the white Australia legislation of this Government is concerned, it has done absolutely nothing that is appreciable in maintaining that purity of the Anglo-Saxon race about which we have had so

many hypocritical platitudes from press and platform for so great a length of time. The honorable gentlemen who constitute the Government have sung another Hallelujah chorus on the granting of the franchise to women, and they represent themselves to the world at large as having achieved a splendid liberality of legislation on behalf of the women of the Commonwealth.

Senator GLASSEY.—Is it not true?

Senator Lt.-Col. NEILD.—No, it is not true in this respect, because they could not help themselves. I hear some honorable senators laughing, but such laughter is simply, as Solomon says, like “the crackling of thorns under a pot.” It does not represent intellect; it represents something of the very opposite character. The Constitution provides most emphatically that no person in possession of the franchise at the establishment of the Commonwealth shall lose that right. That provision made it absolutely impossible to take from the women of South Australia the franchise rights which they possessed when the Commonwealth was established. It goes without saying that we could not have a double franchise—a superior and an inferior franchise—for one community; we could not have a House elected by a varying franchise, as between one State and another. Thus, as it was impossible to take away the franchise from the women of South Australia—and judging by his speeches in the past, the Prime Minister would have done so if he could—there was nothing left for him to do but to level up. The granting of the franchise to the women of the Commonwealth was nothing more than the automatic action provided for by the Constitution. The people who are entitled to thanks at the hands of those women of Australia who appreciate the franchise are not my honorable friend the Postmaster-General and his posturing colleagues, but rather the members of the Convention, who were the framers of the Commonwealth Constitution.

Senator DRAKE.—And amongst them were my colleagues.

Senator Lt.-Col. NEILD.—Up to a certain point. But I do not know that because a person was a member of the Convention, he is entitled to thanks for doing something which he opposed when in a minority.

Senator DRAKE.—The honorable senator cannot show that.

Senator Lt.-Col. NEILD.—Another question to which I desire to refer is the proposed bonus for sugar grown by white labour. I agree with the Government that it is a proper thing that as all the Commonwealth is to benefit by a white Australia, all the Commonwealth should pay for its whistle. The burden of establishing this glorious white Australia, which people so much appreciate, or believe they do, should not be placed solely upon Queensland, and, to an infinitesimal extent, upon New South Wales. There is another aspect of this question, upon which I desire to say something. The Postmaster-General made a speech in Brisbane, in which he detailed how many thousand tons of sugar had been grown by white labour in Queensland, but he must have been hopelessly dense if he believed that it had all been grown by white labour. Up to, and inclusive of the work of trashing, that cane had been all grown by black labour. It was only during that portion of the year when no one was really required to look after it, that it was grown by white labour. I am speaking of what I know to be the case. I have been up there; I have travelled through the districts, and have obtained information for myself on the subject. Therefore, I am not going on the statements of newspaper writers, or even upon those of plantation owners. I have gained a personal knowledge of the subject, and what I further assert is that, in connexion with this growing of cane by white labour, one of the greatest pieces of wickedness that has been attempted in Australia is now in full swing. I refer to the growing of cane, not by stalwart men—whom you can not obtain to do the work for payment—but by rapacious proprietors of canefields who turn their own wives and children into the fields to do sweating work, which they cannot hire men to accomplish. When the proposal foreshadowed in the Governor-General's speech comes before the Senate, I shall take every care to give an opportunity to those who like to vote, as I shall not vote, for employing white women and tender children to sweat in canefields, doing work which adult men cannot be hired to do, owing to its obnoxious and cruel character. Before I leave the sugar question I must make a reference to something that the Minister for Trade and Customs would not refer to at his celebrated meeting in Sydney a little while ago. He was

challenged in the most direct manner in the press by press writers and by correspondents who signed their names, so that they were not anonymous charges. The charge was this: that at the time the excise duty was imposed there was in store, outside bonded warehouses, in Queensland, 16,000 tons of sugar, none of which had paid any duty. And this is the extraordinary feature of the matter to which I am going to draw attention, although I know it was mentioned last session.

Senator PEARCE.—It was mentioned three or four times.

Senator Lt.-Col. NEILD.—Yes; as no answer has been given I shall mention it again, and I hope others will continue to do so until the secret of this mystery is wrung from those who are responsible for a transaction which is not to the public credit of the Government of the Commonwealth. Out of that 16,000 tons of sugar 7,000 tons were allowed to go into distribution without paying a "bean," while the remaining 9,000 tons were clutched by the Customs Collector, and a duty of £3 per ton collected.

Senator MCGREGOR.—"Beans" would be spurious coin.

Senator Lt.-Col. NEILD.—Not half so spurious as the honorable senator is as a politician. A sum of £21,000, which should have been collected as duty on 7,000 tons of sugar, was allowed to go by the immaculate Government which will prosecute a ship's cook for carrying away half a bucketful of second-hand fat. These are the people who will chase an unfortunate sailor in the streets when he is obliging a friend in England by simply carrying from the ship's side to the post-office the Bible of a deceased mother. These are the gentlemen who are so greedy of religion that they must even confiscate an old woman's Bible in the interests of honest administration. Yet, when they see an opportunity to collect £21,000 of duty on 7,000 tons of sugar, they, like the Pharisee of old, pass over on the other side.

Senator PEARCE.—What about the fat?

Senator Lt.-Col. NEILD.—They collected duty on the remaining 9,000 tons with the same avidity that the Postmaster-General's colleague, like the proverbial shark after the bit of pork, went for the bit of fat.

Senator MCGREGOR.—That fat would have greased the Victorian railways.

Senator Lt.-Col. NEILD.—The less said about greasing the Victorian railways the better. My honorable friend who has just resumed his seat deplored, in that sweet plaintive voice with which he sometimes addresses the Chamber, the use of a certain word. The Postmaster-General is more persuasive than violent. He is not like me. There is this difference between us, that he is one who will try to

Do good by stealth, and blush to find it fame;

while I am satisfied to take my axe and hack my way through the world. My learned and honorable friend was telling us just now how he deprecated and deplored the fact that some one who had preceded him had used a certain little word, and that word was "tariff." The use of that word, I was going to say, was like a red rag to a bull. I shall not say that, however, because my honorable and learned friend does not play that rôle, but it came to him with a sense of heartbreaking grief. Sitting here I watched my honorable and learned friend's face, and I felt sorry that he should have met with such a matter of distress. Still, while referring to the Tariff, I intend to indulge in a little bit of ancient and modern history. I had no opportunity of dealing with the matter last session, and I am going to take the one which now offers. It is suggested that the Tariff must not be touched. It is too sacred a thing. It must not be interfered with in any way. I am going to ask the Senate to remember the declaration made by the Prime Minister in his celebrated Iaitland speech, when he asked, "Shall we pile the duties on the cottager and the artisan." I am going to ask the Senate, and especially those who claim to be the immediate representatives of the cottager and the artisan—

Senator MCGREGOR.—Does the honorable senator dispute our claim?

Senator Lt.-Col. NEILD.—I do not. But I also represent them. If it had not been for the cottager and the artisan I should not have been here.

Senator MCGREGOR.—Then why dispute our claim to represent them?

Senator Lt.-Col. NEILD.—I am not addressing myself to honorable members of the labor party, but to those who claim to be the more immediate representatives of the cottager and the artisan. Let me just

give, briefly, an evidence of how, notwithstanding this notable declaration, the Ministry of the day have piled the duties on them. When the cottager or artisan rises for his day's work he leaves a bedstead on which there is a duty of 20 per cent.

Senator BARRETT.—Will the honorable senator tell us about the mangles?

Senator Lt.-Col. NEILD.—Does the honorable senator wish to be passed through one? I think a little of his irrepressibility might usefully be squeezed out of him. I say that the cottager or artisan rises in the morning from a bedstead which pays 20 per cent. duty. The blankets pay 15 per cent., and he has one cheap line at 5 per cent. on sheets.

Senator CHARLESTON.—Is that according to the Tariff as introduced?

Senator Lt.-Col. NEILD.—No. That is the Tariff as passed—the subject of the universal pean sung by the Yes-Mr.-Watson Ministry. I am not going to take the unfortunate cottager through a maze of extravagance and luxury. I am going to put him on bed-rock principles. He washes with soap dutiable at 3d. per lb., uses a towel at 15 per cent., a toothbrush at 15 per cent., and shaves with a razor at 20 per cent. He uses a jug and basin at 20 per cent., a washstand at 20 per cent., and a hair brush at 15 per cent.

Senator O'KEEFE.—He would never get to work if he had to go through all that.

Senator Lt.-Col. NEILD.—I know this is very unpleasant for some honorable senators. They would rather not have it recorded, but it shall be recorded unless the President pulls me up. This unfortunate cottager, who was to go free, according to the Prime Minister, puts on clothes bearing a duty of 25 per cent., boots at 30 per cent., polished, if he can afford it, with blacking at 20 per cent., and by brushes at 25 per cent. The cottager wants some breakfast, and he sits down to a breakfast table dutiable at 20 per cent., on a chair upon which there is a duty of 20 per cent. Before him there is a cloth, the duty upon which is 20 per cent.; a cup, saucer, and plate at 20 per cent.; knife, fork, spoon, and coffee-pot, all at 20 per cent. Is this piling up Customs duties upon the cottager and artisan, or is it not?

Senator BARRETT.—But he is not objecting.

Senator Lt.-Col. NEILD.—Is he not? Let my honorable friend wait until the

numbers are up before he is so positive about that. Then the cottager and artisan must have something to eat, and his porridge has on it a 40 per cent. duty, his sugar a duty of £6 a ton, his coffee is dutiable at 5d. per lb., his eggs at ½d. apiece, and the duty upon his bacon is 3d. per lb. I suppose he will like some mustard with his bacon, but there is a duty of 2d. per lb. upon it, a duty of 3d. per lb. upon his butter, and his bread is made from flour which is dutiable at £2 10s. per ton.

Senator PLAYFORD.—He gets his butter at a cheaper rate than the man in England, who pays no duty.

Senator Lt.-Col. NEILD.—He must go to work under the circumstances which I have recounted after an exceedingly frugal breakfast. Then he puts on a hat bearing a duty of 30 per cent., and walks off to work smoking tobacco dutiable at 3s. 3d. per lb. in a pipe paying a 20 per cent. duty. But it is not alone during his sleeping, working, or eating hours that this Tariff touches the cottager and artisan. It follows him to his sick bed, and pursues him beyond the grave.

Senator PEARCE.—Horrible!

Senator Lt.-Col. NEILD.—It is horrible. That is what the Barton Tariff does for the cottager and artisan. When he comes to die there is a duty of 15 per cent. upon his physic. When he is dead he is allowed one cheap line only in the matter of the duty of 5 per cent. on his shroud. But there is a duty of 20 per cent. on the cards calling his friends to the funeral, 20 per cent. on the coffin that holds his corpse, 25 per cent. on the hearse that bears him to his grave, 20 per cent. on the organ that sings his requiem, and a final duty of 25 per cent. on his tombstone. This is a specimen of the operation of a Tariff which, according to the Prime Minister, was not to be piled up in the form of duties upon the cottager and artisan. When my honorable friend the Postmaster-General shrinks at the very mention of the word "tariff," let me tell him, with the greatest kindness in the world, that he will probably hear it more than once during the coming session, and that the word "tariff" will sound trumpet-tongued throughout Australia when the people are asked to poll their votes at the next election. I said I intended to say something about the Postal department. I

find that the Postmaster-General has apparently been doing that which Scripture describes as "making friends of the mammon of unrighteousness" that when other things fail he may be received into their good graces. What I refer to is that we have had the remarkable spectacle of a Minister travelling through his electorate—the whole State—and spending Commonwealth money with such prodigality that the State Premier absolutely makes public protest against the unwarrantable expenditure.

Senator DRAKE.—Nonsense.

Senator Lt.-Col. NEILD.—I find, by a return recently published, that my honorable and learned friend has, during the recess or since his accession to office, increased the annual expenditure upon the post and telegraph services in Queensland by a sum of £27,000.

Senator DRAKE.—That is rubbish. That amount was paid for services initiated before federation, and for buildings and works constructed out of loans.

Senator Lt.-Col. NEILD.—I do not pretend to know the details. My honorable and learned friend must now see the inconvenience of insisting upon speaking before me. I gave the honorable and learned senator warning that I intended to speak of these things. He therefore cannot complain if I now ask him not to interrupt me. I cannot possibly know the secrets of the honorable and learned senator's prison house, but I do know that Mr. Philp, the Premier of the State that sends the Postmaster-General here, has publicly protested against the lavish expenditure on the Postal department in that State because it has the effect of diminishing the proportion of Customs duties which he receives from the Commonwealth Treasurer. I say that it is a very remarkable thing, and it shows that while we may be restricted to £250 for an election candidature, if we happen to be Ministers of the Crown, with the revenues of the Commonwealth at our hands, we may get there just the same by another route. Now I am going to say that the Postmaster-General has been a party to a scandalous miscarriage of justice in his department in New South Wales in the shape of a double trial for the same offence. I shall briefly state the facts as disclosed from no other source than that of a copy of a report which the honorable and learned senator's own secretary has sent me. Although the

person chiefly concerned was only a switch attendant, earning from 8s. to 10s. a week, a switch attendant is as much entitled to have me speak in his behalf as a man receiving £5,000 a year. I never saw this boy. I have difficulty almost in remembering his name, and should not remember it if I had not seen it written so often.

Senator DRAKE.—"Martin" is the name, and I can give the honorable senator all the particulars.

Senator Lt.-Col. NEILD.—Here again, if the honorable and learned senator had been content to allow me to speak first, he would have had an opportunity to put the matter right, and as he has not done so, I am sure he will not disobey the ruling of the President by interrupting me. I do not desire to be interrupted while I state the facts in this case concisely. This boy, earning the small sum of 8s. or 10s. per week, was accused upon four charges, the most serious of which was an offence which is committed probably by every switch attendant in the land at one time or another—that of exchanging a word or two of information with a subscriber. Switch attendants are continually supplying bits of information in this way, and indeed the service could hardly be carried on without the exchange of a word or two in this manner. There were four charges alleged against this boy; but this was the most serious one. A departmental inquiry was held, three of the charges were held not to have been proved, and the other proved—the charge of talking. It was found to be of so serious a character that the boy was ordered to pay a fine of 4s. 6d.

Senator DRAKE.—He was not ordered to pay.

Senator Lt.-Col. NEILD.—I shall now state a fact which has been disclosed to me, not by the report to which I have referred, but which I happen to have from an absolutely reliable source. The decision of the Deputy Postmaster-General, Mr. Dalgarno, that the boy should pay a fine of 4s. 6d. was communicated to him by the head of his department, but before he could pay the fine it happened that the Deputy Postmaster-General went away on a holiday, and an Acting Deputy Postmaster-General coming into power, the old charges were reiterated against the boy. In defiance of the principle that a man should not be tried twice for the same offence, in defiance also of the principle which my

honorable and learned friend the Postmaster-General will recognise in military matters that an acting commandant has no right to alter orders given by the actual occupant of the office, this Acting Deputy Postmaster-General at once suspended the boy. The head of the department thought that a fine of 4s. 6d. was enough, but upon representations being made by some method, of which I have no knowledge, the boy was suspended and the Postmaster-General was advised. The honorable and learned gentleman set in motion all the magnificent machinery of the Commonwealth, including the Governor-General in Council, and a new trial is ordered by the Executive Council.

Senator DRAKE.—Not a new trial—a statutory inquiry.

Senator Lt.-Col. NEILD.—The honorable and learned senator knows that there was a departmental inquiry. He cannot contradict that.

Senator MCGREGOR.—Did they hang the boy?

Senator Lt.-Col. NEILD.—He was treated in much the same way. The honorable and learned senator is trying to draw a distinction between a departmental inquiry and a statutory inquiry. Will my honorable and learned friend say that a man who has been acquitted after trial at quarter sessions, or who has only been fined a nominal sum, may, when the head of his department has turned his back, be subjected to a second prosecution by a criminal court at the hands of some temporary occupant of the position. That a boy of tender years should be dismissed by order of the Governor-General in Council, with a *Gazette* notice heralding the matter forth to the world, is very extreme punishment. It was almost as bad as would be hanging the boy, and I say it is a despicable business. The facts as disclosed to me are of such a nature that I feel more than grieved that such a thing should happen in a department presided over by so amiable a gentleman as the Postmaster-General. I can only say of the honorable and learned senator, as I said of him at a public meeting in Sydney, that he is a very courteous gentleman and most obedient to his Under-Secretary.

Senator DRAKE.—Does the honorable senator say that this boy should not have been dismissed?

Senator Lt.-Col. NEILD.—I say that the boy, having been fined, should have been permitted to pay the fine, and should not

have been dragged up again in order that he might be thrust out of the service.

Senator FRASER.—The honorable senator contends that two trials were too many?

Senator Lt.-Col. NEILD.—That is so. The Postmaster-General would, I think, desire to have two trials only of a vote of censure, and only if on the first trial the vote were carried. But he took two shots at this unfortunate boy, and that is what I object to. There is one matter that has not been dealt with, and that is the very serious question of the transferred State properties. It will be recollected that I fought this question pretty hard, and divided the Senate on the third reading of the Bill. In the other House the obnoxious clause was struck out, and now we find that there are millions of pounds worth of State properties, the transfer of which forms the subject of negotiation between the Commonwealth Government and the State Governments. No provision is being made for the payment of the accruing interest, amounting to £300,000 a year. By the time that the properties have been transferred, the Commonwealth will owe an interest debt of at least £1,000,000 in connexion with their transfer, and that charge will have to be met in some way. Is it to be added to the debt obligation that is to be recognised by the Commonwealth to the States, or is it to be paid in cash? And if it is to be paid in cash, ought not provision to be made in the Government accounts for meeting this heavy demand when the amount is finally adjusted? Most distinctly I maintain that the Treasurer is neglecting a high duty of state in not making provision for that which must inevitably be required. I shall have a word or two to say of the condition into which a very important branch of the Commonwealth service has been allowed to drift, and that is the Defence Force. I have already indicated what my action will in all probability be in connexion with the naval agreement, but when I deal with the land forces, I find a state of affairs of so undesirable a character existing that it is my positive duty, having knowledge of the facts, to put them before the Senate.

Senator BARRETT.—We had a peculiar incident to-day in connexion with my question.

Senator Lt.-Col. NEILD.—That is a matter which the honorable senator has in hand, and he will no doubt take whatever action he thinks proper.

Senator BARRETT.—I shall follow it up.

Senator Lt.-Col. NEILD.—It is a matter that might perhaps be very well followed up, but I am not going to refer to any order issued by any soldier in the service of the Commonwealth, no matter how highly placed. I shall deal solely with actions of the Ministers themselves, and particularly actions of the Executive Council. When the Government took over the defence forces of Australia the land forces numbered 28,886, and in the short space of two years they have dwindled by 6,351, closely approaching a fourth of the total number. There has been not only a deterioration in number, but a heavy deterioration in quality. I attribute this result solely to the reign of incapacity and muddle that has characterized, from first to last, the action of the Government. When we hear of the difficulty of raising colonial loans on the London market, we recognise the fact that the Australian States are going there from time to time for loans. I suppose the Commonwealth Government will have to go there for the same purpose before long, and go like a borrower who has not got a valid policy of insurance as collateral security. The collateral security I refer to is in this case a valid defence force. What man can borrow, or what institution or individual will lend, without there being a fire or marine policy, as the case may be, as collateral security in the event of fire or wreck? The Government have been treating the question of Australian defence from first to last with a careless imbecility that is wholly discreditable to any gentlemen charged with the high duty of Ministerial office.

Senator DAWSON.—Is the commandant free from blame?

Senator Lt.-Col. NEILD.—I said that I would only discuss the acts of the Government. There are very good reasons, which I need not refer to, why I decline to utter anything that comes to me in an official way. I shall use no information that is not of the most publicly known character, and that is not connected with the action or inaction of the Government. As regards the distinguished soldier who is the head of the Defence Force, the Government went along this road of drift and drivel for a year before they had a military adviser of any kind. From answers given by the Acting Minister for Defence in the other House, in September last, it seems that the military commandant

had not been sworn in. There was no Act under which to swear him, and he has not yet been sworn in, I presume. Nor, according to an answer given by Senator O'Connor in the Senate, on the 12th July last, have the head-quarters staff been sworn in, because there is no Act to swear them in under. How can you possibly have a valid military force, the chief members of which have never been attested?

Senator CHARLESTON.—Under what authority are they acting?

Senator Lt.-Col. NEILD.—They are really acting under civil authority. Certainly they have a uniform, but, so far as I know, no parchment commission has been issued to any officer of the Defence Force. Since the Ministry took office, all that has happened has been that the names of officers have been published in the *Gazette* as having been appointed or promoted.

Senator CHARLESTON.—Is the General Officer Commanding acting under any Imperial authority?

Senator Lt.-Col. NEILD.—Under the Constitution: there cannot be any Imperial authority. He is acting, I presume, under the authority given to him by the Governor-General in Council. In military and naval forces everybody has to be sworn in, but there has been no opportunity to swear in the General Officer Commanding and his staff. While we have had a Ministry in power for two and a-half years, they have not sworn in one soldier to serve the Commonwealth. They have only sworn in soldiers to serve the Commonwealth in the States. You cannot have a joint camp of the Victorian and New South Wales forces, say, at Albury, unless you keep them carefully on each side of the river.

Senator HIGGS.—You cannot do everything at once.

Senator Lt.-Col. NEILD.—No. But it is not a desirable thing to be spending between £500,000 and £750,000 without having value for your money. The force is less to-day by practically one man out of every four that were in existence as State troops when the departments were taken over by the Commonwealth. So far as my knowledge goes there do not exist to-day more than two men out of every four who were there at the time when the departments were taken over. The difference, of course, has been made up in this way; that new men have been sworn in. We have, perhaps, equal to three in every four, but one of

the three is a new man, and owing to the discouragement which has been notoriously given we find that stalwart men—men properly developed—in large numbers. Their places have been taken by youthful enthusiasts, who, however valuable the military training is to them, could not possibly be expected to stand the strain of active service with the same efficiency as men of more mature years.

Senator HIGGS.—They had boys at fourteen in the Boer army, and they were good shots, too.

Senator Lt.-Col. NEILD.—It is absurd to quote a fact of that kind as an answer to my charge that not only have the numbers of the force been depreciated by practically one man out of every four—and it will be quite that by the end of next month, when a lot more dismissals will take place—but the very stamina of the men is of a less substantial character.

Senator FRASER.—They had to reduce the number on account of the vote being reduced.

Senator Lt.-Col. NEILD. — To some extent, but that does not account for it all by any means. Reduction applies more particularly to the permanent troops, than to the militia and the volunteers. I have all the figures in a return prepared by the Treasurer, but I shall not weary the Senate with the details. I shall take the broad facts.

Senator HIGGS. — Can the honorable senator state the number of men in the defence forces in the States prior to the taking of the last referendum?

Senator Lt.-Col. NEILD. — No; but when the military departments were transferred the forces numbered 28,886.

Senator HIGGS. — The strength of the forces was swollen very much as soon as it was decided to federate.

Senator PLAYFORD.—Like they put up the salaries of a number of the officers.

Senator Lt.-Col. NEILD.—I am not discussing the question of the salaries, because I believe that applies particularly to South Australia. I understand that colonels were manufactured there at a rate which was positively alarming, and I know that one or two staff officers were advantaged in New South Wales. For instance a staff officer who will retire in a month or two was promoted, and his commission dated back five or seven years, in order to give him seniority and extra pay. I do not defend these things for

an instant, whoever perpetrated them. I am naming a New South Wales case, and thus showing a perfect willingness to condemn in New South Wales what Senator Playford objects to in the case of his own State. Here is another matter connected with the Defence Force. We have heard so much about the simplification of uniforms that this will appeal, I have no doubt, to those who have been specially urgent in demanding a reduction of unnecessary expenditure. I have a copy of the *Commonwealth Gazette* of the 16th May, and if honorable senators wanted food for merriment they might turn over five entire pages, the first entry being—

His Excellency the Governor-General in and over the Commonwealth, by and with the advice of the Executive Council thereof

and the final entry—

JOHN FORREST, Minister of State for Defence.

What do honorable senators think that those entire five pages refer to? Nothing but military millinery. If I were to take up the time of the Senate by reading some extracts, I am sure there would be a certain amount of hilarity over the grave proposition of the Governor-General in Council after all this incubation by the Ministry putting forward the mass of detail here for a force that is a dwindling quantity, and a force that has been reduced in enthusiasm and efficiency as well as in number. I suppose that to-day it is generally understood that there is scarcely a known drill throughout the length and breadth of the Commonwealth. The drill of the Imperial Army is not good enough for Australia, and we have to put up with some kind of cross between infantry and cavalry drill. Schools of instruction are held continually in the different States, in order to instruct the officers as to what is a proper drill for the Commonwealth. As in every one of these schools of instruction different orders are given and different drill is taught, they have done little more than cause "confusion worse confounded."

Senator STYLES.—Who is responsible for that drill?

Senator Lt.-Col. NEILD.—The Minister for Defence; who else?

Senator STYLES.—Is not the Commandant responsible?

Senator Lt.-Col. NEILD.—The Commandant has made so many recommendations,

and has been so severely "sat upon" for making them, that I dare say he is not responsible for nearly so much as is supposed. I am not criticising anything that is not an act of the Governor-General in Council. Here is another act of the Governor-General in Council to which I draw attention; and I should like, Mr. President,—perhaps you will forgive me for saying it—to have the keen attention of yourself at this point, because I am going to deal with a matter that is to my mind a serious inroad upon the rights and privileges of Parliament, and an absolute incursion upon the Constitution under which we exist. We have a Constitution that provides—I will not labour the matter by quoting the section—that members of the Defence Force of all ranks, so long as they are not fully paid professional soldiers, may sit in the Parliament, and we have no law in any part of the Commonwealth that limits the rights of members of the Defence Force to enjoy the full rights of private citizenship. Yet we have a regulation issued on the 27th February last that absolutely in express terms prohibits any member of the Defence Force of any rank from instituting a meeting for religious or political purposes.

Senator PEARCE.—In uniform?

Senator Lt.-Col. NEILD.—No; out of uniform. I will read the regulation, which was issued by the Governor-General in Council—

Officers and soldiers are forbidden to institute or, when in uniform, attend any meeting, demonstration, or procession for any religious or political purpose.

There are so many lawyers present that perhaps I may be venturesome in attempting to say what "institute" means. But I hope that any lawyer who is present will correct me if I make a mistake.

Senator FRASER.—Are they not allowed to go to church on a Sunday?

Senator Lt.-Col. NEILD.—I will deal with that directly. To "institute" a meeting, in legal phraseology, means to commence, to initiate, to start, to begin.

Senator PEARCE.—Surely such a regulation would be *ultra vires*.

Senator Lt.-Col. NEILD.—I have here a letter, three pages long, which I have written to the Prime Minister on the subject. I propose to read some extracts from it, because this is a serious inroad upon the religious and political rights of every man

who gives his services for the defence of the land of his birth. This is an absolute embargo upon any member of the Commonwealth forces initiating a public meeting for any religious or political purpose. I said just now that the Commonwealth Constitution provides that members of the Commonwealth Defence Force can sit in this Parliament. It also provides in another section that, sitting here, they are to possess the "powers, privileges, and immunities" of the House of Commons. Now, sir, there is no such regulation in England applying to either House of Parliament in respect of any officer or soldier belonging either to the militia or volunteer services. What happens? Under this order I am advised by the highest legal talent I have been able to consult—I have talked the matter over with and submitted the regulation to more than one King's Counsel—that my contention, addressed to the Prime Minister, is absolutely accurate, namely, that a member of the volunteer or militia services of the Commonwealth who sits in Parliament, or seeks a seat in Parliament, cannot, under this regulation, call a meeting of his constituents or those whom he desires to be his constituents. I consider that this is an absolute inroad upon the Constitution. I notice that the Postmaster-General smiles. What do I find in the Prime Minister's reply? He does not dispute any proposition which I have laid down, but he says—and this is written by Sir Edmund Barton himself and signed by his own hand; it is not a mere formality from an official—

I wish to point out that it is not proposed to apply to this, or any other regulation that may be issued, an altogether strained and unreasonable method of interpretation.

I do not say anything about a strained or unreasonable method of interpretation. I am only questioning the literal application of this order. We were told identically the same thing in this Chamber when we were asked to give phenomenal powers to the Minister for Trade and Customs. We were told identically the same thing with reference to the Immigration Restriction Bill—that there was to be no harsh application of it. But we now have Ministers telling us that they are absolutely bound by the strict letter of the law. Perhaps they are. And that is what I object to—that this regulation may be literally interpreted to direct a Member of

Parliament, who is also a military officer, that he cannot call a meeting of his own constituents. I say, further, that this regulation has been broken every day. It was broken at the opening of Parliament. We then had a purely political meeting. What is a meeting of Parliament but a political meeting? Yet on that day we had the General Officer Commanding and his staff officers, in uniform, present, and there were outside a guard of honour and an escort in uniform. In fact, this is a regulation that cannot be enforced except some one in authority wants to get rid of some one. Then it will be used. And there is no appeal. It is not a regulation that can be decided in the law courts, because a member of the military service can be taken, put into a political bag, and dropped into a political Bosphorus without any appeal. The regulation applies to members of State Parliaments as well as of the Commonwealth Parliament. I say that the highest officer who sits in any one of the Parliaments of Australia may have his commission cancelled at any moment without any right of appeal. There should surely be some protection to a man's reputation, and he should not be liable to be thrown out into the street by a secret accusation such as I have known during my experience. I know of a case that happened in New South Wales, where a general officer, in defiance of the Queen's regulations, made four surreptitious attempts to get an officer dismissed or placed on the retired list; but he did not succeed, owing to the fact that he had a stiff-backed Minister to deal with. That Minister is a member of the Commonwealth Government to-day. I again point out that there is no appeal from a decision under this regulation. No member of the Defence Force can bring an action at law to protect his commission or his military status, because, though he might commence such an action, he would be out of the service before a trial could take place. This is an ukase that deals with men who are absolutely helpless to protect themselves. I will take all the risk of giving publicity to the circumstances that led to the making of this regulation which I look upon as so scandalous. His Eminence Cardinal Moran was returning from a visit to Europe, and on the day when he landed in Sydney the band of the Irish Rifles headed the procession which went to meet him. What was to be done was announced

in the press by advertisement from day to day before the procession took place. It was announced that the band of the 8th Regiment was to head the procession. Of course, according to all military custom that I ever heard of, it would have been a proper thing for that action to be stopped, because the military are not supposed to mix themselves up with matters that are likely to bring them into collision with any part of the community. It is quite contrary to all military precedent for a military band in uniform to play in a political or religious demonstration. This is so well known that it need not be discussed further. But, instead of stopping the band from doing that which was contrary to military custom, the Government let them play at the head of the procession, and now they want to jump on every member of the military forces, from a private to a colonel, in respect of his civil and religious liberties. Under this regulation a military officer who was a churchwarden would not be able to call a meeting of his fellow churchwardens. I suppose that would be instituting a meeting for a religious purpose.

Senator DRAKE.—That is a strained interpretation.

Senator Lt.-Col. NEILD.—I quite agree that it is. Perhaps I am pushing the argument to a *reductio ad absurdum*; but that is not altogether a new form of argument.

Senator DAWSON.—It is a possibility.

Senator Lt.-Col. NEILD.—It is an absolute possibility. I do not know—if we are to pursue the *reductio ad absurdum*—whether a member of the Defence Force could even be married by religious process! He would be instituting a meeting for a religious purpose! I admit that that is a strained application of the regulation, and is not likely to occur. I do not suppose that any Minister would go so far. But why does the Ministry attempt to take to itself such powers as could be used in such a manner for such a purpose, just because a band played a little out of the ordinary? If the Government comply with the law as they should do, they will have to lay the regulation before Parliament, and then we can discuss it. In view of a possible discussion, I propose to read a few paragraphs from my letter to the Prime Minister in order that honorable senators may have an opportunity of looking over the propositions

for themselves in the pages of *Hansard*. I wrote—

Under this extraordinary edict the military forces could not have taken part in the demonstration which inaugurated the Commonwealth, nor in the intercessory services during the King's illness—

because they are prohibited from attending a religious meeting in uniform—

nor in the funeral service when the late Queen died. . . . I further submit that it is unconstitutional, inasmuch as the Commonwealth Constitution expressly guarantees to the members of the military forces certain political rights, which are curtailed in a flagrant manner by this regulation.

And I submit that for any person to attempt to impose the restraint of this regulation upon, or attempt to use it to restrain the statute right of any member of the military forces who sits or seeks to sit in the Federal Legislature, would constitute a most serious invasion of "the powers, privileges, and immunities" of the Parliament, as defined by section 49 of the Constitution.

Indeed, I submit that it may even be argued that the promulgation of this regulation actually constitutes a contempt of the Parliament, inasmuch as it attempts to limit "the powers, privileges, and immunities" of those members of the Legislature who are also officers of the military forces.

No such regulation obtains in the United Kingdom. There no similar attempt has been made to trammel the civil and religious liberty of either the regular army, militia, or volunteers.

I think I am more than justified in bringing this matter forward, so that when it comes before the Senate again, as no doubt it will, honorable senators will not consider that a new subject has been sprung upon them.

Senator BEST.—The honorable senator thinks it applies to what a man does privately as well as to what he does in a military capacity.

Senator Lt.-Col. NEILD.—The difficulty is that we have no interpretation clause to show what constitutes a "meeting." I am not lawyer enough to say what in law constitutes a meeting; but I have enough knowledge of military affairs to know perfectly well that if it were desired to frame a charge against any man it would be very easy to call a gathering of two or three people a "meeting."

Senator BEST.—Does not the general context indicate that it relates to something done in a military capacity?

Senator Lt.-Col. NEILD.—It stands distinctly by itself. It was issued separately, and there is nothing to guide one. Plainly, it means that under no circumstances is a man to initiate any meeting, nor is he to

dream of attending a religious service in uniform. I do not know whether he could even go to a funeral. But I will say that the military authorities are really not carrying out the regulation so far as it applies to themselves, because church parades have been held. What I take exception to is that a Ministry should seek such extraordinary, such utterly unusual powers—powers which were never before asked for in the British dominions. Why do they ask for them, and are we to have these powers granted and exercised according to the strict letter of the law? I am sure I am addressing some honorable senators, who, if they were in my position, would be able to deal much more effectively with the matter, and that I am also addressing honorable senators who, if they were practicing in a court, would be able to make a most telling address on no better material than I am now submitting. Although I must thank the Senate for its consideration in listening to me while dealing at such length with this subject, I consider that I have simply done a public duty in bringing under notice a demand for an utterly unknown and unreasonable power to be exercised without any adequate cause.

Senator DAWSON.—Does the honorable senator think that the sole reason for the regulation is that relating to the band incident?

Senator Lt.-Col. NEILD.—On this point I am only going by general repute. I cannot speak authoritatively as to that.

Senator PEARCE.—The honorable senator will remember a certain meeting in Adelaide at which the troops attended.

Senator Lt.-Col. NEILD.—I did not know of that. There may have been reasons other than the one I have stated, and, if so, I am sorry if I have put a 'strained interpretation upon the matter. There is one other matter to which I desire to refer. Under a defence scheme which has been agreed to it is proposed by the Government to destroy the last remnant of ornate attractiveness associated with the military forces. There is in New South Wales an artillery band, which has been the pride of that State for many a year, and which, whether as a military or as a string band, is perhaps unequalled in any part of the British dominions outside the United Kingdom. It has been notoriously a band upon which the whole community have centered a great deal of pride, and which in thousands of

cases has rendered admirable aid to private as well as to public charities. Now it is to be dismissed. Although every bandsman is a trained soldier—is an artilleryman, and understands how to work the guns—nearly all of them are to go, and there is to be a paltry section of a band of twelve members left. I do not know whether I am addressing gentlemen who have a wide knowledge of bands, and I do not profess to have any specially profound knowledge of the subject myself. But this I do know, that you cannot have a decent military band consisting of less than from 24 to 26 performers, because the proportion of instruments cannot properly be balanced when the number is less. You have a little “tootling” association instead of a well-balanced and properly constituted military band.

Senator DOBSON.—Is this due to retrenchment?

Senator Lt.-Col. NEILD.—Yes. To save the cost of twelve men this band is to be destroyed, and its destruction will be a great public loss. It plays in the public parks—

Senator FRASER.—If the Government have not the money, what are they to do?

Senator Lt.-Col. NEILD.—I think there might be retrenchment in some other direction. I know of certain ways in which I could very well retrench, but those are matters of which I cannot speak here. I know of them not as a public man, but officially, and, therefore, I will say nothing about them. If the Minister wants to know, and calls for my views, that of course will be another matter; but I am not going to mention them here. There is one other point to which I wish to allude. I am sure honorable senators will forgive me if I deal rather largely with examples from New South Wales, leaving other honorable senators to deal with those arising in other States. The first mounted band ever formed in Australia is connected with the New South Wales Lancers. That regiment is to be kept, to some extent, for administrative and escort and ceremonial purposes, and the men are to retain their lances as well as carry their rifles. The regiment furnishes escorts to Governors, and it is one which takes, as no doubt every honorable senator knows, a very prominent part in ornate ceremonies. The band has been kept up at great cost by the officers of the regiment. I have some actual

figures, obtained from a gentleman who is conversant with the subject, and I find that the total cost to the Commonwealth of this band of 25 men has been, apart from their military pay, only £175 a year. That represents the cost of agistment and forage for 25 horses. For the sake of saving a miserable £175 the band is to go, thus taking the heart out of the mounted regiments, and taking away the little bit of “frill,” to use a colloquialism, which pleases the men and pleases the public.

Senator MCGREGOR.—The Government is a band of robbers.

Senator Lt.-Col. NEILD.—I have not said that, and do not intend to say so.

Senator MCGREGOR.—But the honorable senator is trying to prove it.

Senator Lt.-Col. NEILD.—I am not trying to prove it, but I think I am successfully showing that certain methods in connexion with the administration of the Defence forces have given a great deal of dissatisfaction in the State which I have the honour to assist in representing. The band to which I have just been referring has accumulated property at the cost of the officers of the regiment. There are band instruments and music. They have £200 worth of horseflesh, the horses costing £8 each—which is a very low price—and they have other property, totalling altogether between £600 and £700. The cost of maintaining this band of 25 men is £8 per man per annum. That is the ordinary pay which is granted to the militia. These men are trained soldiers. They do their drill and their musketry, and they are effective soldiers in every sense of the term. They are musicians into the bargain, but they have to go. Honorable senators may say—“Why not keep them on and allow some others to go?” The answer is that if you have men in the band you cannot have them in the ranks, and if the total strength of a regiment is reduced to a certain number you cannot deplete it still further even to the extent of having 25 men doing duty as bandsmen.

Senator DAWSON.—It would not do to have all band and no ranks.

Senator Lt.-Col. NEILD.—Exactly. The pay which these men receive is the ordinary one, and it is to apply, I understand, throughout the Commonwealth. The cost of forage and agistment amounts to £175

and the keeping up of instruments together with a small payment to the band-master totals £50 a year. That £50 is an allowance granted to all bands, so that the actual cost of maintaining this important band is £175 per annum. It is worse than a pity that the volunteer or very slightly paid service of Australia is to be rendered of so dull and unattractive a character, for as a matter of personal knowledge I can assert that if you take away all that is attractive, all that is ornate, and all that appeals to the eye and to the mind as being something above the dull grind of hard work, you will not get your ranks filled. You will not get men to join, and you will not be able to keep those whom you have. It is all very well to say that men ought not to join for the sake of anything that is attractive—that they ought to join simply for grim work. We know perfectly well that a man puts on a Sunday suit every Sunday, and his moleskins every Monday morning, and he does his “graft,” as the phrase goes, in a different style of clothing to what he wears when holiday making. That which applies to men in private life, applies equally to the professional soldier, the volunteer, or the militia man. You cannot take away all that is pleasing to the eye, and still find them showing the enthusiasm which induces men in times of peace to do the hard unattractive work which fits them for the duties of military service.

Senator DAWSON.—Honorable senators do not come here in pyjamas.

Senator Lt.-Col. NEILD.—Certainly not. I suppose no one, except a man who has a bit of a mental kink, would go about in clothes which he knows are unattractive to his fellow men. No one wants to be a peacock, but there is some satisfaction in knowing that the common decencies are observed. I think it is a lamentable thing that this process of tomahawking the feathers off the military bird is going on at such a pace. In juxtaposition to that we find a *Government Gazette* published, with five entire pages taken up with descriptions of brand new military millinery at the hands of the steady and grave members of the Executive Council, with the Governor-General presiding.

Senator HIGGS.—Did not that come from the Commandant?

Senator Lt.-Col. NEILD.—I have no idea where it came from. It is sufficient for me to deal with the *Commonwealth Gazette* with its

five pages of millinery headed by the name of His Excellency the Governor-General and the Executive Council, and signed by the Minister for Defence.

Senator DOBSON.—Is it not an offence for a soldier to come upon parade without full military uniform?

Senator Lt.-Col. NEILD.—Certainly.

Senator DOBSON.—Then is it not necessary that these regulations should be published?

Senator Lt.-Col. NEILD.—I only question the desirability of spending such an immense amount of enthusiasm upon trifling details of hooks and eyes, and collars, while the great work of building up the Defence Force is non-existent, because the Defence Force is dwindling rather than increasing. Certainly we must have regulations. It would never do for men to turn up in what uniforms they pleased. We should have a rabble rather than an army if that were permitted. But I recognise that we are to have a piebald army since paragraph after paragraph in those five pages of millinery provide that one thing after another is to be bought as funds permit. That will mean that one man may be clothed in one colour and another in another; that one man's jacket will be cut in one way, and another's in a different way, and if these regulations are to be carried out there will be a most beautiful piebald exhibition of troops on parade. It will be simply discreditable. Provision is made, for instance, that officers and men may wear scarlet uniforms, but officers appointed after this need not procure scarlet uniforms. We may find a company of men in scarlet led by an officer in khaki.

Senator FRASER.—He may not be able to afford all these gew-gaws.

Senator Lt.-Col. NEILD.—I am not arguing for the gew-gaws. I am merely stating what the regulation provides. I have to express my gratitude to honorable senators for the kindness with which they have borne a fairly long speech, in which there has been introduced that which is always unattractive, namely, a considerable amount of detail. In concluding my remarks, I express a hope that the business initiated during the present week may be carried on with the same gentlemanly, kindly, feelings which are so characteristic of the members of the Senate at all times; that the same high level of debate which was evinced almost invariably during the

long session which has passed may be sustained; and that when the work of this session comes to its close those of us who have to seek ratification at the hands of the people may find as a result of the challenge that we shall all meet together again to transact the public business of the country to which we seek to devote our services, and to which I believe every member of the Senate is most honorably and devotedly attached.

Senator PEARCE (Western Australia).—I am sure that the speech in which His Excellency the Governor-General has set forth the policy of his advisers is one which provides ample food for debate, and one which will provide us with ample work during the session before us. With much contained in that speech referring to the policy of the Government in the past I am in hearty accord. When we take all the circumstances into consideration the Government are to be congratulated upon their successful administration. I recognise that there is a considerable amount of dissatisfaction expressed in respect of many administrative acts of the Government, and, as a reasonable man, I admit that there must be some cause for this dissatisfaction. During my recent tour of the State from which I come, I met many who expressed a severe condemnation of various acts of various heads of departments. Reasons for that dissatisfaction have been indicated by other speakers, but we must admit that many of the results of the administration have justified acts which might, under other circumstances, be looked upon as being worthy of condemnation. Viewing their administration as a whole, I hope we may never have a worse set of Ministers than those who are in possession of the Government benches at the present time. With respect to the policy which the Government have put before us, and first of all dealing with the question of the High Court of Judicature Bill, I may say that when that measure was introduced last session, I was prepared to oppose it, believing that its introduction was premature, and that the time had not arrived when we should be justified in plunging the Commonwealth into the expenditure which the establishment of a High Court would involve. However, the developments of the past twelve months have convinced me that unless we do establish the High Court there will be grave danger to the smooth running of the federal machine. I can well believe

that we shall very soon have a number of varying decisions given in different States under the temporary measure passed last session, giving State courts federal jurisdiction. Those decisions will be pronouncements interpreting the Constitution, and because they vary they will endanger the success of the Constitution which they are supposed to interpret. It is for this reason that I am now prepared to support the establishment of a High Court of Judicature. Reviewing all the circumstances, I think a debt of gratitude is due to those who in the Convention fought the battle for limiting the right of appeal to the Privy Council. I recognise the fact that they fought that battle in the interests of the Australian people. In my opinion we are to be congratulated upon the fact that when the High Court is established, by putting into practice the powers given us under the Constitution, we shall be able to almost entirely abolish the right of appeal to the Privy Council. I personally would much rather have the administration of justice placed in the hands of an Australian body than in the hands of an outside tribunal absolutely unacquainted with our circumstances. The question is raised whether three or five Judges should constitute the High Court, and I think it is upon that question that the whole battle will be fought, as the necessity for the establishment of a High Court is now generally recognised. It will require all the oratorical powers of the Government to persuade Parliament that five Judges should be appointed at the outset. I, at present, have an open mind upon the question, and I shall listen with interest to the reasons which may be advanced by legal members of the Senate in support of the appointment of the larger or smaller number of Judges. With respect to the settlement of the question of the capital site, I recognise that representatives of New South Wales have a right to ask that the rest of the Commonwealth shall keep faith with them in this matter. As a senator representing another State, I am prepared with the utmost expedition to carry out the contract entered into by the people of Australia with the people of New South Wales, and I shall assist the Government in any step which they may deem it advisable to take to bring about a speedy settlement of this question. I may say, also, that I believe such steps may be taken without pledging the Commonwealth to any great expenditure. Perhaps a

speedy settlement of the question of the site may result in a saving of money. We know that, as a result of the terrible drought experienced there, land in New South Wales is at present at bed-rock value. We are all of us optimistic enough to believe that a period of recovery is before us, during which land values will rise, and if we have to resume land for the federal territory at a later period we shall have to do so at a higher price than that at which we could get the same land now. I now come to a question which, to every Western Australian in the first degree, and to every Australian in the second degree, is of prime importance. That is the proposal for making the federation with Western Australia a real federation. I refer, of course, to the construction of the proposed railway from the east to the west. Some honorable senators have said that they are inclined to be keenly critical in dealing with this proposal. And seeing the state of our finances, I admit that in taking that view they are doing no less than their duty. They would not be doing their duty if they consented to the construction of this railway merely from a spirit of good fellowship. They have a right to ask for, and they should be given good reasons why the railway should be constructed. They should be advised as to its probable cost, the probable revenue to be derived from its working, and its utility to the Commonwealth as a whole. I trust that, not so much as the consequence of what may be said on the floor of this Chamber, but as the consequence of what will be said by the experts who have been commissioned to make inquiries, the proposal will be found to commend itself to honorable senators. I am sure that honorable senators will recognise the necessity of providing for the efficient defence of every part of the Commonwealth, and of giving facilities of access to, and communication with, every State in the Federation. I am sure that members of the Senate will look at the question from these points of view, and if that is done we shall have no cause to complain. In this manner we may, I think, ask honorable senators to deal with us as Canada dealt with the provinces of the Dominion in a very similar case, so far as geographical position is concerned. When the Dominion of Canada was formed the States were not connected by the most modern means of communication, and there very quickly

sprang up an agitation for the construction of a railway. On the part of one of the provinces—British Columbia—it was made a condition of their joining the Dominion that the Canadian-Pacific railway should be constructed. I am sorry that Western Australian delegates to the Convention had not sufficient foresight or business conception to make a similar condition for the entry of Western Australia into this Federation. In his book, *Canada and the Canadians*, Goldwin Smith, who will be admitted to have an intimate knowledge of Canadian questions, says—

To link together the widely severed members of the Confederation, two political and military railways were to be constructed by united efforts as federal works. The first was the Intercolonial spanning the vast and irreclaimable wilderness which separates Halifax from Quebec. This has been constructed at a cost of 40,000,000 dollars, and is now being worked by the Government at an annual loss which is reckoned by an independent authority at 500,000 dollars. The Canadian-Pacific has also been constructed at a cost to the Dominion, in money, land grants, &c., of something like 100,000,000 dollars.

He speaks of the military value of these lines, and then he points out that as a commercial road the Intercolonial is a failure, for the simple reason that there is not, nor is there likely to be, any trade of the slightest importance between Canada and the maritime provinces. In order to link the distant States with those, as it were, in the commercial world, Canada was prepared not only to construct a railway which was to be run at a loss, but to construct a railway which for the greater part of its length was to be practically of no commercial importance, and whose commercial usefulness has not yet even been demonstrated. Goldwin Smith goes on to point out that even then it had a rival in the trans-continental railway of the United States, which lessened its commercial usefulness, and made it impossible that it could ever be a great commercial success. He also points out that as a colonization achievement the railway has never been a success. His summing up of the whole position is that they did right in constructing the railway; that they fulfilled an obligation which was a contingency upon federation, and that without that railway federation would not have been a fact to the distant States in the Dominion.

Senator PLAYFORD.—That was promised to the maritime provinces before federation took place.

Senator PEARCE.—While Western Australia, through its delegates to the Convention, did not make the construction of this transcontinental railway the condition of its entering the Commonwealth, there was an overwhelming preponderance of opinion that the eastern States recognised the justice of our claim, and were prepared to construct a line. And if anything were needed to confirm that opinion, to a great extent it was the correspondence from the Premier of South Australia and the present Minister for Trade and Customs. From both these gentlemen we had letters written ostensibly in the name of the people of South Australia. These gentlemen, as Senator De Largie pointed out yesterday, held responsible positions, and to all intents and purposes must have been recognised by the people of their State as speaking in its name, and knowing that the consent of South Australia was necessary. Having got the promise of the men who were ruling the destinies of South Australia at the time that they would not object to the construction of the railway, we had every reason to assume that the Commonwealth would agree to its construction. Much has been said by way of interjection, rather than comment, that the railway can never be a success because the land along the route is worthless. I make bold, to say, on the authority of those who have been over the land it traverses, that that is an entirely erroneous idea so far as it refers to Western Australia. For instance, in his report, Mr. Muir, who went over the line of route and made an examination lasting for some months, writes in these terms of the quality of the land :—

I was led to believe, prior to starting this trip, that the country to be traversed consisted almost entirely of a desert, composed of sandhills and spinifex flats. This impression proved, however, to be perfectly erroneous, unless a waterless tract of country, though well grassed and timbered, can be called a desert.

Interspersed through this forest are numerous flats covered with grass, as well as with saltbush and other fodder shrubs. The soil is of good quality, and the growth of grass and herbage luxuriant.

At about 200 miles, rolling downs of limestone formation are met with, covered with a luxuriant growth of grass, and occasionally a saltbush flat. This country is lightly timbered with myoporum, and presents a beautiful park-like appearance.

Close to the coast a narrow belt of mallee runs, and further inland small belts of myall and myoporum are met with. This country is also well

grassed, and saltbush and other feed bushes are plentiful.

To the north, near the 31st parallel of latitude, the country is more open. In fact, from the South Australian border for 250 miles in a westerly direction, it is one large open plain of limestone formation, fairly well grassed throughout.

Taken as a whole, this stretch of country is one of the finest I have seen in Australia, and, with water—which doubtless could be obtained if properly prospected for, it is admirably adapted for grazing purposes, and will, without doubt, be taken up some day from end to end.

At the time of our visit this tract of country must have been at its driest, as the settlers at Eyre and Eucla informed me that it was the worst season they had experienced for the last twenty years. From our observations, it was quite evident that there had been a long dry spell, extending over fully twelve months I should think. Still the grass was sound and strong, growing for the most part to a height of 12 inches.

Judging from the growth of grass and other vegetation on this country, it is very evident that there must be good falls of rain over it at irregular intervals; but the ground is so porous that the rain, as soon as it falls, percolates through the limestone.

Senator CHARLESTON.—Has good land like that been taken up by pastoralists?

Senator PLAYFORD.—It is waterless.

Senator PEARCE.—Any water supply must be of a subterranean character. The Government of Western Australia have never been in a position, or enterprising enough, to open up stock routes. At present they are boring for water. On the route of this very line, 60 miles from Eucla, a Government boring party struck very good stock water six months ago. Mr. Muir, the surveyor, goes on to say in his report, which was made to the Government of Western Australia about twelve months ago—

Apart from the facilities that would be afforded to railway construction, and the maintenance of the railway service when completed, by artesian water being struck on this waterless tract of country, it would be of incalculable profit to the State in another direction. At present there are millions of acres of splendid pastoral land lying idle in this portion of the State, solely because water has not been conserved. Once let it be known that artesian water has been discovered, and what is now nothing better than a waste, would be transformed, in a very short space of time, into one of the most important stock-raising centres of our State.

The construction works for the railway will be very light, and will be practically the laying down of a surface line for the whole length between Kalgoorlie and the border.

The engineers have submitted two estimates of the cost of constructing the line. One is contingent upon water being struck along

the route, and the other is based on the assumption that water will not be struck, but will have to be carried from our abundant supply at Kalgoorlie. In the centre of that belt of 250 miles the engineers on their return journey struck a surface water supply containing some million gallons of water, showing that it would be quite possible to obtain, by surface conservation, sufficient water for the purpose. Senator PLAYFORD shakes his head, but let me remind him that it was done along the route of the Kalgoorlie railway, and that up to the establishment of our great water scheme, that line was run entirely by water obtained by surface conservation. That country has a poorer rainfall than the country through which the transcontinental railway will pass.

Senator PLAYFORD.—You cannot conserve water on top of loose limestone.

Senator PEARCE.—It is a characteristic of all our inland country that immense granite outcrops occur. We met with granite outcrops over the greater portion of the surveyed line to Kalgoorlie. At the foot of a granite outcrop we were able to construct a dam, and not a drop of water was allowed to escape. The granite outcrop acted like a galvanized iron roof, and by this means a sufficient supply of water was obtained to run the railway service through 378 miles of what is called desert. I am not making any statements which are not borne out by the official reports of a party of experts who have gone over every mile of the route, and whose professional reputations depend upon the accuracy of their remarks. It is unlikely that they would make any statement that was inaccurate. It is assumed by the opponents of this project that the railway will only be used for the carriage of passengers and mails. But we have to recollect that the people of Western Australia, particularly on the gold-fields, will for many years draw their supplies of agricultural produce from other States, and that for a great number of years they will draw their supplies of beef and mutton from other States. We have not in our coastal districts any country which will for many years be useful for pastoral purposes. All the country is heavily timbered, and I do not need to point out that heavily timbered country, carrying a heavy undergrowth, is not suitable for the running of stock. A large portion of our supply of

cattle from South Australia is drove down to Port Augusta, or until it strikes the line running up to Oodnadatta, carried by steamer to Fremantle, put in the trucks again, and taken a distance of 378 miles up to Kalgoorlie. The Victorian supply will come still by steamer. In 1901, when our population was much less than it is now, we imported from South Australia 5,544 cattle, 432 horses, and 13,109 sheep. The greater portion of the supply we get from South Australia comes from its northern districts. It is proved by our Engineer-in-Chief, who has made a comparison of the cost, that this traffic, instead of going by steamer as at present, would go over the transcontinental railway. In a report he says :—

The assumption that there would be a considerable traffic in cattle and sheep on this railway is based upon the fact that freight by rail for a bullock from Port Augusta to Adelaide (in full truckloads), would be about 16s. 6d., and the sea freight from there to Fremantle I am informed about £4, and the rail again from Fremantle to Kalgoorlie, £1 3s. 6d., making in all £6 as compared with which the cost per bullock (in full truck loads) at Western Australian railway rates, from Port Augusta to Kalgoorlie, would be about £3 4s. 6d., showing a saving of £2 15s. 6d. per bullock—equivalent, I believe, on the average, to about 1d. per lb.

I think it is a mistake to assume that it is goods traffic which makes the railways of these States pay. The goods traffic of any railway only represents about 50 per cent. of the receipts. I have here the percentage of receipts of the two kinds of traffic, goods and passenger, and I find that in most of the eastern States the goods traffic brings in 50 per cent. of the receipts, and the passenger traffic accounts for the other 50 per cent. We have upon our eastern gold-fields a large population who are allied by blood with the people on this side of the continent, and who are continually travelling backwards and forwards. They now have to travel by steamer. A large number of people object to travelling by steamer for a variety of reasons. Our Engineer-in-Chief, Mr. O'Connor, has made an estimate as to freights and fares for passengers by the proposed railway, in comparison with steam-ship fares, based upon the fares usually charged in the various States. He tells us this—That from Kalgoorlie to Adelaide by the overland route the first-class fare would be £5 13s. 3d. By the present route, taking the train to Fremantle, and then steamer to the eastern States, the fare is £10 18s. The second class fare by the railway would be £3 8s.;

the present cost is £8 0s. 10d. That is by taking the best lines of steamers—the P. and O., the Orient, or the German line. But he also makes a comparison with the ordinary coastal service. The fare from Kalgoorlie to Adelaide by the railway would be £5 13s. 3d., but by rail and sea route, using the coastal steamers, it is £7 14s. The second-class fare would be £3 8s., whereas by rail and sea route the cost of the journey is £4 19s. 10d.

Senator PLAYFORD.—In the one case you get meals on board, and in the other you do not.

Senator PEARCE.—When a passenger is only three days on the train we can easily estimate what the cost of the meals would be. We have on our gold-fields nearly one-half of the present population of Western Australia. We have nearly 100,000 people on the eastern gold-fields, mostly adults. They are a class of people who travel a great deal, and they would, I am sure, prefer the overland route to the sea route even if the price were greater on the railway. The consequence is that a heavy passenger traffic is assured for the line. As I have pointed out, it is possible that a large goods traffic will also be assured. In regard to the goods traffic also we have to look to the quantity of food stuffs supplied to the gold-fields. To a large extent these supplies come from South Australia. The gold-fields are entirely dependent on outside supplies for food stuffs. Food stuffs were imported from South Australia alone, in the year 1901, in the following quantities:—Flour, 220,281 centials; oatmeal, 33,488 lbs; pollard, 1,964 tons; bran, 5,637 tons; hay, 146 tons; chaff, 529 tons. The greater portion of the agricultural products of South Australia supplied to the gold-fields come from Port Augusta to a point 70 or 80 miles south of Port Augusta, and there would be very little lost by bringing them to Adelaide. Then the only comparison you have to make is in regard to the freight from Adelaide to Fremantle by steamer, and then from Fremantle overland on our Western Australian railways. Mr O'Connor says he believes that the freight will be found greater by steamer and railway than would be the charge on the overland railway line. There is also the double handling of goods to be considered. So that we have to realize not only that the passenger traffic will be large, but also that there will be a considerable

goods traffic. There is another point which I believe appeals to honorable senators very strongly, and that is the usefulness of the proposed line from the point of view of defence. We know that Major-General Bevan Edwards strongly recommended the building of the line. Major-General Hutton has also recommended the building of it, both in speeches in Western Australia and, I believe, by a minute to the Minister for Defence. I do not think that all the advantages would be in favour of Western Australia from the point of view of defence. For this reason—We have in Western Australia the largest proportion of adult population of any State in the Commonwealth. Our population between the ages of 21 and 45—I am speaking of males only—was, at the end of 1901, 61,714 out of a total population of 194,890. That is, 31 per cent. of our total population are adult males between the ages of 21 and 45.

Senator O'KEEFE.—And look at the sort of men they are too.

Senator PEARCE.—They are the cream of Australian manhood—the very best class of men from the military point of view. Compared with the figures I have quoted, we find that in Victoria only 17½ per cent. of the population are between the ages stated, and I dare say that a similar average will be found in South Australia. In New South Wales the average is 18½ per cent. When we look at those figures we realize that South Australia, by consenting to the building of this railway, and the Commonwealth by building it, will give to the eastern States a great power of mobilizing its adult manhood and bringing into active use 60,000 men between the ages of 21 and 45—the picked men of the Commonwealth. That is an important point to be remembered in connexion with defence. Western Australia is at the front door of the Commonwealth as regards both the European and Asiatic nations. We have two magnificent harbours—one created by the genius of man, and one by nature—which are almost unequalled, if we leave Sydney harbour out of consideration.

Senator DOBSON.—Do not forget Hobart.

Senator PEARCE.—But Hobart is within striking distance of Australia and within a few hours' sail of the eastern States, whereas in Western Australia we are a week's steam from the eastern States. A foreign military commander would prefer to make a descent on Albany at once, and

establish himself there, rather than go to Hobart or to any other point on the eastern side of the continent.

Senator DONSON.—Is it suggested that the whole cost of this undertaking should be borne by the Commonwealth as new national expenditure?

Senator PEARCE.—I take it that it must be so, if the railway is to be a national undertaking, as we ask that it shall be. If it is to be a State undertaking, and the cost is to be treated as transferred expenditure, Western Australia and South Australia, as they would have to pay for it in an indirect manner, might as well construct the line themselves and have independent control of it.

Senator DONSON.—Might there not be a compromise?

Senator PEARCE.—If there is a proposal for a compromise I should like to hear it, but I see no reason for one. We have a right to ask for this as a national concern.

Senator DONSON.—It is not quite fair to Tasmania.

Senator PEARCE.—Surely it is not a matter that wholly concerns Tasmania, when there is half of the continent absolutely which, in case of war, is at the mercy of a foe and cut off from the rest of Australia.

Senator PLAYFORD.—You have communication by sea.

Senator PEARCE.—Of what use is that? A single cruiser in the Bight could cut off that communication entirely, and make it absolutely impossible for any communication to take place between the East and the West, or for any troops to be sent, or for commerce to be carried on. As Senator Symon pointed out yesterday, it is not likely that we shall have a large fleet of our own, and when we have this new naval agreement brought into force and the British fleet in these waters is sent off to the China Seas to fight the battles of the Empire, one small foreign cruiser or gunboat could prey upon our commerce with the greatest ease. There is another point of view from which we must view this matter, and that is the acceleration of the mail service between the old country and the eastern States. By constructing this railway we might save three days between Fremantle and Melbourne.

Senator STYLES.—What is the rate of speed proposed?

Senator PEARCE.—I think it is 40 miles an hour.

Senator STYLES.—There is no such speed in Australia—not within 8 miles an hour.

Senator PEARCE.—I know one line upon which the train travels 60 miles an hour for a portion of the journey—that is on the Melbourne and Adelaide line when crossing the desert. This proposed line will cross the desert for a considerable length of country where there will not be many stopping-places. Senator Styles is in the habit of travelling to Williamstown, and I suppose he thinks that the stations on this transcontinental line will be as close together as those on the line upon which he travels. It is a matter of importance to the eastern States to, if we can, accelerate by two days the mail service from Europe, and it is clear that we can save that time between Melbourne and Fremantle.

Senator PLAYFORD.—The nearest route would be across the continent to Port Darwin.

Senator PEARCE.—I am very anxious to know whether, if that line is completed on the land-grant system, the merchants of Australia will allow their mails to be taken over a semi-barbarian country, and through territory where in the winter the climate is of such a character as would interfere with the regular traffic and perhaps block the mails for weeks at a time. Again, if arrangements are to be entered into for a subsidy for mail boats, I see no reason why we should pay a subsidy for taking the mails round the coasts when we could utilize this railway and save the subsidy from Fremantle to Adelaide. We could put that down as a debit.

Senator PLAYFORD.—You will not get the mails carried any cheaper by building the railway.

Senator PEARCE.—The handling of the mails at the various ports gives rise to delay, and the steam-ship authorities would look upon it as an advantage if they had to handle them only at Fremantle, instead of at four or five ports.

Senator PLAYFORD.—It takes only half-an-hour to put them on board.

Senator PEARCE.—I am in a position to say that it takes a little more than that. Occasionally they have to wait for some time, at the honorable senator's own front door at Largs Bay, for the arrival of the mails.

Senator PLAYFORD.—There is no delay.

Senator PEARCE.—A committee of experts is dealing with this matter, and we shall have their report presented to us. But what I would ask the Senate to say is, that

if that report is at all favorable, they will support the Government to the extent of authorizing a flying survey between the points in order that we may have authentic information as to the cost of constructing the line. I think that is a reasonable request, but I recognise that we have no right to ask honorable senators to pledge themselves to the construction of the railway.

Senator DOBSON.—What would a flying survey cost?

Senator PEARCE.—The actual cost of Muir's survey was £1,083 for 700 miles.

Senator STYLES.—That was not a flying survey. The party simply rode across country on camels.

Senator PEARCE.—The trip was undertaken in order to gain a knowledge of the water supply and general contour of the country. An engineering survey would be of course a little more costly.

Senator PLAYFORD.—About £5,000 would do it.

Senator PEARCE.—While I admit as a representative of Western Australia that we have no right to ask for more than that at the present juncture, I think we are preferring a reasonable request when we say that if the report is at all favorable the Senate should support the making of a trial survey. In that way a great deal of assistance would be given to the Government. I pass on now to the Immigration Restriction Act. A good deal has been said as to the way in which the Act has been administered, especially in regard to the immortal six hatters, and in dealing with this subject I should like again to quote from Goldwin Smith's book. It is well to remember that Goldwin Smith is a free-trader of the Manchester school, and, therefore, is not likely to have any sympathy with the principle of closing the door to immigration. At page 51 of his book he says—

Canada, when the value of the connexion is under discussion, is always set down as a place where any Englishman can find a home. A sudden change has come over the attitude of the occupants of the American continent on the subject of immigration. Till lately the portals were opened wide, and all the destitute of the earth were bidden to come in. Now the door is half shut, and there are a good many who would shut it altogether.

I have here a cutting from the *Empire and Mail Newspaper* of Canada, dated January 23, 1903, which sets forth that a man who brought in a person under contract was

d for doing so. Mr. Anderson, of

Sydney, was not fined, and yet we are told that the Government has done something which no other British Government would dare to do. Here we have the Government of Canada, a country which is attracting thousands of people, according to one honorable senator, proceeding against an employer for bringing in a man under contract, and a fine being imposed. There is another country which attracts a fair proportion of people, the United States of America. There the Immigration Restriction Act prohibits the entry of labour under contract, but I have yet to learn that the credit of the United States is in any way injured by that legislation. Let me say also that the Act is enforced there. It is not a dead measure on the statute-book. In 1897 1880 persons were deported at the expense of the steamship companies from the United States of America. Of that number 328 were under contract to perform labour in the States. In 1898 3,229 persons were excluded, 417 for being under contract to perform labour. In spite of all this I have yet to learn that the United States of America, is going down hill, that the stream of immigration has ceased there, that the credit of the country is injured or that she has been made a laughing-stock in the eyes of the English-speaking world. On the contrary, I think she is entitled to the respect of the English-speaking world, and that she gets it. As the United States of America as well as Canada find it necessary to have such legislation, and to enforce it, I think that the people of Australia, having the Immigration Restriction Act on the statute-book of the Commonwealth, are not going to condemn the Government which enforces it, neither are they going to ask for its repeal. I believe there is a conspiracy on the part of certain people in the Commonwealth to bring the administration of the Immigration Restriction Act into contempt. In support of my assertion I shall give one little illustration which came under my own notice. The Sultan of Johore recently visited Australia, and we had a howl of indignation throughout the press of the Eastern States, because, as it was said, he had been prevented by a Customs official from landing at Fremantle, and was told that he had to submit to an educational test. Great indignation was caused by the indignity which had been put upon this Prince. As a matter of fact, however, no Customs official

in Fremantle ever spoke to the Sultan. What happened was this : That when the steamer was nearing Fremantle certain passengers spoke to him—

Senator DE LARGIE.—Saloon passengers ?

Senator PEARCE.—Yes, they were certainly not steerage passengers. They told him that when he reached Fremantle he would have to submit himself to an educational test. The officials on board advised him to the same effect. I shall quote now from a leading newspaper in Western Australia—the *West Australian*—which is not by any means a labour party's paper. In its issue of 1st May last a column interview with the Sultan of Johore is given, and the reporter goes on to say of the Sultan—

He was amused at a slight contretemps which had occurred in the morning. Some reference had been made by a Customs official to the Immigration Restriction Act, and this remark seems to have unaccountably been misconstrued by the ship's officers to the effect that a formula would have to be gone through before the Sultan could land. The matter had reached His Highness, and although indignant at first, he was highly amused over it when mentioned later in the day.

That is the canard, and it shows the means which are being used in an endeavour to weaken the position of the Immigration Restriction Act in the opinions of the people of Australia.

Senator CHARLESTON.—Was the Sultan of Johore a member of a coloured race ?

Senator PEARCE.—Yes.

Senator CHARLESTON.—Then why was he not subjected to the educational test ?

Senator PEARCE.—Because, as a distinguished visitor, he did not come under paragraph (g) of section 3 of the Act. He did not come here to reside. The opponents of the principles of legislation of this kind have arrived at a pretty pass when they have to descend to lies—because this was a lie—in order to bolster up a case against the administration of the Act. I think a good many of the statements made about the six hatters were on a par with those made in the newspapers of Melbourne and Sydney, relative to the Sultan of Johore. I am glad to see that the Government propose to bring forward a measure for the establishment of courts of conciliation and arbitration. I do not think the labour party will be found tumbling over one another to put that measure on the statute-book. The time has now arrived when, in the opinion of the great bulk of the people of

Australia, this measure is absolutely necessary, not merely for the workers but for the employers. Recently the Chamber of Manufactures in Victoria received a slight setback at the hands of the Chamber of Manufactures in Western Australia. The Victorian chamber approached the Western Australian institution with a view of getting it to oppose the introduction of this legislation, but the Chamber of Manufactures in Western Australia passed a resolution saying that they would take no action in the matter. Why? Because experience there has shown that a conciliation and arbitration court is just as good for the employer as it is for the employé. Provided you have a good Act, as we have in Australia, and a good man on the Bench—

Senator PLAYFORD.—That is what we want, a good administrator.

Senator PEARCE.—Yes. In such circumstances the court will be found to be a benefit to the whole community. We have to remember that in agreeing to a Conciliation and Arbitration Act the workers of the Commonwealth give away a considerable amount of their power. They give away many opportunities which they would otherwise enjoy of making increased wages. I believe that on many occasions the workers in Western Australia would have been in a position to take advantage of the situation had there been no such Act on the statute-book. They would have been able to obtain higher wages in many trades ; but the Act had bound us down for a term, and we had to accept the conditions. The moment was favorable for obtaining higher wages with the greatest ease, still the Arbitration Act prevented us from doing so. It will be seen, therefore, that the advantage of such legislation is not altogether on the side of the worker. Those who come from Western Australia and who have had some experience of the working of a Conciliation and Arbitration Act there have been considerably amused by the criticism that has taken place in Melbourne in regard to this proposed legislation. Some time ago I read in one of the papers, a report of a speech made by Mr. F. T. Derham before the Chamber of Manufactures, relative to the working of legislation of this kind in New Zealand. He said it was ruining that country ; that industries were declining there, and that capital was leaving the State. I wrote to the Right Honorable

the Premier of New Zealand, Mr. Seddon, enclosing the newspaper cutting, and asking if there was any truth in the statement. In reply, I received a letter from Mr. E. Tregear, Secretary for Labour, intimating that the Premier had handed him my letter for acknowledgment and reply. After acknowledging the receipt of the cutting, Mr. Tregear went on to say—

Since the passing of the Compulsory Arbitration Act (as it is nicknamed) in 1894, the number of persons employed under the Factories Act has exactly doubled, rising from 25,000 in that year to 50,000 in 1901. The number of people in the pay of the Government has not increased perceptibly, but, if it had, the increasing population and the general prosperity of the colony would have justified the extension. There is no doubt that the working classes generally, not only the artisans, but the shop-employed and warehouse-employed people, have increased with the same ratio as those engaged in manufacture. There are not 17,000 out of employment, as Mr. Derham states; if there are, they possess the faculty of concealment. Indeed, it is very difficult for me at times to get labour for the rural districts since the war took our young men away. It is said that on many farms the girls have to tackle outside work. Every year and every election the determination of the people of New Zealand to support the Act becomes more and more pronounced. Almost every year there has been an amendment Act drawing tighter the bands and closing the gaps. The Opposition has opposed every one of these amendments, to its own utter destruction. It is now only "the shadow of a name." What better proof of value can you have than the opinion of those who have to live and work under such a law?

Then in the *Review of Reviews* I find these figures quoted concerning the trade of New Zealand. I give, of course, round numbers. I find that in 1891 the imports were valued at £6,000,000, and the exports at £9,000,000. In 1897, imports £8,000,000, exports £10,000,000; in 1902, imports £11,000,000, exports £13,000,000. I say that if arbitration has brought about that result in New Zealand, let us hope that it will have a similar result in Australia. Before I leave this subject I should like to say that in Western Australia some twelve months ago we had a notice of a reduction of wages published on our mining fields. Honourable senators know what the mining industry has done for Western Australia, and when I tell them that our mining camps are so well organized that if it had not been for the existence of the Arbitration Act in Western Australia we should have had a universal strike throughout the mining industries, it will be admitted that the

ator Pearce.

Australia to an almost irreparable extent. A strike was averted, the wages were adjusted, and a scale of wages arranged which, though protested against in one or two places, was generally accepted by both parties, and all that was accomplished without the loss of a single day's work to any man, or the loss of a single dividend to any shareholder.

Senator PLAYFORD.—Could the men have been compelled if they had refused to work?

Senator BEST.—No, they could not, but they might have been fined.

Senator PEARCE.—We could compel them in this way: we could fine them. The union funds are liable; then every individual member of a union is liable, and as no member can retire from a union without giving three months' notice, he has no opportunity of retiring in anticipation of an adverse award, and he may be prosecuted in the police courts of the State.

Senator DE LARGIE.—The workers also have some sense of honour.

Senator PEARCE.—As Senator De Largie says, the workers also have some sense of honour. In my experience of the operation of the Arbitration Act in Western Australia, I have never known a suggestion made that was interfered with or departed from.

Senator PLAYFORD.—How many years has it been in force?

Senator PEARCE.—It has been in force since 1898. We have had a number of awards given, and some of our trades have been working under the Act since 1899. Let me say that during that time we have not had a continuous period of prosperity. The enemies of this kind of legislation will say that it is all very well while things are on the up-grade, and that the worker will accept the position so long as his wages are being continually raised. That, however, has not been the case in Western Australia, for, since the introduction of the Act, we have had times of depression and times when the labour market has been overstocked. Some of the decisions of the courts have not been considered favorable to the men. They have taken away privileges and pay, but on the whole the operation of the Act has given general satisfaction. I should add that we have been extremely fortunate in the appointment to the Bench of Judge Burnside, a man of sound common sense, and

one who recognises his great responsibility in holding in his hands practically the destinies of the industries of Western Australia.

Senator BAST.—Can either party compel a reference to the court in Western Australia?

Senator PEARCE.—Yes, either party can compel a reference, and if during the currency of an award either party considers that conditions have so altered that it should not be enforced—if, for instance, the wages fixed are so high as to make it impossible for the employer, under the altered conditions, to pay them—he can ask for a review of the case and a re-hearing. I wish now to refer to the action of the Government in adopting the recommendations of a select committee appointed by the Senate, and of which I was a member, to report upon the means of communication between the mainland and Tasmania. I am glad to find that the Government have adopted most of the recommendations of that committee. I recognise that Tasmania has a right to an increased mail service, and I hope that as Tasmania has received from the Commonwealth what we thought that State was entitled to in the way of increased facilities of communication, similar action will be taken to bring Western Australia into closer touch with the rest of the Commonwealth. Dealing with the question of the postal contract, and the section of the Postal Act requiring the employment of white crews upon subsidized mail steamers, it appears to me, that, judging by their utterances, some of our honorable friends would, if they had their way, not only repeal that section, but enact a section prohibiting the carriage of mails upon boats worked by white labour. From every point of view it must be to our advantage to do what little we can to encourage the employment of white crews on our coast. It is said that the principle of a white Australia does not extend beyond the shores of Australia, but surely marine employment is just as legitimate a source of employment for the Australian worker as employment upon shore; and if ever our people are to take to that kind of employment, we must prevent the unfair competition of these coloured persons. I think we owe a debt of gratitude to Senator Neild for bringing forward that military regulation. Its production has been one of the interesting incidents

of the debate. We are to have the Defence Bill before us this session, and I can promise the Government that on the question of defence they shall have my uncompromising opposition to any measure for conscription, and to any measure which will introduce into Australia any military principle other than that of a citizen soldiery. I shall also be opposed to any proposal to contribute Australian money in the shape of a naval subsidy. I believe that we hold the moneys of the Commonwealth in trust for the people, and we have no right to give them away to another Parliament to spend as they wish. We are responsible for the expenditure of the Commonwealth, and while we may not get so efficient a system of defence—and on that point I am not convinced—I believe it is now time to lay down the principle that we must have the spending of our own money in our own way. In conclusion, I hope, with others, that during the session we may be able to do some practical work, and that much of the legislation foreshadowed in the Governor-General's speech will find its way on to the statute-book of Australia.

Senator DOBSON (Tasmania).—As the Senate will not have very important duties to perform during the next few weeks, I hardly think it can be said that we are wasting time in continuing this discussion. I feel indebted to Senator Neild for his breezy address, in which he gave me some information on defence and other matters, although I think that his criticism against the Government was rather weak, and that he dwelt too long upon detail. I am certainly indebted to Senator Pearce for the very useful speech he delivered, and I have to thank him for the information which he gave upon the transcontinental railway proposal and the working of the Arbitration Act in Western Australia. We have not had much party feeling shown within the Chamber since we met, but we have had a little party strife and political speeches outside. I followed that criticism very closely, and it exhibited to me the very weak case which some of the Opposition members have against His Majesty's Ministers. The more they prolonged their criticism and tried to make much out of nothing the weaker appeared to me to be their arguments in many particulars, and in one or two instances there were decided hits below the belt, which, I think, ought to be avoided. No

man has a right to say that the Minister for Trade and Customs looks upon every importer as a scoundrel, and every manufacturer as an angel. There was a very uncalled for allusion by Mr. G. H. Reid to the conduct of the Government in reference to Senator O'Connor and the High Court. I should have thought that Mr. Reid ought to be the last man in Australia who would try to surround the formation of the High Court with any party strife, and make remarks which were quite uncalled for and quite unjustifiable. I heard some of the free-trade speakers dwell at very great length, and with what they seemed to think was very cogent criticism, upon the failure of the Government to place upon the statute-book many of the important measures which were announced at the opening of this Parliament. But they quite forgot to tell the people of Hobart and the North-West Coast of Tasmania, and other people in meeting assembled, the reasons for that delay. The fact was that after the Tariff, which was called for from one end of the Commonwealth to the other, was placed upon the table it took us eleven months to get rid of it. No matter what Government had been in power, the same thing must have happened. Yet I have listened for three-quarters of an hour to Opposition members dwelling upon the unwisdom and unstatesmanship of the Government in not passing the High Court Bill, Defence Bill, and numerous other measures. It was absolutely beyond the control of any Government to do in most instances other than what was done. Let me dwell for a few minutes upon the disappointment I feel at the justifiable criticisms I have heard against the results of the union. I happened to be in Queensland at the time when every public man and every man one met in the street had not a good word to say for Federal Ministers, and he certainly seemed to me to be inclined to curse and damn the union. Yet when these men put into words their objection, from Ministers of the Crown downwards, any political baby could supply the answer in a sentence. I am glad to notice that all this dissatisfaction and irritation is passing away.

Senator DAWSON.—It has passed away.

Senator DOBSON.—I believe it has passed away, and I think we may congratulate ourselves that there has been less friction, less injustice, and less trouble than might have been expected when Ministers

undertook the Herculean task of starting the Commonwealth. But I regretted to notice in yesterday's newspaper that the Premier of Queensland, for whom I have very great respect, is once more abusing Federal Ministers. I think it is a great mistake for that gentleman to keep on criticising Federal Ministers in an unjustifiable way without giving us the detail of their doings. Federal Ministers and State Ministers ought to work with the utmost cordiality and sympathy, and whatever they may feel, and whatever their followers may say, it will do no good, and only increase the friction if State Premiers begin to call names and criticise Federal Ministers in unbecoming language. Last session no honorable senator was more inclined than I was to take strong exception to the way in which the Customs Act was being administered. During the last week of the session I put on the business paper two questions as to whether the Minister ever intended to carry out section 265 of the Act. It was put in the measure for a purpose: it was intended by all of us that it should be administered, and that all these petty offences or abrogations of the law committed with no intention of defrauding the revenue should be dealt with by the Minister sitting in open chamber with the press and the public present. To each question I received a kind of put off answer showing me that he did not intend to take advantage of the section. When I returned to Hobart I wrote him a letter on the same subject, because I saw that prosecutions were being continued, and that a great deal of irritation was being aroused. I received from him rather a snubbing letter saying that when he had made up his mind to alter his administration he would let me know. From that day to this I have been more and more inclined to think that the Minister, although he may be acting in a harsh and unconciliatory manner, is doing the right thing. He may be doing it in the wrong way, but his heart is in the right place. He is acting as trustee for the four million people in the Commonwealth. He is doing his best to collect every shilling of revenue, and I believe that he will administer the Act on the whole more justly, and collect more revenue in each State, than any State Treasurer ever did. Is he not doing right in trying to obtain uniformity of

administration? Supposing he had done what many persons urged him to do, and what some of us thought that he might very fairly have done, delegated his authority to the chief Customs officer in each State, you would at once have had a want of uniformity of administration. You would have had one collector fining an importer £5 for importing flannelette as cotton goods, and thereby saving 10 per cent., and another collector, who took a far more serious view of the question, fining a man under exactly similar circumstances £50.

Senator BEST. — Different magistrates might do the same.

Senator DOBSON. — I do not think that they would do the same in the sense in which I am speaking, because the whole essence of the charge, when you come to increase the fine, is whether there has been any intent to defraud the revenue. At all events, that is another criticism which the public have been hurling at the Minister's head, and it appears to me that there is not much in it. They say why should we all be treated in the same manner whether the mistake was made innocently or whether it was made with intent to defraud. They are not treated in the same way. If a man simply makes a false or erroneous entry, and nothing further, he is charged under one section. But if a man makes a false entry with intent to defraud he is charged under a later section, and is liable to double the penalty. All these things have lately been pointed out by the Minister. I understand now that he does not believe in central control, and that when he gets his Customs Guide perfected and issued, and is satisfied that his officers know how he desires the Act to be administered, he will delegate more power than he has done to certain officers in the States. But I am inclined to think that it might be as well to appoint in each State a committee of experts, presided over by a skilful magistrate, to adjudicate on all these questions of breaches of the law. There is one criticism which I have not heard quite answered, and I think the Minister is rather to blame, and that is as to the great delay which in some cases has occurred in men getting their goods from the bond when a dispute has arisen. I cannot understand why there should be an hour's delay. If a dispute arises as to the rate of duty, surely the Minister can either take the bond of the

importer, with two substantial sureties, or he can take the cash, and let the goods go at once. Any reflecting person knows what it means to a trader to have a large shipment of summer goods to arrive 48 hours before any other shipment. To keep back any goods is simply frustrating and hindering trade. I think that all these delays ought to be avoided. I see that Senator Millen is not present. I should have liked him to hear my reply to the remarks he made about the selection of the federal capital site. It is perfectly true, as he said, that in the minds of the people of New South Wales there is rightly or wrongly a kind of suspicion that they may be deprived of the advantage of the provision in the Constitution which says that the federal capital shall be within the borders of that State. I can hardly conceive it possible that any Member of Parliament, or any elector who knows anything about the framing of the Constitution, can ever think for a moment that the capital can be outside the Mother State. It cannot be if we are to keep the legal bond, and I may say the moral bond—the very terms upon which the union was brought about.

Senator BEST.—Who has ever striven to alter it?

Senator DOBSON.—I think Senator Millen must be right when he says that there is in the minds of thousands of electors of New South Wales a kind of distrust of this Parliament and a distrust of the people in other States, and that they believe that unless the capital site is selected soon injury may accrue to them, notwithstanding the written constitution in their favour. I do not think that is possible. I object to that argument being used in the smallest degree to divert us from the true path which we ought to pursue. The Constitution is an absolute compromise. Compromises are not always good ; sometimes they are good ; I venture to think that this compromise is a bad one. First I plead that we shall discuss as fully and exhaustively as we can the question whether we shall strike out the 100 mile limit, and give to the members of this Parliament the right to say if they like that Sydney and not some place in the country shall be the federal capital. Secondly I plead for a full discussion on the point as to whether it is wise to select the site now or to delay the selection.

I am strongly in favour of delaying it, and of the suggestion that I saw made some time ago in one of our morning journals, to the effect that after Parliament has sat for six years in Melbourne, it should sit for a similar term in Sydney. I, for one, think that we should take time to consider what we shall do with regard to the capital.

Senator GLASSEY.—That suggestion is contrary to the Constitution.

Senator DOBSON.—I say that it is not.

Senator DRAKE.—That is what they call repudiation by delay.

Senator DAWSON.—What about those members of Parliament who come from distant States?

Senator DOBSON.—I do not see how those who come from distant States will be affected.

Senator DAWSON. — Does not the honorable and learned senator see that it means making another home in Sydney.

Senator DOBSON.—I do not see that. If you had the Parliament sitting in Sydney it would be in the very State in which the Constitution says it shall be. The Constitution says that until the seat of government is fixed, the Parliament shall sit in Melbourne, and all the criticism I have heard of delay and neglect on the part of Ministers in not bringing forward definite proposals for the establishment of the capital are absolutely baseless. How any man in New South Wales, whether he is in Parliament or out of it, can think that we can consider the question of the capital until we have passed the very Acts which are the foundation of our Commonwealth, I do not know. I think that Melbourne has to be considered, and if for six or twelve years the seat of government is in Melbourne and is established for all time in New South Wales, will any one say that Melbourne gets more out of the Constitution in this respect than she is entitled to? No one can say it; and yet by the arguments used by some people it is being asserted. Some Members of Parliament seem to think that we shall do well by settling the question of the locality of the capital once for all, with the intention of delaying the building, or proceeding slowly with it. Now, there are two grave objections to that course. The first is that I never heard of any man binding himself to a particular line without allowing reasonable time for consideration; and I object altogether to fixing the capital and saying that

you are going to postpone the building of it. The fixing of the capital would be a great mistake until we are ready to proceed with the building. Because every hour we live the world is changing. The Commonwealth is changing, ideas are changing, trade and settlement are changing; and it would be a great mistake to select a site for the capital in 1903, and not to build until years after. The second objection I have is that, however wisely you may talk about having a reasonable expenditure, the forces outside will not allow you to do anything of the kind. You have the unemployed in every city knocking at the door not only of your State Governments, but of your Federal Ministry. You have them going to bishops and other influential people begging for work, and urging for schemes of employment to be set in operation, as they have a right to do. Do you suppose that when you have the capital site fixed, and plans ready, there would not be immediately an agitation to start the building of the capital? Then our friends the labour members would say—"Start it by day labour"; and a nice mess we should make of it, I think. We should not be able to build by sections, and in a leisurely manner, as some people imagine, but we should be pushed into spending money—because when money is to be spent Parliament is simply pushed and pushed until it carries out the work to a far greater extent than was at first intended. I shall read with great pleasure and interest what the commission have to say with regard to the capital site, but I cannot alter the opinion which I have formed. I hope that we shall not take up too much time this session in discussing the site, because we have far more important business to do—not more important in one way, as affecting the interests of Australia in the long run, but more pressing and urgent, and more ready to be dealt with now. With reference to the proposed naval agreement, I listened with considerable astonishment to the criticism of my honorable and learned friend Senator Symon. I cannot bring my mind to agree with one single idea which the honorable and learned senator expressed when he told us that he intended to oppose this agreement. It appears to me to be the very thing that the Commonwealth wants. It carries out practically the ideas that suit our circumstances. I think that the Prime Minister is to be congratulated

upon having initiated the agreement. If we regard the matter from the aspect of continuity of policy, we have the policy which we started with carried on. We are to have better ships and more of them. It is true that we will have to pay a larger amount of money, but how any man can object to voting £200,000 for this purpose is a matter of mystery to me. The Imperial navy costs £35,000,000 per annum, and on a population basis the share of Australia is from three to three and a half millions per annum. If Great Britain were to ask us to pay our full share, or even a quarter of it, I should think there was something in the argument that if we were to pay this enormous sum we ought to have some representation at the Admiralty. But seeing that we are only asked to pay £200,000 out of £35,000,000, I can only assume that Senator Symon, having no sounder argument whatever to bring forward, has brought forward a contention like this. We are getting value for our money 40 or 50 times over, and we should welcome the agreement in the most cordial manner, recognising the generosity with which the Imperial Government has always treated us in this matter. To those honorable senators who want to see, as we all do, not so much a navy of our own established, but sailors of our own trained—to see our young men trained to be employed on board men-of-war and to undertake all the various offices on war vessels—this agreement opens the door to exactly what we want. Two ships of the squadron are to be employed as training ships, others are to be manned by Australian and New Zealand crews, and commanded by Australian officers, and Australian rates of pay are to be adopted. What possible objection, then, can there be to the agreement? It is everything we could desire. To the whole of Senator Symon's criticism there is this one answer: that the sea is one, that trade is one, that the Empire is one, and that therefore the idea of talking about our ships, as apart from the British navy, is about the worst thing we could think about. A navy is required to protect our trade. What is the use of sending home our wool ships if we cannot get back the goods which are to pay for our produce? What is the use of thinking that you can divide the seas? If you wish to break away from the Empire I can understand Senator Symon's arguments being used against ratifying this

admirable naval agreement, but that is impossible. We must either belong to the Empire or not. We must recognise that the British Empire would have no existence except for its enormous and magnificent trade upon the high seas. It is idle to talk, as some honorable senators have done, about the possibility of Australia being left undefended in time of war. It is idle to point out to the Defence Committee at Home, or to the Admiral in charge of the Australian squadron, that we do not want the war vessels to go outside Australian waters, for fear that a privateer should pay us a visit. It is idle to think that the naval authorities will not take these things into account when they order the fleet out of Australian waters. With reference to finance, I believe that the wisest decision which the Parliament of the Commonwealth came to during our last session was that by which the House of Representatives absolutely rejected the Loan Bill of £500,000 introduced by the Treasurer. I think that Parliament did a most wise and statesmanlike act in that matter, and I congratulate the leader of the labour party in another place, who brought forward the motion which rejected that Bill, upon the wisdom of his act. I hope that it inaugurates a policy which we shall weigh well before we depart from it. In view of the criticisms in the *Daily Mail* by our old friend Mr. Wilson, that decision becomes of far more importance. We all know perfectly well that the credit of this Commonwealth was at very low ebb. Our debentures had fallen enormously in value. Although very much of Mr. Wilson's criticisms are absolutely uncalled for and unjust, and although there is no earthly chance of repudiation, and we are in a thoroughly sound position, yet we all know that what he has pointed out about our extravagance, our log-rolling, and our reckless expenditure upon unproductive public works is just and true. I am more than pleased that at the very time when we were being criticised on account of our lavish loan expenditure the Federal Parliament determined to show that it would not borrow for federal public works, and that such works as were urgently required should be constructed out of revenue. The very moment it was seen that the Loan Bill was going to be rejected, votes for works to the extent of £500,000 were cut down to a £250,000. I shall await with considerable interest to

see how much money has actually been spent on new Customs houses and post-offices. I have no doubt that the actual sum will be less than £250,000.

Senator DRAKE.—It will not be spent on many Customs houses. They were built before federation.

Senator DOBSON.—When you insist upon works being constructed out of revenue it is wonderful how careful and prudent people are. Remembering that economic reform is in the air, I trust that this Parliament will long remain prudent and careful. It is our bounden duty, if we have any regard for the tone and wishes of the people who sent us here, to keep down our expenditure. In this connexion I am very pleased indeed to know that the Public Service Act, instead of costing £15,000 a year as was estimated, is only costing £8,000 or £9,000 a year. It will be recollected that I was not in love with that Act, and I ventured to say that the estimate of cost of its administration was lavish and extravagant. But if the measure is to be administered for some thousands of pounds per annum less, my criticism is, to a great extent, justified, and, at the same time, it shows that federal Ministers are just as desirous as we are of keeping down expenses. It is perfectly plain that the terms of employment set forth in that Act, which on the whole are generous, are attracting young men and women from every State. No less than 4,500 candidates submitted themselves for the public service examination. That examination, although it took a great deal of time, had the condition attaching to it that those who passed were only available for employment if vacancies occurred within nine months. Those who are not employed within that time will have to be re-examined if they desire to enter the service. In my opinion, it would be well to make the period two years, and I think that the Minister for Home Affairs would be well advised in bringing in a measure to set that right. Now I come to the question of the High Court. I have heard many of the opponents of the Government blame them for the delay that has occurred in not introducing this measure earlier. I think the Government are to be congratulated. They have done very little harm—I do not think they have done any harm whatever—in not introducing the Bill before, whereas by this delay we have saved about £30,000.

I am very glad indeed, that we have saved that £30,000. I notice now that because of an accident which befell an unfortunate cabman who was knocked into a "cocked hat"—as the Japanese officers would say—by the electric wires of the Postal department or of the electric tramway in Sydney, some honorable senators have changed their minds, and imagine that the High Court is an immediate necessity. That matter involved only a paltry sum of £80, and it might well have been settled by arbitration or in the State courts. There can be no doubt that the High Court is an important part of our Constitution. It is to be the interpreter of the Constitution, and we must eventually have the best High Court it is possible to obtain. But when are we to establish it, and how are we to do it? We have not suffered much inconvenience in the past from the absence of a High Court, and it appears to me that we ought to see whether we cannot go on saving—I will not say the whole £30,000—but at all events £15,000 or £20,000 a year. There have been so few cases of importance to decide, that I think we might very well confer federal jurisdiction upon the States' courts, and at once appoint a High Court, consisting of a Judge from each of the States, to act as a Court of Appeal from them. There may be objections to this proposal, but I think it is worth considering. Do not let us dogmatise, and do not let us take it for granted that a High Court of five Judges must be appointed. Let us see whether we cannot devise a High Court, which every one will look to with confidence, while at the same time the Commonwealth is saved an enormous sum of money.

Senator DE LARGIE.—Why should not the Supreme Courts of the States do the work?

Senator DOBSON.—I am suggesting that we should confer federal jurisdiction upon the Supreme Courts of the States, and that we should appoint one Judge from each State to form a Federal High Court of Appeal. There would always be the Privy Council behind that tribunal. Why I feel in a dilemma, is that while I am open to conviction at the present time, I am fairly certain that there is not sufficient work to justify the appointment of five Judges. On the other hand, if we have a High Court consisting of only three Judges, we shall have a tribunal—I do not care who the members

of it may be—that will not be equal in weight and experience and ability to the courts of New South Wales and Victoria. I do not want to compare man with man, or to enter into any personal matter. But it is rather against human nature to suppose that a court consisting of three of the leading barristers in the Commonwealth, taken fresh from the Bar, and having no judicial experience, could be superior to, or inspire more confidence than would a court of six judges who had been not only leaders of the bar themselves, but had had ten, fifteen, or twenty years' experience on the benches of the States' courts. While I shrink on the one hand from appointing five Judges, on the ground that the expense would not be warranted, I shrink on the other hand from appointing a High Court of only three Judges, which would not command the respect of men of experience who know what the High Court should be. It is for these reasons that I fall back on what honorable senators may call a make-shift court. It may be a make-shift court, but let us see whether by means of a temporary court we cannot secure a better tribunal for federal matters than by the appointment of a High Court of three Judges. I am at present opposed to the proposal, although open to conviction on the question of whether there should be five or three Judges. What might induce me to vote for five Judges, if we were to have that number, is the consideration that we could then combine with the work of the High Court duties which I think we have foolishly relegated to the Inter-State Commission. I do not think there will be very much of that work to do, but if the High Court could deal with it there might be some excuse for appointing five Judges. Perhaps, however, the Constitution would forbid the relegation of that work to the High Court. I have always opposed the Inter-State Commission, and I do so now. If you have three or four of the best experts to settle questions of differential rates, without any judicial experience to guide them, it is far better that they should go before the High Court, and that the Court, with its judicial knowledge and on the evidence of the experts, should decide the questions at issue. I think the provision for an Inter-State Commission is an absolute blot upon the Constitution. It involves a totally unnecessary expense, which we might

avoid if the States which are now fighting about preferential and deferential rates would agree to submit the matters to arbitration.

Senator DAWSON.—Then the honorable and learned senator believes in arbitration?

Senator DOBSON.—I believe in everything that is good, within certain limits. I come now to the question of the transcontinental railway. I hope my honorable friend, Senator Pearce, and his brother senators from Western Australia, will not think that I fail to sympathize with them in their aspirations, and I trust they will bear with me while I give the Senate the benefit of the little experience I have had in public life in regard to matters of this kind. My experience is that whenever you have a rich Parliament and plenty of money to go and come upon, and whenever you want a public work in which a great many people are interested, you will gain your end if you only keep at it long enough, if you only talk loud enough, and if you only come armed with a sufficient array of facts and figures, whether relative to the subject or not. I take it that those who come from the States Parliaments, and who are conscious of the enormous sum of loan moneys which we have put into unproductive works—I believe many of them were known to be unproductive when we persuaded ourselves that they would be productive—will be traitors to the electors unless they judge this proposal absolutely and entirely on its own merits. We must guard ourselves against going in for an enormous loan expenditure, unless we can see great indirect advantages to begin with, and advantages which give promise that the railway will be able, at no distant date, to pay pretty well the interest—I do not say the whole interest—on the cost of construction. I admit that there are indirect advantages to be gained from the construction of such a line, but in the States we have traded on these indirect advantages until some of the non-paying lines in Victoria and Tasmania are really, to my own knowledge, a disgrace to our statesmanship. I do not know that the strength or the weakness of Senator Pearce's case has yet been proved. It is not yet known, but when you have a weak case for the construction of a railway the first thing you do is so say to the Government—"We shall be content with a flying survey." You get the necessary vote

passed, and thus secure one very important step towards the construction of the line. A flying survey is made. Then you are told that you cannot get estimates of construction, that the plans cannot be laid on the table of the House without another survey, and finally the flying survey becomes something in the nature of an engineering one.

Senator PEARCE.—The honorable and learned senator is very suspicious.

Senator DOBSON.—I am not. I am not at all hostile, but I am bound to give the Senate my experience, and I say that I shall judge every fact and figure brought before me in the light of that experience.

Senator MCGREGOR.—The honorable and learned senator is throwing cold water on the project.

Senator DOBSON.—That remark illustrates what I have already said. Any one who professes to criticise a proposal, who yearns for knowledge, and wants to know more about the whole subject, is simply sneered and laughed at. While Senator Pearce was speaking I asked him what I thought was a very pertinent question, and he gave me a very straight answer. This railway will be a very costly affair—it will involve an expenditure of five or six million pounds—and the question I put to Senator Pearce was whether the cost was to be “new” or federal expenditure, to be borne by the States of the Commonwealth on the population basis, or was it to be entirely a State affair. I do not think it should be a State affair, but I wish to know whether there is going to be a kind of compromise, in which the two States most interested will pay more than their share, the Commonwealth making up the balance, when that share has been arrived at by means as fair as we can obtain. It appears to me that Western Australia, if it wishes to be absolutely fair and just, is bound at the very beginning to offer to pay more than its simple share in proportion to its population. The railway, if constructed, will run through an enormous part of that State’s territory. It will open up—I shall not say a desert, because Senator Pearce tells me there is good grass land along the line of route—what is really an unexplored, uninhabited country. If the Government of that State got their country opened up in that way, they could afford to pay more than their share on a population basis. Indeed, if they were to pay only their proportion per

head of the population they would make an enormous gain that would be unfair to the rest of the Commonwealth—certainly unfair to the little ocean State which I represent. Before we vote the money, I think it would be much better for Western Australia and South Australia to pass a vote for an absolute trial test to determine whether water can be obtained along the route. If water cannot be obtained—if we cannot have dams and artesian wells along the route—a considerable damper will be put upon the whole scheme. But I hope that water will be found, and that that difficulty will be removed. Coming to the Courts of Conciliation and Arbitration Bill, I find myself face to face with the whole industrial problem. I do not think any one can approach a problem of that sort unless he is a man of broad sympathies—a man who understands something about humanity and its wants—and is prepared to look at every question from every side, and particularly from the standpoint of the worker, if you put the worker as the weaker man. It seems to me to be absolutely essential to the industrial life of the Commonwealth that our workers, mentally, physically, and industrially, should be put in the best possible position. But when you reach a point at which you are going to violate the teachings of history, when you are going to act contrary to all human nature, every friend of the working man should speak out and say—“No ; you can go so far but no further if you want to bring about prosperity in the place in which you live.” It is useless to try and gull the working man into the belief that the tail is going to wag the dog. The brains are in the forefront of the animal, and not in the tail. We have had some experiences lately in all parts of the world—and not very far from the place in which I now speak—that show that all of us would do well to recollect the principle on which capital is invested—the principle on which confidence can be restored and retained, and the principle on which even a democratic Government must be carried on. That principle is that there must be absolute faithfulness on the part of the employés to the Government who employ and pay them. It appears to me that any measure is worth passing that is likely to do justice, and give to some extent reasonable promise of putting an end to the disastrous disputes which do so much to injure our

prosperity. I was particularly pleased with the account which Senator Pearce gave us of the working of the Arbitration Act in Western Australia. The working of the Act in New Zealand is not quite so satisfactory. Here, perhaps, I am treading on debatable ground; but I would remind my honorable friends in the labour corner of Premier Seddon's criticism and irritation. He said that the Arbitration Act of New Zealand was being availed of for settlement of the most petty disputes—I do not know whether he was referring to the employers or the employes, or to both—and that if a stop was not put to this practice he would have to introduce legislation to put an end to it. Here we have the Premier of New Zealand, a fully-fledged democrat, I suppose, saying that the Arbitration Act in that colony is being used as a means for the settlement of matters of a most trivial description, which ought never to be brought before such a court. So that there is now an agitation going on in New Zealand, which has absolutely been aroused and created by the Arbitration Act itself, because men take advantage of it to come before the courts with every grievance. It must be recollected all the time that they are trying in some way to dictate to their employers as to how the industry in which they are engaged shall be carried on.

Senator DAWSON.—Is not a case before the court every day better than an industrial war for a week?

Senator DOBSON.—I am only reminding honorable senators that Premier Seddon has said that the arbitration court is being abused in this direction, and that matters have now got to such a pass that if the practice is not stopped he will introduce legislation to stop it. There is in New Zealand an arbitration court to settle all disputes, and, as a result, either the men or the employers are making and creating disputes.

Senator DAWSON.—Did Premier Seddon say he would abolish the courts?

Senator DOBSON.—No, he said he would in some way define the disputes which might be brought before them. Let us have some more evidence from New Zealand, given, I think, by a gentleman named Wright, to whom Senator Pearce has referred. He says that ever since the establishment of the arbitration courts in New Zealand, that colony has been prospering and has been on the up-grade, and, therefore, most of the applications to the court have been

applications for the raising of wages, the shortening of hours, and the granting of privileges. Mr. Wright points out that any arbitration court will be more or less of a success in any country in the world in which the conditions are prosperous, but he says also that, when New Zealand is on the down grade—as she certainly will be, for all countries have their ups and downs—and there occur times of depression, it remains to be seen whether compulsory arbitration will ever be availed of by either men or employers. I am going to give an illustration of action taken by employers. The other day we read that upholsterers in New Zealand were awarded 1s. 3d. an hour, a rate which increased the cost of furniture by from 15 per cent. to 22½ per cent. When the award was given the employers said they could not pay those wages, and they told the men that if they did not go, under the Act, to the officer appointed and get a certificate that they were worth only so much less, they would shut their doors. The men were not going to be “choused” out of the award which had been given in their favour, and they said to the employers, “No, we shall not get a certificate, and we want you to carry out the award.” The reply of the employers was—“No, we shall shut our doors”; and shut their doors they did, with the result that it is said that 100 men—though I believe the number was only some 50 or 60—have been thrown out of employment. There is a case in which the employers took up the position to which I was alluding a few minutes ago, and said—“We, as the employers, who risk our capital, put up our buildings, and have the whole financial responsibility upon our shoulders, will not allow our men, or any court in the world, to dictate to us the terms upon which we shall carry on our business.” The moment the court fixed a wage which did not suit them they shut their doors. That is bad for all parties; but do honorable senators suppose that it is not worse for the unfortunate men? Of course, it was far worse for the men who were shut out than for the employers who shut their doors. Referring again to this question, and I get my information from different papers, I read of a meeting held in Wellington by socialists and union men; who were very much annoyed because the arbitration court dared to fix the lowest wage in their employment at 1s. 6d. an hour. Because the court dared to do that this meeting of socialists and unionists

carried a resolution—unanimously, I suppose—"that the court of arbitration is unworthy of confidence, and we cannot advise any other country to adopt such a court." If that is true it is certainly a very grave matter. Here are workers and union men who, because of a decision giving them fair wages, but not the enormous wages they asked for—raising the price of furniture by 22 per cent.—set to work to decry a court which, according to our friends opposite, makes for happiness and peace, and they absolutely publish to the world the statement that this arbitration court is unworthy of confidence.

Senator PEARCE.—Does not the honorable and learned senator think that it is unwise to adopt the most extreme opinion on either side?

Senator DOBSON.—I quite admit that it is, but I think that some of my honorable friends do not see the gravity of their position. What would be said of our Supreme Court if a certain class of litigants every time they did not get a verdict in their favour, held a mass meeting, and declared by resolution that the Supreme Court of Victoria or of Tasmania is unworthy of the confidence of the people? Do not my honorable friends see that if this sort of thing goes on no arbitration court will retain the confidence of either one party or the other. We must uphold the dignity, honour, and justice of our court. The whole structure will tumble about our ears if every time an adverse decision is given the men against whom it is given begin to accuse the Judges of unworthy conduct.

Senator KEATING.—In what trade did that occur?

Senator DOBSON.—I think it was in connexion with the carpenter's trade.

Senator BEST.—That is a solitary instance, and the courts have given numbers of decisions both ways.

Senator DOBSON.—There has been conciliation and arbitration in England since 1896 without any compulsion, and in the United States of America, with its 80 millions of people and its up-to-date methods in every direction, they have not thought fit to adopt this principle, while the trades unions of England have, by a large majority, voted against it. The subject is a very complex one, but I have quite an open mind upon it, and I shall be glad to hear anything that Senator Pearce can tell me about the admirable New Zealand court.

I believe the court in New South Wales is doing fairly good work, and has to some extent obtained the confidence of those who have had occasion to go before it. All I plead for is caution and prudence in passing such a measure. It appears to me that we have so much work in front of us that we shall be likely to pass a better Act if we delay dealing with the matter until the next Parliament, so that we may in the meantime have a little more experience of the New Zealand Act, that we may know what its defects really are, and that we may have the benefit of a larger measure of the experience which is coming in so fast from the court in New South Wales. In referring to the question of preferential trade, I get upon very debatable ground, but I do not think we shall be doing good service by passing over the question lightly and saying that it is not for argument now, or that we should wait until a scheme is brought forward before discussing it. It appears to me to be the one question, above all others, of most momentous importance, as it affects the whole prosperity of the Empire. It is a question upon which, in my opinion, we cannot have too much discussion. Until we have hours, weeks, months, and years of discussion upon it I do not know how any scheme is to be formulated. I believe we should have some discussion, and that we should try whether we cannot suggest some scheme. My honorable and learned friend, Senator Symon, was, in my opinion, quite off the rails when he talked of Mr. Chamberlain starting this idea as an electioneering cry. Mr. Chamberlain started the idea years ago. Honorable senators will recollect also that only a few months ago, the colonial Premiers met Mr. Chamberlain in London, and the Prime Minister of the Commonwealth came back pledged to introduce not a specific Bill, but some form of preference which was left undefined.

Senator DRAKE.—To consider the matter, I think.

Senator DOBSON.—Yes, to consider the matter. Mr. Chamberlain having had the benefit of the views of the statesmen who came before him from different parts of the Empire, thought out their ideas and his own and has now made a most important announcement upon the subject in England. The best thing the Commonwealth can do is to consider most seriously

the suggestion which he has made. If we are going to allow ourselves to be steeped in the dogma and doctrinaire opinions of 50 years ago we shall probably do as Senator Symon has done and pass the question by as impracticable and hopeless. I am going to do nothing of the kind. However good free-trade may be in the abstract, however well it may have served old England, and however sound its principles may be at bottom, it is a question whether the abstract theories of free-trade can be applied to meet all the adverse conditions with which the ingenuity of all the nations of the world can surround the mother country.

Senator KEATING.—Why did the honorable and learned senator try to apply them to Australia?

Senator DOBSON.—The cases are quite different. I take it to be one of the great features of free-trade that it stands for antagonism to all monopoly in trade and commerce. We shall find that some men who have written thoughtfully refer to the United States of America as one of the greatest free-trade countries of the world. If for the moment we leave out of the calculation its high protective Tariff, and consider the States with their 80,000,000 of people, we shall find that they include the largest free-trade area in the world. It was looking at the enormous prosperity of the United States, with its free-trade within and its protection without, which made me such a warm advocate for the federal union of the colonies of Australia. I saw at once that if we could get free-trade throughout Australia by knocking down those terrible fiscal barriers, which ought never to have been raised, we should obtain for ourselves an enormous prosperity, and if we were to have, as we are having, a policy of protection against the outside world, I felt that we should still have an enormous amount of free-trade within to give us a start. With the enormous amount of free-trade within the United States, with the best soil almost that the globe knows of, with almost every kind of climate and production, combined, if honorable senators like, with their protective Tariff against the world, the people of that country have been able to progress at such a rate as the world has never previously seen the like of. Their operations have enabled many of the citizens of the United States to acquire gigantic fortunes, of which few of us can form any

idea. But the operation of the two policies of free-trade within and protection against outsiders has led to the establishment of rings, combines, and trusts, which, as a free-trader, I am bound to say are opposed to all the principles of free-trade. We cannot discuss this matter without recollecting that these trusts and combines must either be fought or knuckled down to, and we have to consider the best way in which to deal with the matter. The Dominion of Canada has commenced by giving a preference to English goods of one-third of the duty, and the *Times*, in reference to that, says—

Canada's action is a step towards Imperial co-operation and unity which will be generally lauded throughout the Empire.

I desire to state here the question I asked Senator Symon, and that is, "Can you have a federated empire unless you have some system of federated trade." My answer to that question is, no. If you do not unite in some way the trade of the Empire you sow the first seeds of disintegration in the Empire. In this connexion let us look at the position of Canada. It is now refusing to take any part in the suggested scheme of naval defence. Why? Great Britain is now taking off the small registration duty on wheat, and Canada thinks that that remission ought not to take place, and that the contribution to the navy for which it is asked would under the circumstances be money thrown away. The Canadians may be right or they may be wrong; but here, I submit, is a beginning of things which, if carried to a logical conclusion, may end in the Empire breaking up, or it may end in our never uniting or trying to consolidate the trade of the Empire.

Senator KEATING.—That is not Canada's reason.

Senator DOBSON.—Canada refused to contribute before. I believe that it would have changed its mind, but it is persisting in its refusal on account of the fiscal question.

Senator KEATING.—That is only an added reason to its objection to the naval subsidy.

Senator DOBSON.—It is a very significant added reason, and if they admit that it is an added reason it still backs up the argument that it is the beginning of a state of things which I should like to put a stop to if I could. I desire in some way to unite the Empire by uniting its trade. I wish to see a bond of union between the

Empire and the colonies in regard to trade. As regards Mr. Chamberlain's ideas on the subject, as long ago as 1900, he used these words :—

An imperial Zollverein with free-trade within and duties against outsiders is the only fiscal arrangement likely to be viewed with the slightest favour by Great Britain.

Here at once is a policy to which free-traders or revenue tariffists surely can look forward. If we do not have absolute free-trade we may approach as near to that policy as we can get. We can have revenue duties between all parts of the Empire with higher revenue duties, or if you like protective duties against the outside world. Supposing that a 5 per cent. duty is imposed on all food supplies which go into Great Britain from the outside world, apart from Australia—I do not know that it would raise the price of food very materially—and supposing that in return we gave a 5 per cent. preference to the goods and manufactures of the old land, there is a start. I do not profess to know where it will land us, but it appears to me that it is better to try to do something to counteract the attacks which are being made on our trade, than to sit idly by and say—“No. Free-trade covers the whole of the ground, and we intend to do nothing.”

Senator KEATING.—I wish the honorable and learned senator had thought like that last session.

Senator DOBSON.—I am not talking about free-trade in the abstract, but about applying free-trade to the conditions which exist in the nations around us. On the one hand, there is America trying in every possible way to grasp the trade of the old country. She has got some of our iron and steel trade, and she is taking away some of our cotton and woollen trade. On the other hand, there is Germany trying to take away our trade. Although old England's trade is increasing, and although old England is progressing, still at the same time she is not progressing at the same rate as are Germany and America. When these nations are by almost unfair means trying to wrest our trade from us, are we to have no policy of retaliation? If America cannot obtain our trade by the imposition of a duty, what does she do? She subsidizes her own ships. She says that 10 per cent. more duty shall be levied on all goods which arrive in foreign bottoms.

What does Germany do? If she cannot, by a high protective Tariff, shut out our goods and get entrance of her goods into our free-trade markets, even if she finds that she is undersold in our free-trade markets, what does she do? She gives a bounty to her sugar producers. I am not prepared to say what redress we can get, or what retaliation we can have; but I think it is very foolish to say that we can do nothing, and decline to discuss the matter. If men like Mr. Chamberlain and a hundred writers on this subject think that we ought to try to make the trade of our Empire one, to be more self-contained, more self-supporting, I am not going to be frightened out of considering the project, because a 5 per cent. duty, or a 7½ per cent. duty, is said by our free-trade friends to be protection. Let it be called protection. We have been told by political economists for ages past that protection is a very good thing under certain conditions, and I do not suppose that any free-trader will deny that. It is a very good thing to start a young industry, but it is a very complex thing to know where protection should begin and where it should end—Victoria has found out that it can never end—or what amount of duty you should put on. All these questions are complex, and because they are so complex they need the greater discussion. I desire to refer to a section in the Post and Telegraph Act, which is, I think, very embarrassing to the Commonwealth. For some time past I have been wondering that the authorities in England have not objected to the provision. It is a most mischievous one. It cannot do the slightest good to Australian seamen. In England there is a scarcity of seamen; there are not enough sailors to man our ships; and in time of war when stokers are urgently required, these 30,000 lascars may be of the most infinite advantage to the British navy and British people. This provision in our law is really embarrassing the British Government. Why should we not bear in mind that these lascars are our fellow subjects? They own the sway of the union jack; they are under the crown of Great Britain. Considering that we do no good to our workmen by this legislation, why should we slap these unfortunate men in the face, embarrass Mr. Chamberlain, and try to enforce legislation which people at the other end of the world will not have. The Postmaster-General, in obedience to the law,

is trying to get other steam-ship companies to tender for the conveyance of his mails. I do not believe that there is a single steam-ship company at the other end of the world which will tender on the same terms as the P. and O. and Orient Companies. I do not believe that there is a single steam-ship company other than the two I name which could carry the mails between Great Britain and the Commonwealth. I think it would be a makeshift to try to get the mails brought to Colombo, and then run down to the Commonwealth on a steamer which did not carry a black cook or a black stoker. If this legislation embarrasses old England, why can it not be repealed? It is not as if it deprived 30,000 or 30 men in Australia of a job. It does nothing of the kind. I hope that steps will be taken this session to repeal the provision, which is nothing but an embarrassment and a mischief. I join with my honorable friends in hoping that the session will not be too long, that we shall return in good time to meet our electors, and that whatever the work of the session may be it will be well done, and that so far as regards justice and common sense we need not be ashamed of our legislation.

Senator DAWSON (Queensland).—In contributing my quota to this debate I feel impelled to mention a remarkable thing that attracted my attention. In their criticisms the mover and the seconder of the address in reply absolutely destroyed the Government and its policy, past and present, while on the other hand the criticism that was offered by the leader of the Opposition and the lesser luminaries that sit behind him, rehabilitated the Government. The debate on the Address in Reply is always very useful in that it gives the Government and members an idea of how the country receives the administration of affairs; whether it is viewed with satisfaction or dissatisfaction. In this respect this debate so far has been very interesting and very instructive. I have a clear recollection that from the prorogation of Parliament until its re-assembling, from one end of the Commonwealth to the other, the daily press, as the champions of the free-trade party, kicked up a great noise. The members of the Opposition took advantage of every opportunity to utter the most violent threats of what they intended to do by way of destroying the Government as soon

as they met Ministers face to face. They had all the big drums they could commandeer, and a great blare of trumpets, and it seemed to me that it was only the meeting of Parliament which could stay their frenzy and fury and save them from a quick death by apoplexy. When the critical moment came, and they had an opportunity of facing the body they had denounced and derided, what happened? Instead of this warlike attitude, instead of the desire to take the scalps of Ministers, we found these critics as silent as the sphinx, as gentle as cooing doves. The beggarly array of empty benches on my right hand is a good evidence of what these brave warriors are doing now that Parliament has met. Being struck in this way, I was worked up to a state of great excitement. I rather like to be an onlooker in a row. I expected to have a time of thorough enjoyment after the 26th May, but I have been sadly disappointed. I have failed to discover the reason for this sudden change of front on the part of the critics of the Government—so brave when they are a long distance away from the subjects of their criticism. I cannot discover a reason for this change of front in any explanation which they have tendered here. The leader of the Opposition in this Chamber, Senator Symon, took advantage of a few remarks made by the proposer of the motion for the adoption of the address in reply. Senator Downer, in the course of his remarks, in that happy, genial, amiable style that only he knows how to use—and when he does use it he seduces us all—said that he knew of cases in the administration of the Customs Act that were harsh and cruel; but viewing the general administration as a whole, he said that it was creditable to the Minister of Trade and Customs, and the Government with which he is associated. Senator Symon took the first portion of that remark and said, "Here is a condemnation from the Ministerial bench itself, and therefore it is not necessary for me or any of my following among the Opposition to offer a word of adverse criticism." What a slender bush behind which to hide so burly a form! My goodness! I never heard anything so trivial or anything so unsatisfactory in all my public life. If there were the least tittle of genuineness in all the loud proclamations which the Opposition made as to their intentions

when Parliament met, surely a mere stray observation from the mouth of a friend of the Government ought not to have stopped them—unless they had some special reasons for refraining. Senator Symon, in sheltering himself behind a word or two which fell from Senator Downer, forgot that Senator Downer said that Parliament, in passing the Customs law, had done better than it knew. Every one of Senator Symon's followers has, however, forgotten that remark. In looking for a reason for this extraordinary change of front, I believe that, without being charged with prejudice in any way, I might reasonably say that the Opposition lacked the courage when it came to the supreme moment, and they were to meet face to face in this Chamber those whom they had accused outside. But from experience of those gentlemen, I do not think they are lacking in courage. In fact, I am under the impression that no one particular reason will fully account for this extraordinary change of front, but it may be explained by a variety of reasons. I believe that discretion had a great deal to do with it, and that discretion takes this form: The criticism has gone forth from the public platform; the adverse criticism has been published in the press; it is not easy on the floor of the House to repeat those attacks, because discretion says—"If you do, the persons whom you criticise may put their side of the case, and the country will see both and judge between them." So, discretion says—"Don't do it." Discretion says—"Wait until Parliament rises, and you get back to the country again, and then you can use the platform and press and tell the same old tales, and no reply can be uttered." We are led to these conclusions, which are reasonable, because it is absurd to think that it is purely from lack of courage that the Opposition have refrained from making their attack. But it is not absurd to say—and our knowledge of these gentlemen teaches us—that they are both astute and very discreet. I think there was another cause, and I may mention it—I mention it deliberately—why there has been, lately, a modification of those fierce and savage denunciations of the Minister for Trade and Customs, which were so bad until there came a total cessation of them. I believe that one of the main operating causes, was that a Judge and jury of this Commonwealth have absolutely vindicated the position of the Minister for Trade

and Customs. Had that Judge and jury not vindicated his administration the same ruthless persecution, the same savage desire to destroy Mr. Kingston would have been followed right up to the very meeting of Parliament, and we should have been at this moment in the midst of an electric battle over the corpse of that particular individual. Between astuteness and discretion, and the finding of a legal tribunal, I believe we shall find an exact explanation of the extraordinary change of front on the part of those who are opposing the Government. I wish to say here, as a careful observer, not having the opportunity of running a daily newspaper in which I can express my opinions about the conduct of any particular administrator in the Commonwealth Government, that I think the people of Australia have been singularly fortunate in the possession of a Minister like Mr. Kingston, who has administered the Customs department with great success, and in a manner highly satisfactory to the general public of this country. Australia will never have any reason to complain if she always has as courageous and capable an administrator as she has now in Mr. Kingston. I am perfectly satisfied with his action. It has saved thousands upon thousands of pounds to the Treasury of the country, and it is largely due to his vigorous and firm action that the Government, in the Governor-General's speech to the Parliament, are able to congratulate the country that our finances are upon a very sound and satisfactory footing. There is no doubt, either, that by his administration he has improved the commercial morality of this country and protected honest traders. For this reason I feel, as a member of this Parliament, very much indebted to Mr. Kingston. A great deal had been said outside and inside Parliament on the well-worn subject of the six hatters. Quite lately I have heard Members of Parliament saying that there has been so much said about the matter that we may as well let it drop. There are some people who are always inclined, without rhyme or reason, to condemn everything and anything, every one and any one, in whom the labour party have manifested any interest or had any belief. But my position is that the last of the six hatters' episode has not been heard—that whilst those on the other side have had their say, have printed their libels, have circulated their slanders, the public is sure

in the long run, when they have an opportunity of expressing a decisive opinion, to know exactly the full facts of the case. It will be our business to see that the episode of the six hatters is not dropped in this Parliament, even though those who have made every use of it up to the present time so desire. Official explanations which have been made are absolutely ignored, both by the press and in the Federal Parliament. I was very much surprised—though I ought not to have been if experience could teach me anything—to find that the careful, well thought out, precise statement or explanation that was made to the other Chamber by the Prime Minister on Tuesday night was carefully cut out of the morning papers, whilst the old stories were published in full. Not only that, but honorable senators who have spoken in this Chamber, and have referred to the same incident, have absolutely ignored the full and clear explanation of the Prime Minister, and have continued to circulate the old story.

Senator KEATING.—The leader of the Opposition did so.

Senator DAWSON.—The leader of the Opposition did so precisely, and it appears to me to be a peculiar thing. But I am especially concerned about another statement made by Senator Symon. I regret that he is not present, but I presume that that is no reason why I should refrain from alluding to anything that has been said or done here by him. In that full, rich, and expressive language, of which he is a perfect master, he laid it down clearly and distinctly in this Chamber and to the country that a despicable act was committed by the officials of the Hatters Union, when the six hatters landed in Melbourne—that those union officers by pretending friendliness, by grasping the hand of the strangers, and worming themselves into their confidence, obtained possession of the contracts that they had entered into, and sent them on to the Prime Minister. It was alleged that those officials had extended the hand of friendship for the express purpose of getting possession of those contracts in order to use the information so obtained to exclude the hatters from this country. If that had been done it certainly would not have been creditable. The alleged conduct was denounced in severe terms by Senator Symon, and I heard it denounced in the House of Representatives by the leader of

the free-trade party there, as the most contemptible action he ever heard of. Had those facts been true there might have been some justification for the indignation of these gentlemen, but when Senator Symon was challenged he would not listen, and I venture to say that there was not a tittle of truth in anything he said concerning that matter. The thing is an absolute fabrication from beginning to end. The simple facts are that when these hatters came here—the union officials knew they were coming—they were invited to visit the Trades Hall, and they agreed to do so. In the meantime, however, they met some members of the Employers' Union who fêted them, and they did not put in an appearance at the Trades Hall. On the eve of their departure by train for Sydney the secretary saw them and asked one of their number whether he had any objection to showing his agreement. The man replied, "No, you can have a look at it, and do what you like with it." The hatters knew before they left England that they would run a risk in coming out under contract, but they, together with their employer, were prepared to take it. These are the whole facts, and as they are known, and have been told times out of number, it is not particularly creditable for a man to insinuate improper conduct on the part of others, more particularly when there is not a tittle of evidence to substantiate it. Apart from that aspect of the question, it strikes me that those who are denouncing the administration of the Government, deliberately suppress the main reason which justified the Government in acting as they did. It was not because they had a desire to shut out a trades unionist, or a fellow British subject, or that they wished to take any harsh view of their powers and to harass or embarrass any one seeking to make a home on our shores. The particular objection was that these men were coming out here under contract; that they were bound men, who came here in violation of the express provisions of an Act of Parliament, when the ink was hardly dry on the paper on which that measure was printed. It was the conditions under which they came out that gave rise to the objection, and when it was shown that they were not debarred by any express provisions of the Act they were immediately admitted. As far as I know, they are still in the Commonwealth, and they

were so particularly well skilled that there is only one of them at work now.

Senator PEARCE.—One did not think the Commonwealth good enough. He has gone to New Zealand.

Senator DAWSON.—Yes. Our objection to people who come to this country under contract is not based wholly and solely on considerations of whether they are white, black, yellow, or of any other colour, nor whether they are Britishers or Boers, Italians or Hungarians. It is the particular conditions under which a man comes out to which we object. We say that if a squad of Italians comes to Western Australia under an agreement to work under conditions that would tend to undermine the standard of living and comfort of those who are engaged in a similar occupation there, they are undesirable immigrants, and we look to whatever Government is in power to prevent them from landing. A party of Englishmen coming out under the same terms and conditions, to give us precisely the same result, would be equally undesirable on the soil of Australia.

Senator KEATING.—There is no national line in the whole Bill.

Senator DAWSON.—No. That was a matter which was keenly debated. Senator Symon, amidst the enthusiastic cheers of his followers, said last night that he was determined to embrace the first opportunity of repealing the section of the Act in question. He was asked why he did not take some objection to it when it was before the Senate, but he was not sure whether he was in the Senate.

Senator DRAKE.—The honorable and learned senator was here.

Senator DAWSON.—Yes ; and Senator Pulsford raised the very question of contract labour by moving an amendment providing that as long as a man did not come out under contract to work for less than the prevailing rate of wage there should be no embargo against his landing. That amendment was negatived without a division. These honorable senators thought so little of fighting on that principle that they did not even call for a division. I know that Senator Symon was here, because on referring to the records I find that his name appears in a division immediately before and in one immediately after that amendment was negatived.

Senator KEATING.—And Senator Macfarlane also spoke about the position of domestic servants.

Senator DAWSON.—Exactly. When Senator Symon said he would take advantage of the first opportunity to repeal this particular section, because under it the hatters had been embarrassed for a day or two, it struck me that I should like to know—and if he were present now I should ask him—whether he thought the Government were right after all in admitting the hatters. If the section did not empower them to exclude the six hatters, or any one else who came to Australia in like circumstances, what can be the necessity for repealing it? There can be none. But if the honorable and learned senator had a haunting suspicion that the Government had no right to admit these hatters—that they had power to exclude them—he should have moved a vote of censure on the Government for maladministration, and submitted it to the decision of the Senate. That was his plain and evident duty. But it appeared to me that right throughout the whole business these honorable gentlemen—just as in their criticism of the Minister for Trade and Customs, whom they desire to rend and tear—were uncomfortable when the moment came and did not care about doing it.

Senator KEATING.—If the Government went beyond the law there is no necessity to repeal it.

Senator DAWSON.—Quite so. I come now to another question. These debates are valuable in helping us to determine whether the administration of the Government is suitable or not. I have always found that debates of this character are also valuable in testing the sincerity of opinions such as we hear expressed from time to time by some honorable senators. Because the Postmaster-General has intimated to the Home authorities that he intends to put into effect certain provisions in the Postal Act, a perfect storm of indignation has been raised amongst honorable senators who speak on behalf of the lascar—"our coloured brother." Honorable senator after honorable senator has entertained us with very fine phrases about the "ties of country," "the ties of blood and kinship, and all that kind of thing. When such phrases are well delivered, when they are uttered with intense patriotic fervor, accompanied by graceful gestures and heroic pose,

they have a very striking effect upon those who hear them, but I find that those who are in the habit of using these particularly pat phrases are willing to sacrifice their country, their loyalty, and their patriotism according to the exigencies of their pocket. Whenever loyalty or patriotism conflicts with the amount they earn from day to day, or week to week, it has to go to the wall. Pocket is the first consideration with them. This leads me to the conclusion, and I feel compelled to say so, that this continual trumpeting forth of the claims of kinship, of the ties of blood, and of loyalty and patriotism is merely lip expression and empty mouthing without anything in substantial in heart or mind to back it up. Senator Dobson gave us a little address on the subject to-night. Senator Symon did so last night, and perhaps the most fervent speaker of all was Senator Gould, who took particular pains to point out what was our duty to our "unfortunate lascar brother." He told us about the ties of Empire, and of various matters of that kind, but I should like to know from these honorable senators, if their statement is true that by displacing the lascars on the mail ships we shall not give employment to Britishers, but to foreigners, who is responsible for that state of affairs? If it is true that the British mercantile marine is not manned by British sailors, but by foreigners, and that if we put out the lascars we shall only give employment to foreigners, who is the responsible party? What particular section in this community or in other parts of the Empire is responsible for that state of affairs?

Senator CHARLESTON.—The prosperity of England really is responsible for it.

Senator DAWSON.—Nothing of the kind. I venture to say that the responsibility rests absolutely on the shoulders of the particular class which Senator Gould and many other honorable senators in this Chamber truly represent. They are the true representatives of the commercial men, the Stock Exchange men, and the large employers generally, who are prepared to sacrifice every thought of loyalty to race and country, and every thought of patriotism, so long as their pockets are well lined. They will employ not only the foreigner and the lascar, but anything that crawls upon earth, if they can only get it cheap enough, and if by getting it cheaply they can increase their dividends. That is a fact. It must not be thought that

because labour men point this out we are particularly prejudiced against these persons. It is because we labour men have been forced to find out the rights and wrongs of these things, and our investigations have led us to this discovery. Other people have also made the discovery that the real reason why British ships are manned by foreigners is that the conditions of life, the housing, the food, the health arrangements, and the pay on British merchant ships are such that the best British workman will not follow the occupations of the sea. And it is the foreigner, who is willing to submit to that kind of treatment and that rate of pay who takes his place. I venture to say that these shipping companies do not employ lascars because they are their coloured brothers, because of any ties of kindred, or of any thoughts of building up this great Empire. They employ them because they find them cheaper even than the foreigner, and because they find that they will put up with worse conditions.

Senator O'KEEFE.—They would employ Chinese if they were cheaper.

Senator DAWSON.—They would employ anything. If they could only train a lot of wild animals taken from the jungles of Africa, they would get them to do the work if they were cheaper. That is the main consideration. I remember reading some time ago an article written by F. T. Bullen, a man amongst those most capable of writing with authority on this subject, for nobody will dispute his knowledge of the sea, of seamen, and of merchant shipping. He says that the fact is that the conditions are such that neither the Britisher nor the American will stand them. If the conditions were good, and we could not get British seamen, we could have their places filled by Americans, but they are filled now by foreigners, who will accept conditions with which neither Britishers nor Americans will be content. All honour and credit, I say, to the men of the British race who will not come down lower than they are, but who will still continue to struggle and strive for the higher and better life. It is an absurdity to say that Britishers are leaving the sea because they are tired of it, or because they find that they are not better sailors than foreigners. They have proved when opportunity has afforded that they are better sailors. They have proved that often in the history of the race, and they have also shown that they are going to follow

the particular avocation, in the country in which they can have access to it, in which they can lead the higher and the better life. The more the attempt is made to trample them down by bad conditions, the fewer British sailors we shall have to man our ships. Senator Gould, in a grandiloquent sort of way, told us that all disputes should be settled by agitation, by waiting, and by having patience. Though the honorable and learned senator did not say that entirely with regard to the employment of foreigners on British ships, yet the relation was there when he brought it up in connexion with the strike which recently took place here in Victoria. I shall apply it somewhat in the same way. I wish to point out to this particular class of people that they must understand that the sailor, in combination with his fellow-men, endeavours to get better conditions such as he would like to live and labour under, and to get a decent reward for his work ; and when he cannot get it by any tribunal offered to him by the law of the land, and tries to enforce those conditions by his combinations, it is the class represented by Senator Gould and many other honorable senators in this Chamber, who immediately use all the force and strength of the community to suppress them. They have the press absolutely at their disposal, and it refers to these men as rebellious, disloyal, unpatriotic, traffickers in turmoil, destroyers of property, and disturbers of the peace. Every denunciatory phrase and uncomplimentary expression which can be used is applied to them. When these sailors are fighting for conditions which will keep our merchant shipping open to Britishers, the very people who complain now of our ships being manned by foreigners, use all the forces at their command, and all the forces of the civil law to gaol, and otherwise punish those individuals. We know and realize these things, and we say distinctly that the manning of our merchant shipping by foreigners is absolutely and entirely due to that class of the community, and that whatever disaster may overtake the Empire as the consequence of such a state of affairs, the responsibility for it will be theirs alone. We further say that the employment of lascars is not the way to remedy the evil of the preponderance of foreigners in our merchant shipping. It is not by employing an inferior class, but by making the conditions such that a Britisher who lives as a

Senator Dawson.

Britisher ought, may follow the occupations of the sea. I, for one, on every occasion on which I am afforded an opportunity, will endeavour to resist the employment of inferior labour either upon sea or upon land wherever the Commonwealth has any control. Senator Gould, in a taunting mood, said last night, that while he could understand and respect our desire to have a white Australia within our own borders, it was absurd for us to think that we were going to enforce our views on the whole of the civilized world. If we ever attempted to do anything of the kind it would be absurd. We have not attempted to do it, and the particular provision in the Postal Act, to which objection has been taken, is not an effort to convert the whole world to our way of thinking, but an expression of our national sentiment. It is an expression also of our determination to do what in us lies to make the conditions of life and labour within the jurisdiction of the Commonwealth such as a white man may accept. It is an expression also of our determination to refuse to allow any race or any particular class of individuals to come here from any country for the purpose of making the conditions of labour lower and the comforts of life less than they are here at the present time. When this provision is included in the Postal Act we say to the shipping companies—"If you desire to trade with us, if you desire to have our good-will, and if you want to get the subsidy we are willing to pay for services rendered, you can only secure these things by respecting our national sentiment. If you refuse to do that we shall, so far as we can, refuse to have any truck with you." We are perfectly justified in taking up that attitude. If it is true that by taking up such an attitude we shall cut ourselves off from reasonable or continuous communication with the rest of the world, we shall have to cave in, because we cannot carry out our national sentiment at the expense of a continuous communication with the rest of the world. But we have yet to learn that that is the position of affairs. If I understand the Postmaster-General aright, he distinctly declares that communication between Australia and the old country is not dependent on any one, or any two lines of steamers ; that the trade of Australia has become of so much importance now that numbers of different lines of steamers are competing for

it, and that the limit of time is now the essential thing, not for the carriage of mails altogether, but for their passenger and cargo traffic. Is it not an absurdity to say that we cannot get our mails carried continuously at express speed when we know that passengers and cargo are being continuously carried at express speed? It is clear, therefore, that that particular objection falls to the ground. In the discussion on the motion for the adoption of the Address in Reply mention has been made of the Navigation Act. I regret very much that no mention has been made in the Governor-General's speech of a short Bill dealing with one or two matters of urgency connected with shipping and our internal trade. It is not possible to introduce in this session a comprehensive Navigation Act, which must contain about 700 clauses if it is to be of any use at all, with any hope of getting it passed. But there are a few urgent matters of supreme importance which might be embodied in a short Bill, which the Government might very well introduce, with every prospect of being able to pass it within a very short time, because the provisions to which I specially refer are so reasonable that I think they would provoke no opposition. I shall briefly enumerate some of them as they deal with matters of concern to our sailors. Under our Immigration Restriction Act, a coastal trader has to comply with certain conditions as to rates of wages and other matters; but an oversea trader which trades between our ports is not subject to those conditions. A coastal trader has to pay a sailor, say, £6 10s. per month, and to comply with other stringent conditions regarding food, quarters, and other matters, which all affect the cost of the trade; but an oversea trader which is trading between our ports is not subjected to such conditions, because the Attorney-General has ruled that it does not come within the provisions of the Immigration Restriction Act. It is alleged that the oversea traders do not trade between ports, but, as a matter of fact, they do trade between Newcastle and Melbourne, Newcastle and Adelaide, and, on occasions, between Newcastle and Brisbane; the rate of wages they pay is about £3 per month, and they have not to comply with the other conditions I have mentioned. In the interests of Australian seamen that condition of affairs should be abolished. As a matter of fair play to Australian ship

owners it should be abolished. Sooner or later the competition of these big ships in our coastal trade is sure to result in a reduction of wages, and such reduction may mean at any time industrial trouble, which is to be avoided if it is possible. In this connexion, I desire to mention a practice which ought to be stopped at once. No coastal vessel lands its crew on the wharfs to do lumping work, but the Japanese boats that trade down the Queensland coast from the east—and I believe some of the boats that trade to Western Australia from the west—land their crews to do lumping work, and the result is that a large body of white men along our coast, who depend upon the arrival and departure of ships for their livelihood, are displaced with the low-paid aliens. That is not fair to the lumpers on our wharfs, and it is decidedly unfair to our ship-owners. I have only now to express my very deep regret at the hasty and undignified retreat of the critics of the Government. I congratulate the Government very sincerely on the very strong position in which they stand. I congratulate the country upon the weakness of the Opposition, and I feel sure that if the Government continue to show the same intelligence in legislation, and the same capacity and courage in administration, and they ask the electors for a renewal of their trust and confidence it will be given.

Debate (on motion by Senator PULSFORD) adjourned.

SPECIAL ADJOURNMENT.

Resolved (on motion by Senator Drake)—

That the Senate, at its rising, adjourn until Wednesday next, at half-past two o'clock p.m.

Senate adjourned at 9.51 p.m.

House of Representatives.

Thursday, 28 May, 1903.

Mr. SPEAKER took the chair at 2.30 p.m., and read prayers.

PRINTING COMMITTEE.

Report (No. 1) presented by Sir JOHN QUICK, read by the Clerk, and adopted.

VICTORIAN POSTAL SERVICE.

Mr. SALMON.—I wish to know from the Minister representing the Postmaster-General if some steps cannot be taken to render more regular the postal service in the country districts of Victoria. Owing to the recent trouble in the Railway department of this State, a number of people find themselves almost entirely cut off from postal communication with the metropolis. In many cases numbers of letters are left lying within a few miles of their destination for as much as 24 hours before being forwarded. In the town of Avoca, where over twenty mails are made up each day, they have only three mails a week instead of a daily mail as heretofore.

Sir EDMUND BARTON.—I need not say that Ministers very much regret that, through force of circumstances, the postal services of the State of Victoria have been so disarranged by recent events; but every effort is being made to bring them back to the conditions prevailing before the railway service was dislocated.

THE VONDEL CASE.

Sir LANGDON BONYTHON.—I wish to ask the Prime Minister, without notice, if he has received any additional correspondence with reference to the *Vondel* case, and whether, if so, he will lay it upon the table of the House?

Sir EDMUND BARTON.—There is official correspondence with reference to the case, but I do not think that it is complete. I shall be glad to lay it on the table as soon as we can make it complete.

DRAYTON GRANGE INQUIRY.

Mr. PAGE.—Has the Minister for Defence any objection to lay upon the table the decision arrived at by the Government upon the report of the commission which inquired into the *Drayton Grange* case?

Sir JOHN FORREST.—I shall be very pleased to lay the whole of the papers upon the table to-morrow.

INTER-STATE DUTIES.

Mr. THOMSON.—I desire to know from the Minister for Trade and Customs when the decision of the Attorney-General in reference to the adjustment of Inter-State duties upon goods exported from one State and consumed in another prior to the 8th October, 1901, was given?

Mr. KINGSTON.—I cannot give the exact date, but I shall be happy to look it up, and give the honorable member the information to-morrow.

COST OF IMPERIAL CONTINGENTS.

Sir LANGDON BONYTHON.—Twelve months ago this House carried a resolution ordering the preparation of a return showing the comparative cost of the Imperial contingents sent from the various States to South Africa. I should like to ask the Minister for Defence whether he intends to comply with that resolution, and furnish the House with the information asked for?

Sir JOHN FORREST.—I do not remember the resolution, but I shall look it up, and, if possible, give the information.

LIEUT.-COLS. BRAITHWAITE AND REAY.

Mr. HUME COOK asked the Minister of Defence, *upon notice*—

Whether he has any objection to lay upon the table of the House a copy of all papers and documents concerning the matters connected with the proposed retirement of Lt.-Cols. Braithwaite and Reay?

Sir JOHN FORREST.—The answer to the honorable member's questions is as follows:—

The Government is of opinion that no good purpose would be served by doing so, and would suggest to the honorable member not to press the question.

I might say that it seems to me, subject to your ruling, Mr. Speaker, that requests for the production of papers should be made on motion. I do not know if honorable gentlemen expect the Government to lay upon the table any paper they may have in their possession at the mere request of any one member. In a case such as this the Government is in no way adverse to the production of the papers asked for, but it might not be in the interests of the persons concerned that such papers should be produced.

Mr. SPEAKER.—The standing orders would prevent any form of question being placed upon the notice-paper the answer to which would of necessity involve the production of a paper or document; but the question which has just been asked is perfectly in order. What the honorable member for Bourke seeks to know is whether the Government object to the laying upon

the table of certain papers. If the Government have no objection, it will be competent for him to move, on notice, for their production, and even if the Government did object, he would still be at liberty to take that course if he desired to do so. There is no reason why a question such as this should not be asked.

FEDERAL MEMBERS' VISIT TO WESTERN AUSTRALIA.

Mr. KIRWAN asked the Minister for Home Affairs, *upon notice*—

Whether in view of the allegations of extravagance concerning the visit of Federal members to Western Australia, he will state what was the total cost of that visit to the Commonwealth?

Sir WILLIAM LYNE.—The answer to the honorable member's question is as follows :—

The only cost incurred was for the conveyance of Federal members between Adelaide and Fremantle, £172 10s.

MAJOR LENEHAN.

Mr. THOMSON asked the Minister of Defence, *upon notice*—

1. Has the Government had communication with the Imperial authorities regarding the claim of Major Lenehan, of the New South Wales Military Forces, regarding arrears due to him; and, if so, what is the result of that communication?

2. Has the Government applied to the Secretary of State for the Colonies for a copy of the record of the proceedings of the court martial through the finding of which Major Lenehan was reprimanded for neglect of duty? If so, what is the nature of the reply?

3. Will the Minister lay a copy of any correspondence and papers connected with each of the foregoing matters on the table of the House?

4. Did Major Lenehan report himself to Major-General Sir Edward Hutton on his return in March last year?

5. Has Major Lenehan discharged any military duties since his return? If not, why not?

Sir JOHN FORREST.—The answers to the honorable member's questions are as follow :—

1. No.

2. The Government is in possession of the record, but not of the evidence.

3. The communications are not yet complete; and, as it is not in the public interest to lay the papers on the table, I will ask the honorable member not to press for them at present.

4. Yes.

5. No, pending result of communications.

FEDERAL PATENT BILL.

Mr. FULLER asked the Prime Minister, *upon notice*—

1. When is the Federal Patent Bill likely to be introduced?

2. Is the Government aware that numerous inquiries are being made from all parts of the world as to when the Federal Patent Bill is likely to come into force?

3. Is the Government aware that numerous inventors in all parts of the world, as well as in the Commonwealth of Australia, are not filing applications in the States because they are waiting for the Federal Patent Bill to become law?

4. Is it a fact that many of the indices and records in the several States' Patent Offices are in a state of incorrectness and incompleteness; and, if so, is it the intention of the Government to take immediate steps to rectify and consolidate these indices before the Patent Bill is passed?

5. In reference to the fourth question, has the Government considered the advisability of appointing a small commission of gentlemen, with the requisite technical and departmental knowledge, to investigate, rectify, and consolidate these indices and records, prior to the Patent Bill becoming law, so that the public may thereby be put to the minimum of inconvenience when the Federal Patent Office is opened?

6. Has the Government considered that unless some immediate steps are taken to rectify and consolidate the indices and records, prior to the passing of the Federal Patent Bill, the department may, from the start, be in a state of chaos, and the public be hampered in their investigations as to the novelty of their inventions?

Sir EDMUND BARTON.—The Federal Patent Bill is likely to be introduced into the Senate within a month. The other questions pertain to the department of the Minister for Trade and Customs.

Mr. KINGSTON.—The answers to the honorable member's questions are as follow :—

2. There have been some inquiries on the subject.

3. Probably some inventors are pursuing this course.

4. The Government are not aware of any necessity for attempting interference before they are clothed with the proper legal authority.

5. The Government do not consider this necessary.

6. The Government will do whatever is necessary for preventing any state of chaos.

PAPER.

Sir EDMUND BARTON laid on the table—

New regulations under Post and Telegraph Act 1901.

GOVERNOR-GENERAL'S SPEECH : ADDRESS IN REPLY.

Debate resumed from 27th May (*vide* page 180) on motion by Mr. L. E. GROOM—

That the following address in reply to the Governor-General's opening speech be now adopted :—

MAY IT PLEASE YOUR EXCELLENCY—

We, the House of Representatives of the Parliament of the Commonwealth of Australia in Parliament assembled, beg to express our loyalty to our Most Gracious Sovereign, and to thank Your Excellency for the Speech which you have been pleased to address to Parliament.

Mr. V. L. SOLOMON (South Australia).

—I have no desire to lengthen this debate beyond reasonable limits. Knowing that we are to have, in all probability, a very short and somewhat busy session, I shall be pleased to see the debate terminated within a few days, in order that we may get to the solid work proposed in the programme presented to us in the speech of His Excellency the Governor-General. I listened with considerable interest to the remarks of the leader of the Opposition and of the Prime Minister, and also to those of other honorable members, including particularly those of the honorable member for Gippsland. I was somewhat surprised at the remarks of the last-named honorable member, and at his seeming astonishment at the enormous cost to the Commonwealth of the rebates upon the sugar excise duty.

Mr. A. McLEAN.—I was not astonished. I knew about it all along.

Mr. V. L. SOLOMON.—The honorable member seemed to be almost horrified at the great cost that would be involved, and I was the more surprised at his remarks when, on reference to *Hansard*, I found that when the proposal for these rebates was under discussion, and the honorable and learned member for South Australia, Mr. Glynn, proposed to strike out the condition that the rebates should be continued till the year 1907, the honorable member for Gippsland voted in favour of levying this enormous tax upon the people of the Commonwealth for a period of five years.

Mr. A. McLEAN.—I mentioned that yesterday, but I said that it is only fair that the people of the country should know the exact cost.

Mr. V. L. SOLOMON.—I think that upon that point the public were fairly well informed. In South Australia, the matter

was fully debated before the elections, and the people understood exactly the position that would be created if sugar from New South Wales and Queensland were to be admitted into other States free of duty. However, I am sure that the honorable member for Gippsland need feel little alarm, because even when the excise rebate of £2 per ton is absolutely abolished, as it will be in 1907, a sufficient encouragement will be offered in the £3 difference still remaining to enable competitors from outside to maintain sugar at a reasonable price. There is nothing with which to find fault in the Government programme, except perhaps its enormous length. It is a programme which might very well be introduced at the beginning of a three years Parliament, and occupy the whole of that period to complete. There are many measures of considerable importance, and I hope that, for the sake of economising time, the Government will tell us exactly what proposals they intend to push on, and then stick to the work in connexion with such measures until they are carried or defeated. With a host of measures before honorable members, a large amount of attention is diverted from matters of first importance to those which cannot possibly be brought to finality. I agree with the Government proposal for the establishment of a High Court, and, as I said in the early part of last session, I consider that this is one of the measures that is absolutely required to complete our Constitution. The question whether the court shall, as suggested by some honorable members, be constituted from the Chief Justices of the various States, or whether it shall be an independent body, is one which I am free to admit is open to much debate. At the same time, after fairly careful consideration, I think that we should create a body entirely apart from our State courts, even though it may involve considerable expenditure. I do not for one moment suggest any want of faith in the ability or integrity of the Chief Justices or other members of our States judiciaries, but I cannot see how important questions of constitutional law, involving an enormous amount of work, can be dealt with by our States Judges, who are, even under present conditions, frequently overworked. We have expended a great deal of money upon the machinery of this Federation, and we should not now "spoil the ship for a ha'porth o' tar," and lose dignity as a

Federation by having to resort to a casual court constituted of the Chief Justices of the States. At the time when Federation was before the electors, a promise was made that a High Court should be constituted of Judges, appointed subject to the will of both Houses of Parliament, and removable only for misconduct—a court to which the people might have easy and speedy access, at a cost much smaller than that which is now involved in carrying appeals before the Privy Council. I think this promise should be carried out, and I shall therefore give my hearty support to the Bill foreshadowed in the Governor-General's speech. Of the other measures to be introduced, the one next in importance is that for the establishment of an Inter-State Commission. Here, again, is another missing link which is urgently required to complete our Constitution. Many questions of the utmost importance can only be properly and fairly dealt with by such a body. Matters involving rival railway rates, fair trade and commerce, and the use of river waters are among these. It was stated yesterday that, although every effort had been made, by fair means and by friendly approaches, to bring about an understanding between the Railways Commissioners of the various States as to the rates charged on their respective lines, in several cases, notably in Western Australia, preferential railway rates were still in existence, and there is no possible means of dealing with this question except by the appointment of an Inter-State Commission. I need only direct attention to the two sections of the Constitution dealing with the Inter-State Commission to show that it is absolutely necessary that such a body should be established. Section 101 can hardly be termed permissive. It reads as follows—

There shall be an Inter-State Commission, with such powers of adjudication and administration as the Parliament deems necessary for the execution and maintenance, within the Commonwealth, of the provisions of this Constitution relating to trade and commerce, and of all laws made thereunder.

Section 102 reads—

The Parliament may by any law with respect to trade or commerce forbid, as to railways, any preference or discrimination by any State, or by any authority constituted under a State, if such preference or discrimination is undue and unreasonable or unjust to any State, due regard being had to the financial responsibilities incurred by any State in connexion with the construction and maintenance of its railways.

The concluding paragraph is the most important—

But no preference or discrimination shall, within the meaning of this section, be taken to be undue and unreasonable, or unjust to any State, unless so adjudged by the Inter-State Commission.

I do not think that I need go further to prove the absolute necessity for proceeding at the earliest possible moment with the Government proposal. The next in order of importance in the Government programme is a measure which most honorable members will welcome, namely, the Defence Bill. We had a measure before us last session, which was ultimately withdrawn, and I think it was well that it should have been so dealt with. We are now promised a new Bill, and from what I can learn there is every prospect of it proving workable. It is urgently required, because, judging from the state of affairs in South Australia, a great deal of dissatisfaction exists regarding the manner in which the defence forces are being managed. The feeling there has become so strong that many old and valued officers who have devoted years of their life and hundreds of pounds of their own private money to the service of the State have, in spite of their love for their profession, handed in their resignations. I know that South Australia is not alone in this respect, and that the same conditions exist to a greater or less degree in other States. Under these circumstances I shall indeed welcome the new Bill. Following upon this item in natural sequence, we come to the proposal for a new agreement in regard to the naval subsidy. We have not yet had an opportunity of seeing the exact text of the agreement, and I think it is rather a pity that we should not have received fuller information. However, as this is an occasion upon which we can deal with the subject only in mere outline, we must be content with the statements which have been made in reference to its conditions. I have heard opinions expressed by some very able naval and military authorities in favour of the establishment of a purely Australian navy, but I have come to the conclusion that the time is not yet ripe for this young community, of about 4,000,000 of people, to contribute the money necessary to provide a navy. There are more reasons than one why we should not do this. First of all the expense would be enormous at the outset,

and we should have continuous demands made upon us to renew ships and armament as the old vessels became obsolete. This is one of the strong arguments in favour of our continuing to rely upon the protection of the British navy in a somewhat better form than we have had it in the past. The additional contribution is a mere nothing compared with the expense to which we should be put if we dared at the inception of the Federation to start a naval defence of our own. I know that a very large section of the community, with their patriotic ideas, are very keen upon the establishment of an Australian navy, but when the question of cost comes to be considered, together with the new conditions under which our contribution is in future to be made, I feel sure that the balance of the argument is all in favour of the naval agreement. I say this, however, without having had an opportunity of very carefully studying the proposed agreement. I am relying upon the outline of it which has been published in the newspapers, and upon the statements of the Prime Minister, so that if the agreement proves to contain different terms from those which I have been led to expect, I still reserve to myself full liberty to alter my opinion. On the other hand, if—as has been stated—it contains reasonable conditions for the training of our own men and cadets, and for a thoroughly efficient defence of our coast line, I shall give it my hearty support. The matter of the uniform patent legislation has already been dealt with by questions, and honorable members are promised that a Bill dealing with it will be introduced at an early date. Questions were answered to-day regarding the condition of the patent indices in the various States. I am able to answer those inquiries, at any rate, so far as one State is concerned. In South Australia the indices are in a hopeless state of confusion, and it is absolutely impossible to ascertain what patents have been registered and what have not. I know of several inventors who are merely waiting until they can take advantage of patent laws, under reasonable conditions, which will be uniform throughout Australia. Another important subject with which Ministers have promised to deal—although somewhat indefinitely, I suppose when the time suits them—is the conversion or taking over of the States' debts. This subject is not a new one. It was

Mr. V. L. Solomon.

considered in the Federal Convention, and was the subject of attention in some of the State Parliaments even prior to that. The advantages to be gained by the conversion of the States' debts have already been put before both Parliament and the people by able financiers who understand the subject very much better than I do. Amongst the great benefits which would be derived by taking over the various States' debts would be the ability to convert them as they became due, and not before, into Commonwealth stock at a considerable saving of interest. The total indebtedness of the Commonwealth to-day is, in round figures, about £220,000,000, and the urgent necessity for dealing with this question at the earliest possible date is evidenced by the fact that from the return of the debts due by the various States I find that during the next seven years—that is, up to 1910—a sum of approximately £28,000,000 will become repayable. Something approaching that amount will have to be repaid by the different States for existing bonds and stocks. Unless we arrive at some arrangement with the States it will be rather awkward if we find three or four of them each requiring £1,000,000, £2,000,000, or £3,000,000, simultaneously going upon the London money market at a bad time, competing against each other, and eventually being forced to pay for their accommodation, in the way of interest, a great deal more than they are paying at the present time.

Mr. KINGSTON.—By bidding against each other?

Mr. V. L. SOLOMON.—Yes. We know in the past how anxiously the Agents-General of the different States have watched each other, like so many cats watching a mouse, in an endeavour to be first upon the London market with a loan of £1,000,000. Unless some arrangement is made by which the Commonwealth can take over the States' debts, how much worse will the position be with £28,000,000 falling due within the next seven years, and with the knowledge on the part of the foreign bondholders that the States are bound to have the money with which to redeem their existing liabilities? Instead of having to pay 3½ per cent. interest it is quite upon the cards that they will be required to pay 4½ per cent. Of course if we take over the whole of the liabilities of the States, we have the security

—as was pointed out by one speaker yesterday—of the Customs revenue for the payment of the interest. But another question arises in my mind—namely, whether the foreign bondholder will not want to know that the Federal Government possesses as security the assets upon which the great bulk of this £220,000,000 has been loaned—namely, the States' railways. The bulk of this money was borrowed for the construction of the railways, and it may be considered that they should not remain in the hands of the States when the liability upon them has passed over to the Federal Government. This is a question which I leave to wiser heads than mine to consider, but it is undoubtedly worthy of close attention.

Mr. REID.—If the matter is to be complicated in that way, any arrangement will be postponed for I do not know how many years.

Mr. V. L. SOLOMON.—I recognise that that is a difficulty, and I thank the leader of the Opposition for the hint. I recognise also that there would be perhaps considerable delay in arriving at an arrangement between the different States for a transfer of the railways. Complications would arise as to their original cost and their earnings, and there would also be present a jealous feeling on the part of the States that by handing over their railways to the Commonwealth they might be prevented in the future from extending them within their own territory for the purposes of development. Still I put the position fairly, in order that it may be considered. Personally I think that the whole of the Customs revenue should constitute quite a sufficient security, and if the States can be induced to hand over their debts to the Commonwealth, and at the same time to give an assurance that no further borrowing will be undertaken by them without the consent of the Federal Parliament, a very large saving could be effected.

Mr. REID.—That is another stipulation that would have the effect of postponing any settlement indefinitely.

Mr. V. L. SOLOMON.—To my mind it is a stipulation that ought to be made. It would be folly upon the part of the Commonwealth to take over the whole of the liabilities of the States if any individual State might subsequently for the purpose of undertaking perhaps some fancy public

work which might not be reproductive, go upon the money market again and pile up a new list of debts against its taxpayers.

Mr. POYNTER.—Does not the honorable member think that we ought to do something to knock out the underwriting system which is applied to State loans?

Mr. V. L. SOLOMON.—That is a mere matter of detail. The underwriters have proved very useful upon some occasions. They have saved many a loan from failure. The leader of the Opposition suggests that it would be difficult to obtain the consent of the States to refrain from further borrowing. I am not at all certain that it would, because I believe that their position presently in regard to the repayment of loans will become so difficult that the electors in the various States will force them to accept the proposal of the Commonwealth Parliament—if we are willing to undertake the work—and to hand over their debts to the Federation. I do not see that much harm could result to them from the adoption of such a course, because, after all, if they wished to raise money for any purpose of reasonable development the Commonwealth Parliament would be only too anxious to assist them, and, moreover, the Federal Government would be able to obtain the necessary money for them upon very much better terms than they could secure for themselves. However, that is one of those questions which I should be pleased to see taken up with a great deal of energy, not only in this Parliament, but in every State Parliament throughout Australia. Now I come to some questions of administration. The administration of the Customs department has been specially commented upon in the various newspapers, and so many cases of harshness have been cited that I desire to say a word, or two upon it. I can do so with a very much clearer conscience than can some honorable members, because at the time the Customs Bill was being considered I think I can be credited with having exhibited a very lively interest in it, and with having warned the House again and again that its provisions were altogether too stringent. Those provisions might have been suited to the requirements of England 50 years ago, but they were utterly unsuitable to the present state of our commerce. I fought the question of the imposition of a minimum fine as strenuously as I could, and went so far as to call for

divisions upon that matter. I attempted to secure a reduction of the minimum penalty for an infraction of the Act from £5 to £2. I also urged that no minimum fine should be provided, but that magistrates should be vested with absolute discretion as to whether they should fine an offender either 1s. or £100. Had my proposal been carried, instead of men who are guilty of merely technical offences being fined a minimum amount of £5, we should have witnessed a magistrate in some of the prosecutions instituted by the Customs department imposing a fine of 1s. without costs. Then the disgrace of the police court prosecution would have disappeared. The presiding magistrate could have expressed his opinion upon the merits of any case. He could have said, "This is merely a technical offence, and I fine the defendant 1s., and will not allow any costs." I am sorry that that course was not adopted. I do not believe in the present limitation of a magistrate's powers. We may provide a maximum penalty, but to limit him to a minimum fine is ridiculous. I wish to quote one or two cases in this connexion. One of the first cases—a very stupid one—which I remember, goes to prove the absurdity of imposing a minimum fine. It was the case of a well-known and highly-respected gentleman in Adelaide—a horse-owner and a breeder of horses—who received as a little present from a friend in India, a bottle of mustard oil for the treatment of horses. This oil came by ordinary ship, and, after inquiry, it was proved to have been manufactured in an Indian prison.

Mr. KINGSTON.—That was so stated on the bottle.

Mr. V. L. SOLOMON.—Yes ; there was no attempt at fraud, but the man was prosecuted, and the minimum fine of £5 was inflicted, although the bottle represented a value of 1s., or less.

Mr. CROUCH.—That is not so much as a similar offender would have been fined under the law in England.

Mr. V. L. SOLOMON.—I do not know what is done in England, but I do not think we should do anything so foolish as to fine a man under such circumstances. A good many of the sections of the Customs Regulation Act were taken from the old English law, which was extremely useful in the old days of the Coastguard, when small quantities of goods

used to be smuggled into England from France, Germany, and Spain.

Mr. CROUCH.—The English law to which I refer was passed in 1899.

Mr. V. L. SOLOMON.—That is not my point at the present time, but I know that one has only to touch on a subject like this in order to stir up the honorable and learned member for Corio. I have no desire to see prison-made goods imported into Australia, and I am merely showing the absurdity of compelling magistrates to inflict this minimum fine when it is felt that no fine should be inflicted, and when, but for the stringency of the law, it would not be inflicted. If the Government had acted in the same spirit that they did in regard to the boy Tingey the other day, this fine ought to have been refunded.

Mr. REID.—That was the case of the Bible ; there was a difference in the Cabinet about that.

Mr. V. L. SOLOMON.—In order to give another instance of the peculiar anomalies of the Act, I wish to refer to section 53, which reads—

No spirits, opium, tobacco, snuff, cigars, or cigarettes shall be imported, except in packages as prescribed. Penalty : £100.

The Minister has the power of prescribing the size of the packages by regulation, and this provision is also taken from the old English laws, which, as I say, were highly useful at one time, but are now absolutely ridiculous when it is considered that every article imported has to be manifested and remain in the charge of the Customs until the entry has been passed and duty duly paid. Why should not a man be allowed to import a package of tobacco weighing less than 20 lbs. ? Should I desire to import a package of 5 lbs., that package would be held under the Customs seal until the manifest and invoice had been examined and duty paid. I have shown the absurdity of the law, and now desire to show the absurdity of the administration. I received a telegram a few days ago, which I am sorry to say I have mislaid, from a solicitor of Port Darwin, informing me that a Chinese storekeeper there had imported 40 lbs. of tobacco in one ship, but, for convenience sake, had divided the commodity into two packages, one containing 25 lbs. and the other containing 15 lbs. The packages were duly manifested, and the invoice was produced, but the storekeeper, on seeking to clear them, was informed that while he

could obtain the package of 25 lbs. on the payment of the duty, the smaller packet must be seized, because it was under the prescribed size, and the importer was fined the minimum of £5. It is absurd that a Customs official should be so absolutely without discretion as to be guilty of administration of this sort. Does the Minister say that this storekeeper deserved to have any fine inflicted on him?

Mr. KINGSTON.—He would have got it hotter under English legislation.

Mr. V. L. SOLOMON.—No doubt he might have “got it hotter” under Russian legislation.

Mr. KINGSTON.—Is Imperial legislation to be compared to that of Russia?

Mr. V. L. SOLOMON.—Our legislation is getting pretty close to that of Russia; at any rate, I should say that a man could not be worse treated in that country. If the Minister cannot see his way to give his officers a little more discretion, the sooner the House takes the matter in hand and amends the Act the better. I am sure that the common sense of many members would support an amendment in reference to such cases as that of the cartridges the other day, in the direction of allowing more discretion in the administration of the Act. In the case I have mentioned I am sure no ordinary magistrate or justice of the peace—and we have some curious specimens of the latter—would have dared to fine a man £5 for an offence so nominal, if the law allowed any discretion. While saying all this, I must acknowledge that the Minister has had to perform most difficult work. As a Customs agent for many years, I can appreciate the difficulties with which he has to contend. Even in one State, with one set of officers, those troubles would arise, but when dealing with six States and six sets of officers the difficulties must be enormous. I am condemning the administration for which the Minister cannot be personally responsible, unless he can put a week's work into a day.

Mr. KINGSTON.—I take all the responsibility; I have very good officers.

Mr. V. L. SOLOMON.—I know that the Minister has to take all responsibility, and he may have very good officers, but they must be lacking in discretion or afraid of being dismissed if they, in the slightest degree, lean to the side of justice. Everything the Minister has done has been with a view of conserving the revenues of the

Commonwealth, and his task has been a hard one; and I am sure that if any one else had occupied the position, probably just as many mistakes would have been made. I say this with the idea of inducing him to give his officers more discretion in removing some of the anomalies I have pointed out, and permitting them to treat trivial cases as such, and not as subjects for police court prosecutions.

Mr. SALMON.—Does the honorable member mean that the cases should be treated departmentally?

Mr. V. L. SOLOMON.—No; there have been great abuses under that system. What I mean is that it would be a good thing if in such cases as those to which I have referred, the Minister were not quite so firm—I believe his friends called it firmness, though it has been described as obstinacy—and if he were to bring down a short Bill in order to remove anomalies. Such a Bill, I feel sure, would pass both Houses almost at one sitting. If the Minister even gave an indication of a reasonable desire to deal with such cases in a different spirit, those who have reasonable complaints would point out the difficulties caused by the law, and show how amendment would be advantageous. In such a step the Minister would receive hearty support from honorable members.

Mr. MCCAY.—How would the honorable member legislate in order to meet such a case as that which occurred at Port Darwin, unless it had to be dealt with departmentally?

Mr. V. L. SOLOMON.—First of all, the section providing for a minimum fine might be altered, because it is unreasonable to force a magistrate to inflict a penalty when there has been no attempt at fraud, and no absolute wrong done.

Mr. KINGSTON.—The objection of prescribing the size of the packages is that they may be seen.

Mr. V. L. SOLOMON.—My main point is that the magistrates should be given fuller discretion.

Mr. PAGE.—Who is to prove that a mistake is honest or dishonest?

Mr. V. L. SOLOMON.—The magistrate, I presume, is the best judge of that. It is absurd to compel a magistrate, in a technical case, to fine a man £5, when otherwise the penalty of 1s. might be imposed. It is unwise to have an Act which places control upon the magistrate's sense of justice. If a magistrate can be trusted

to fine a man £100 surely he can be trusted to fine him 1s.

Mr. WATSON.—The honorable member means in cases of error.

Mr. V. L. SOLOMON.—Yes, in such cases as that of the bottle of oil, where there was a mere technical breach of the law.

Mr. KINGSTON.—No exception is made by the act in cases of prison made goods.

Mr. V. L. SOLOMON.—I suppose that if I went on a visit to India and sent to the Minister of Trade and Customs a present, which on being opened after he had passed the entry—as he would, being an honest trader—was found to have been made in Calcutta gaol, he would immediately fine himself £5.

Mr. KINGSTON.—I should wait and “run in” the honorable member.

Mr. V. L. SOLOMON.—Now I come to the Immigration Restriction Act, though I am not going to deal with the six hatters, of whom we have heard enough. I shall refer to that case only in order to point out that when sub-section (g) of section 3 was passed, I for one was quite ignorant of the extent to which it would be used. I listened very carefully to the debate, and later took some part in it myself. Sub-section (g) of section 3 was inserted on the motion of the leader of the labour party, and provides that—

Any persons under a contract or agreement to perform manual labour within the Commonwealth shall be regarded as “prohibited immigrants.”

The object of the insertion of those words was, I understood, to prevent the introduction of large numbers of men under contract to perform work at unfair rates of pay, and to prevent interference during the existence of some strike or labour trouble. The honorable member for Bland, speaking in support of his amendment, said—

When I first gave notice of this amendment I proposed to cover all classes of labour performed in the Commonwealth. But, in view of representations made by some honorable members, it is, I think, desirable for the time being to restrict the classes prohibited to artisans and labourers. There are one or two other classes of labour it would have been advisable to cover by the sub-clause, but the difficulty of providing for efficient exemptions of classes that should be exempted, and the possibility, perhaps, a little later, of a number of new industries being commenced within the Commonwealth, point to the necessity of minimizing the operation of the amendment in the meantime. The amendment will cover most of the classes of labour likely to be affected through people being inveigled into unfair agreements in ignorance of the conditions obtaining in Australia.

Mr. WATSON.—I do not depart from that statement.

Mr. V. L. SOLOMON.—That argument undoubtedly obtained the sympathy of honorable members on both sides of the Chamber. In speaking to the amendment the Attorney-General stated that—

The persons to whom the honorable member alluded when he made his concluding reference to the possibility of the establishment of new industries in the Commonwealth are excluded under the amendment as it now stands, and it is necessary to make provision to permit skilled labourers to enter the Commonwealth if they are of such a character as to be able to add to the industrial wealth of the community.

That is the interpretation to be placed upon the proviso which, on his motion, was added to the amendment. What has occurred is very much to be regretted. I am sure that a blunder has been committed, and that it was not the desire of the Prime Minister that the men concerned should be treated as they were. The honorable and learned member for Northern Melbourne, speaking on the same subject, said—

There is no desire to exclude men who voluntarily seek to make their home here for the purpose of engaging in manual labour or anything else, so long as they belong to a civilized white race, and are themselves desirable immigrants. As I understand it, we have never in Australia taken up that narrow view of saying that we must keep Australia for ourselves and our children.

Mr. WATSON.—Oh, no.

That was the belief under which I, for one, consented to allow the clause to pass. It is difficult to know how the Act can be amended so that it will still contain the safeguards desired, and yet give an opportunity for desirable immigrants to enter the Commonwealth; but I think that it should be amended so as to attain that end. There is another matter in connexion with the administration of the Act to which I wish to draw attention. It was never intended by Parliament that the operation of the Act should be retrospective, so as to do injustice to persons—whether English, Irish, Scotch, Chinese, or Japanese—who were living within the Commonwealth for years before the inauguration of federation. But a case has occurred in which injustice of that kind has been done; and although I have directed the attention of the Prime Minister to it, I have not yet heard his decision upon it, and so far he has been adamant to my representations. The case is that of three Chinamen who were assistants in and part owners of a store at Port Darwin, and

had resided in that town for fourteen years prior to federation. They were engaged in business there during the whole of that period, and had the cleanest of records ; and certificates were obtained by them from both the police and European merchants in the town as to their respectability and integrity. They applied to the Customs officer at Port Darwin for domicile certificates to enable them to visit their original homes in China for a few months. The officer did not see any difficulty in the matter. He told them—"I cannot give you certificates, because they have to be sent from the head office in Melbourne ; but I have no doubt that there will be no difficulty in the matter." Acting upon that assurance, the men left their business and went to China. I think that under sub-section (n) of section 3 of the Act, they were entitled to fairer consideration than they have received from the department. That sub-section provides that amongst those who shall be exempted from the operation of the clause is—

Any person who satisfies an officer that he has formerly been domiciled in the Commonwealth or in any colony which has become a State.

These Chinamen satisfied the Customs officer that they had been living, had had their homes, and were in business in the State of South Australia for fourteen years before the advent of federation, and yet on a mere technicality as to the meaning of the word "domicile"—upon which any half-dozen lawyers in this House could raise a vast amount of argument—they have been denied the right to return. An injustice has been inflicted upon them which is a disgrace to the Commonwealth.

Sir EDMUND BARTON.—Would the honorable member like me to lay the papers on the table ?

Mr. V. L. SOLOMON.—I shall be only too pleased to have them laid upon the table. I am speaking from the communications which have been made to me, and I am sure that the facts are absolutely as I have stated them. Parliament did not intend the Act to be retrospective, or to inflict injustice of the kind I have mentioned. I wish now to deal with the paragraph in the Governor-General's speech which refers to the construction of the Western Australian Railway. I received yesterday from the Prime Minister an answer in reference to the suggestion that the Northern Territory be taken over by the Commonwealth which

puts that matter entirely at rest. The South Australian Government, naturally becoming tired of waiting for some reply in regard to the proposal for transfer, have decided to sanction the construction of a line which will join the existing system in South Australia to that in the Northern Territory.

Sir EDMUND BARTON.—The South Australian Government did not tell us of their intention to do anything in the matter until they had a Bill upon the table.

Mr. V. L. SOLOMON.—At the beginning of last session I laid before the House a proposal which I supported by considerable evidence, and all the information which I could obtain in reference to the Northern Territory, and that proposal was actually shelved. The people of South Australia having waited for some reply on the subject for some fifteen months became tired of waiting. If the matter had been taken up when I brought it forward, and it was fresh, and the people of South Australia were favorable to the transfer of the Territory to the Commonwealth, the thing would now be an accomplished fact.

Mr. HENRY WILLIS.—Are they not favorable to the transfer now ?

Mr. V. L. SOLOMON.—No. They are now in favour of the construction of a transcontinental line upon the land grant system, and that line will be made. There are a dozen capitalists who will take the matter up on the terms dictated by the South Australian Parliament.

Sir EDMUND BARTON.—The Government never had any indication from the South Australian Government that they were tired of waiting for an answer.

Mr. V. L. SOLOMON.—The South Australian Government were not likely to make that intimation, but that is undoubtedly the fact.

Mr. JOSEPH COOK.—Will the people of South Australia let their Government part with the land ?

Mr. V. L. SOLOMON.—Undoubtedly. At considerable pains, I brought a great deal of information upon the subject before the House, but the only reply to my proposal was the speech of a Government supporter, who got up, or was put up, to make it a subject of ridicule.

Sir EDMUND BARTON.—He was certainly not put up.

Mr. V. L. SOLOMON.—His speech was ably answered by the member representing the Territory, but no other answer was given

to the proposal, which was indorsed by the bulk of the electors of South Australia before ever I entered this Parliament.

Mr. CHAPMAN.—Are the majority of the electors of South Australia in favour of the construction of this line upon the land-grant system?

Mr. KINGSTON.—No.

Mr. V. L. SOLOMON.—I think that they are. At any rate, their representatives are. I wish now to refer to the Western Australian Railway.

Mr. FOWLER.—I hope that we are coming to it very quickly.

Mr. V. L. SOLOMON.—That will depend a good deal upon circumstances. A proposal in relation to that railway has already been put before the House, and we have been informed of some kind of understanding, which is perfectly unofficial and unwarranted by parliamentary sanction, between some of the members of the Western Australian Government and the Minister for Defence. We have been told that the line must be constructed, because Western Australia would not have come into the Federation had not her people believed that the Commonwealth would undertake its construction.

Sir EDMUND BARTON.—There was never any compact.

Mr. V. L. SOLOMON.—I am glad to hear it. If there had been it would not have been of much value.

Sir EDMUND BARTON.—Those who were advocating a Federation not then in existence could not make a compact.

Mr. V. L. SOLOMON.—No, perhaps not; but I am sure that, if it had not been for assurances of support for the railway, the Minister for Defence would not have advocated federation.

Sir JOHN FORREST.—Hear, hear; that is so.

Mr. V. L. SOLOMON.—Then I was perfectly right in my statement. There is no doubt a very strong feeling in Western Australia with regard to this line, and the report of the engineers with reference to it is being anxiously looked for. It is questionable whether the country is of such a character as to justify the construction of a railway, except for defence purposes.

Sir JOHN FORREST.—It is better than much of the country in the north of South Australia.

Mr. V. L. SOLOMON.—If it is not better than some of our country north of

Port Augusta it is very poor, and in that case I should advise the construction of the line upon the land grant system. The proposed railway will cover a distance about equal to the gap between Oodnadatta and Pine Creek, which is not yet bridged over by the transcontinental line, and the cost is estimated at about £5,000,000. Several matters will have to be considered before the construction of the line can be approved of. Whilst fully recognising the importance of defence considerations, and those relating to the isolation of Western Australia, of which so much has been made lately, we have to remember that if the line is constructed it will involve a very heavy annual interest charge upon all the States.

Sir JOHN FORREST.—Oh, no.

Mr. V. L. SOLOMON.—Then we have to consider the position of South Australia in regard to the line.

Mr. FOWLER.—She will derive great benefit from it.

Mr. V. L. SOLOMON.—I am inclined to differ from the honorable member, because a line from Kalgoorlie to Port Augusta will, in the natural course, join on to the line to be constructed between Cobar and Broken Hill, and the traffic to the eastern States, instead of going through South Australian ports as at present, will be diverted to the railway route.

Sir JOHN FORREST.—Is the honorable member opposed to that?

Mr. V. L. SOLOMON.—I am simply putting the position as it affects South Australia. The Minister is jumping before he comes to the hurdle.

Sir JOHN FORREST.—The Victorian traffic would still pass through Adelaide.

Mr. V. L. SOLOMON.—I believe that the railway will operate to the great detriment of South Australia. It is all very well for the representatives of Western Australia to talk about the benefit that will accrue to the State which I represent; but I shall be very much surprised if the South Australians permit the construction of the line through their territory unless they are assured that some benefit will be derived by them.

Sir JOHN FORREST.—That is a fine federal spirit.

Mr. V. L. SOLOMON.—The same federal spirit that animated the Minister for Defence and others in Western Australia in preventing the proper opening up of the port of Esperance by rail to the gold-fields, and

thus depriving South Australia and Victoria of the port which best served their purposes in connexion with the trade in that direction. I may tell the Minister for Defence, and those in sympathy with him, that unless the Esperance Bay Railway is built, and Esperance is made a port for Victorian and South Australian trade, instead of compelling traffic to the gold-fields to pass over several hundred miles of sea and railway at unnecessary expense, the people of South Australia will be fools if they allow the railway to pass through their territory.

Sir JOHN FORREST.—The honorable member should not make himself a laughing-stock.

Mr. V. L. SOLOMON.—The Minister knows that what I am saying is a fact. Before this line can be constructed, the South Australian Parliament will have to look at the whole position, and they will undoubtedly want some *quid pro quo* before they sanction it. They are not going to permit their traffic to be diverted to other States unless some reasonable consideration is shown to them in connexion with the construction of the railway from Esperance to the gold-fields, or in some other direction.

Sir JOHN FORREST.—That is a good federal spirit.

Mr. V. L. SOLOMON.—The same federal spirit as induced the Minister to demand the promise of a special railway before he consented to advocate federation; the same spirit as induced the demand of New South Wales for the capital site. South Australia did not demand anything upon entering the federal compact. She did not even ask for reasonable consideration in regard to the immense sums of money spent upon the transcontinental telegraph line, which has been a source of loss to her for years. That was the largest national work ever constructed in Australia.

Sir EDMUND BARTON.—South Australia will be paid for the line as a transferred property.

Mr. V. L. SOLOMON.—But she will not be recouped the losses which have been involved in the working of the line ever since it was constructed.

Sir EDMUND BARTON.—Did the Government institute the line because they thought of the losses.

Mr. V. L. SOLOMON.—They instituted it in a courageous manner which might well be imitated by other States. They instituted it without regard to their own direct

benefit, knowing that for years it must involve a loss. Whatever their main idea may have been, they have certainly conferred a great benefit upon the whole of Australia.

Mr. FOWLER.—Why should they not exhibit the same feeling in regard to the railway?

Mr. V. L. SOLOMON.—I do not say that they should not, but whilst injustice is being done to South Australia and Victoria by the opposition which is being shown to the opening of the port of Esperance, I say they would be foolish if they consented to the construction of the railway, and thereby committed themselves to a contribution of probably £15,000 or £20,000 a year towards the maintenance of it. I think I have occupied a fair share of the time of the House, and I shall now conclude by assuring the Government that they will have no factious opposition from me. I shall do my best to assist them in passing those measures with which I am in sympathy, and I hope they will let us know at the earliest possible moment the Bills with which they intend to persevere, so that all other measures may be relegated to some future session.

Mr. WATSON (Bland).—I intend to make my remarks as short as possible, because I recognise that we have not a great deal of time to devote to the consideration of the large proportion of important measures promised in the Governor-General's speech. I think there is no escaping from the position indicated by the leader of the Opposition in regard to the dissolution of this House, so that we may go to the country at the same time as a proportion of the members of the Senate. I admit that this will involve the sacrifice by honorable members of a portion of the period for which they were elected, but I think that we should, if possible, avoid incurring the expense that would be involved in holding a second election. Moreover, I think that it is unwise to ask the electors to devote their attention to federal politics upon two occasions divided by only a few months. Whilst it may not follow from the coming elections being held together that on all subsequent occasions they will take place at one and the same time, we should, as far as possible, try to simplify matters for the electors, and to study economy. If the course suggested is followed we shall have but a short time at our disposal during

this session, and the number of very important measures forecasted in the Governor-General's speech renders it necessary that we should address ourselves to business at as early a date as possible. Before passing to the matters dealt with in the Governor-General's speech, I should like to refer to one or two matters of administration. One of these is in connexion with the Immigration Restriction Act, not in regard to the admission of the six hatters, but in reference to the question of coloured immigration. I notice from a return published a few days ago, that a considerable number of coloured people have recently been admitted into the Commonwealth notwithstanding the operation of the Immigration Restriction Act; and it seems to me that if we can do no better than the return would indicate under the law as it stands, the minority of the members of this House who asked that the colour line should be drawn absolutely, and that all coloured aliens should be excluded, took the proper course. In the first place, I find that over 30 coloured immigrants passed the education test. These included Burmese, Eurasians, Filipinos, Hindoos, Japanese, Mauritians, South Sea Islanders, West Indians, and one black from St. Helena. I understood when the Act was under discussion that the Government intended to exercise such discrimination in the application of the law that no person would be able to pass the education test so long as he was held to be an undesirable coloured immigrant.

Sir EDMUND BARTON.—We took a very strong step when we changed the test every fortnight.

Mr. WATSON.—Perhaps so, but we were assured by the Attorney-General that the test could be made so restrictive as to exclude undesirables with as much efficiency as the course proposed by the labour party. I submit that the Act would not have passed in its present shape if it had not been for that assurance, which weighed with some honorable members.

Mr. CONROY.—Do not some of these immigrants leave again after a short stay in the Commonwealth?

Mr. WATSON.—I do not think so.

Mr. CONROY.—Then there is practically no exclusion.

Mr. WATSON.—No. I see that 653 persons were excluded, but the Act is not

effective whilst any number of undesirable persons come in.

Sir EDMUND BARTON.—Will my honorable friend observe that the departures are very largely in excess of the arrivals?

Mr. WATSON.—I have observed that, but I do not see that it assists the case of the Government in the slightest degree. It does not show that we should admit any more of these undesirable races than we can possibly avoid. It merely evidences that no increase has taken place in the number here, but that is not all that was asked by the people of Australia when the matter was placed before them. Another fact which requires some explanation at the hands of the Government is that a total of 1,300 odd Chinamen have been admitted during the year covered by the last return, irrespective of those included in the 33 I have mentioned as coming in under various provisions of the law. In this connexion I would point out that 1,079 were admitted upon State permits, 564 upon tonnage regulations, and 168 in conformity with the Immigration Restriction Act I presume that the 168 consisted of those who had been previously domiciled in Australia.

Sir EDMUND BARTON.—Is the honorable member quoting from the returns regarding any particular race?

Mr. WATSON.—Yes; from the returns relating to the Chinese.

Sir EDMUND BARTON.—I understand that those are cases in which domicile was proved.

Mr. WATSON.—I presume so. I understood, some time before the prorogation took place, that the possibility of Chinese and others being admitted under State permits would cease within a very short period after the question was raised. That was many months ago, and yet I find that a considerable number in excess of that which was given at the time have been admitted.

Sir EDMUND BARTON.—They are all persons who were settled here previously.

Mr. WATSON.—That statement is open to cavil and doubt. It is not certain that many of those who present permits are the persons who originally obtained them from the State authorities, and I think, therefore, that some limit should be put upon the operation of these permits.

Sir EDMUND BARTON.—Their operation is largely diminishing now.

Mr. WATSON. — From the number given it would seem there is a necessity for it. I should like to ask the Prime Minister how it is that any Chinese have been admitted under tonnage regulations. We abrogated that portion of the State Acts when we passed the Immigration Restriction Bill.

Sir EDMUND BARTON.—We did not abrogate it, but we left those Acts to be applied in addition to the new Act. We applied the new Act. There may be some cases in which Chinamen can comply with the educational test, and consequently the necessity arises for the application of the tonnage regulations. Some of the State laws were very lax in that respect, and did not prescribe any poll-tax.

Mr. WATSON.—It seems to me that the law is very lax indeed if it will permit of Chinese coming in under the tonnage regulations. I admit that the presence of 50 or 100 Chinamen does not make any very great difference to Australia, but it is as well to stop a leak in the beginning, lest it may assume large proportions at a later stage. With regard to the admission of some 500 odd Japanese, I understand that 246 of them came in under a treaty which is now void — a treaty which was made between the Governments of Queensland and Japan prior to federation. I should like to ascertain whether the equivalent number of Japanese had left Queensland to allow of the 246 individuals in question coming in under that treaty, which provided that the Queensland Government would raise no objection to the admission of sufficient Japanese to maintain the maximum number that had previously been there.

Sir EDMUND BARTON.—Those already in Queensland were assessed at a certain number.

Mr. WATSON.—Precisely; and that number was not to be exceeded. Is the House to understand that there had been an emigration of 200 odd Japanese prior to the admission of the 246 in question?

Sir EDMUND BARTON.—That agreement involved the admission of those who had passports from the Japanese Government, and included some who had permits to return from the Queensland Government. At the time we thought that the total number of these was 208, but it has now proved to be 246. That is the end of that matter.

Mr. WATSON.—Of course that is a satisfactory statement, but it does seem to

me that the Act might be administered with a great deal more stringency than it appears to have been during the past year. I think that a number of honorable members who voted for the Government proposal, in the belief that it would prove effective, would be relieved to know that the Ministry are now taking such steps as will absolutely exclude these undesirable people from Australia. Another phase of the Act upon which a great deal of attention has been bestowed has reference to the admission of the six hatthers. It is somewhat refreshing to hear the confessions of parliamentary ignorance and innocence which are put forward as excuses under the plea that honorable members "did not know it was loaded." I have a very vivid recollection that the amendment which I proposed appeared upon the business-paper for a very considerable time, not exactly in the same phraseology as that in which it was eventually carried, but the principle involved was before the Chamber for a protracted period. When the matter came up in a concrete form, the debate upon it occupied eight pages of *Hansard*. So far as the leader of the Opposition is concerned, I wish to point out that though he was not present when the amendment was actually carried, he was present while the proposal figured upon the business-paper, and also upon the recommittal of the Bill, when the very clause in question was under discussion. The right honorable member therefore had every opportunity of protesting against either the principle involved or the phraseology employed in giving effect to it. But not one word was uttered by the right honorable member against the proposal. It was practically passed unanimously, although the honorable member for Wentworth gave to it only a qualified sort of approval, and the honorable member for Capricornia did, I understand, offer some objection to it. So far as I am concerned — and I think the remark is also applicable to the members of the party with which I am associated — I have no objection to any number of Britishers or other white people coming to Australia to make homes for themselves, or to assist in the development of the country. Our insistence upon the principle contained in the amendment which I moved must not be construed into any protest on our part against immigration. I hope that it will be a long time before any section of the community takes up the attitude of

objecting to others coming to Australia, and assisting in developing what, after all, is an enormous territory compared with the few people who at present occupy it. But what we say is that those who enter the Commonwealth shall be free from any control of their movements after their arrival, free to make the best of the conditions in which they find themselves, and to compete upon even terms with those who are already here.

Mr. F. E. McLEAN.—The honorable member does not object to their swelling the army of unemployed, but he does object to their coming here to obtain work.

Mr. WATSON.—I do not accept that idea at all. A very large proportion of those who come here of their own free will are supplied with sufficient means to maintain themselves till they get an opportunity of taking part in the development of the country. We have already provided that paupers are not to be admitted to the Commonwealth. That is laid down in the same section of the Act to which I am referring.

Mr. CONROY.—Then a section invalidating contracts would be sufficient?

Mr. WATSON.—No. That is the suggestion put forward by the leader of the Opposition, and, though it would be better than nothing, I hold that it would not meet the case. Instances have occurred in New South Wales—one at Joadja Creek, and two others near Newcastle—in which men were imported from England under contract to work in the mines. In one case the men went to gaol rather than carry out their agreement, whilst in another they were only prevented from leaving their employment by the fear of imprisonment, because they found, upon their arrival, that the conditions obtaining were not such as had been represented to them. Some of them absconded rather than work under those conditions. In my judgment, it would be better to have such an agreement abrogated than that the men should be bound by it after their arrival. That suggestion, however, would not meet the case, because if men are imported under contract, they might practically be paupers upon arrival. Landing in a new country without friends, prospects or advice, what would be the result if the contract were rendered void? In nearly every instance, unless some organization got hold of them, they would re-enact it on Australian territory and it

would be as operative as if they had entered into an agreement outside. The men would never have an opportunity of learning the nature of the conditions of their employment before the alternative was presented to them either of starving or accepting the conditions under which they were imported. It does seem to me that the outcry which has been raised in regard to the case of the six hatters is somewhat farcical. In the first place, it was a press-created trouble. Most of the newspapers were naturally anxious to take advantage of anything which could be used as a lever against the labour party, and some of them, animated by a similar desire against a Government of which they do not approve, were only too ready to manufacture a boom of indignation against the treatment meted out to those hatters. This agitation was raised only by the press and a few politicians, who had every opportunity of voicing a protest in this House, and did not take advantage of that opportunity. The leader of the Opposition at Maitland got into a seething state of indignation at the treatment accorded to these Britishers, and said—"We require administration with discrimination." We have had in New South Wales a number of instances of discrimination in administration, and we found that the discrimination was in favour of the big people rather than in favour of the ordinary citizen, and I do not think too much discrimination is a good thing for the working of our administrative departments. Allowing, however, that we do require discrimination, the leader of the Opposition at Maitland went on to say that if he had been Prime Minister when the collector reported the detention of these men at Sydney, he would have immediately—mark the phrase—"flashed across the wires" an order to release them. Is that discrimination? Does discrimination involve inquiry, or does it not? Can there be discrimination if no inquiry is made, and there is no attempt to ascertain what the conditions are? That is administration without discrimination, and administration against the law. The case, it seems to me, was easy of solution.

Mr. JOSEPH COOK.—Inquiry would cause too much delay.

Mr. FOWLER.—The hatters themselves did not apply to be released.

Mr. WATSON.—There should not have been the delay which did occur in dealing

with the question ; but at whose door lies the responsibility for that delay ? It lies at the door of Mr. Anderson, the man who sought to import these men. It is quite possible that Mr. Anderson when he first made arrangements to bring these men from England was not aware what the provisions of the law were, but surely, when the question was raised, if he were anxious to have the men exempt, he should have looked up the law and made application at once. Instead of doing that, he allowed, I think, five or six days to elapse before he made any application to the Prime Minister.

Mr. SPENCE.—That was to allow time for the newspaper agitation.

Mr. WATSON.—We must recollect that something else is involved or was involved apparently in the attitude of Mr. Anderson, besides the mere desire to get these men admitted. That gentleman a few months previously had stated that rather than pay duty, he would send back to England the machinery he was then importing for his hat factory. I do not say that Mr. Anderson was not justified in being annoyed at having to pay 12½ or 15 per cent. duty on his machinery—that is a matter for him—but he was evidently so incensed against the Government for their administration generally that he took up the attitude that he would not be bothered, or would not humble himself to make application to the Prime Minister—that he would insist on these men being liberated without the law being complied with.

Mr. CONROY.—But we should not break down the independence of these men.

Mr. WATSON.—A man's independence is always subject to the law of the country, and the honorable and learned member for Werriwa, who is a prospective Judge of some court or another, ought to remember that fact. The law states that exemption has to be applied for, and under the circumstances I can conceive of no Minister refusing exemption if requested to do so. If the Government, having been asked for exemption, had refused to give it, they would have been worthy of blame at the hands of honorable members and the public. It was specially for instances of this kind that the amendment or addition to the section was made on the proposal of the Attorney-General. That proposal was that persons possessing special skill, and necessary in the Commonwealth, should be admitted ; and I, for one, have no quarrel

with that position. However, as I have indicated, some gentlemen have attempted to work up an extraordinary amount of indignation over this matter, and amongst those the honorable member for Gippsland, who stated last evening that it was a desecration of the terms "free men" and "bondsmen" to apply them to the case of the six hatters. I do not know whether the honorable member thinks that a person is free, or has any liberty remaining in him, if he signs such an agreement as these men did with Mr. Anderson—an agreement binding them on the one side to serve Mr. Anderson for three years at what is admittedly a fair wage, but leaving the determination of the agreement at any moment to Mr. Anderson. That seems to me a most one-sided sort of agreement, when it can be terminated at a moment's notice after the arrival of the men.

Mr. CONROY.—But under the law there there must be reasonable notice given or cause shown.

Mr. WATSON.—The agreement specifically provided that Mr. Anderson might dismiss the men at any time, if they did not give him satisfaction ; and it is clear that they might cause him dissatisfaction at any moment. Even the fact that a man curled his lip up instead of down might not satisfy Mr. Anderson, and then the agreement could be made null and void. On the other hand, however, the men were bound for three years, or for as long as Mr. Anderson chose to keep them in that period, no matter what their own feelings might be. On this question the honorable member for Gippsland strikes me as having suddenly become a free-trader. He believes, as a protectionist, I understand, in shutting out the cheap goods of other countries, even though the goods may have been manufactured in the great motherland, unless a heavy duty is paid. But he does not believe, on the other hand, that there should be the slightest inquiry as to the conditions under which workmen from Great Britain are allowed to land here ; and that to me seems a most inconsistent attitude.

Mr. A. McLEAN.—If the honorable member knew anything of business, he would know that good skilled men cannot be brought here at low wages.

Mr. WATSON.—I know quite the contrary. What are high wages in England may be very low wages here, and I can instance the case of the men who were brought

to the Joadja Creek, the Borehole, and the Catherine Hill Bay collieries, and some of whom went to gaol. These were skilled men, and they were brought out from England on terms which were much lower than those obtaining at the Australian collieries.

Mr. KINGSTON.—And the same was the case in the Peninsula of South Australia.

Mr. A. McLEAN.—The very best skilled men, who can get plenty of work in England, will not come to Australia unless they are sure of getting work here.

Mr. WATSON.—Quite so; but under what terms and conditions? The honorable member, it seems to me, misses the point. This is not merely a question of men coming here, but a question of the terms and conditions under which they come. We do not believe in men being brought here under any false impression as to the conditions obtaining, and it is impossible for them to get a proper idea in England. It is only in Australia that they can get all the information as to the cost of rent and food and the standard of comfort which is maintained here. It is most inconsistent for the honorable member for Gippsland to say that he will bar British goods, and yet raise an outcry because a few words of inquiry are addressed to a number of Britishers who desire to land here apparently in contravention of the law.

Mr. A. McLEAN.—I never agreed, and I never shall agree, to debar reputable British subjects under contract or otherwise.

Mr. WATSON.—It is just as well to know where the honorable member is. I, of course, welcome every Britisher here, but if Britishers come under conditions likely to work to the disadvantage of Australia or of our own people, we should, at least, ask them to explain what the terms of their agreement are.

Mr. A. McLEAN.—Would the honorable member call a man who came into this House, bound to a particular platform, a free man or a bondsman?

Mr. WATSON.—A free man, because he can retire exactly when it pleases him, whereas these hatters were not able to retire for a period of three years.

Mr. KENNEDY.—Except to gaol.

Mr. WATSON.—Quite so; but that is an alternative to which even the honorable member for Gippsland would not care to consign them. I have no objection to men under contract being admitted if it is shown there is any necessity for them.

Mr. WINTER-COOKE.—But when they had been admitted under contract, they would still remain bondsmen under the agreement.

Mr. WATSON.—Quite so; and I personally should prefer to see all agreements invalidated on the arrival of the men, even though the latter be admitted. But, in addition, we should have some guarantee that the men are of special skill, and are required in the Commonwealth before they are admitted under contract.

Mr. CONROY.—The State laws would prohibit the men being sent to gaol in New South Wales and in Victoria.

Mr. WATSON.—The law of New South Wales, if the honorable and learned member knows it as he should, is that all agreements are validated, even if made outside that State, and an attempt to repeal the Agreement Validating Act was unsuccessful.

Mr. CONROY.—But men cannot be sent to gaol under the circumstances.

Mr. WATSON.—But men were sent to gaol; that is like telling a man he cannot be hanged, and then stringing him up next morning. I am convinced that the good sense of the people of Australia has not been outraged so far as the six hatters are concerned. I believe, further, that if it could be conveyed to the people, free from that hysterical indignation which there has been an attempt to stir up, that the men were merely required to explain the conditions under which they were coming, and that when exemption was applied for, it was granted within three days, there would be doubt as to what the public feeling would be. I am quite willing to leave it to the electors to express their opinion on this matter. I believe that if an attempt is made to materially alter or to abrogate this provision in the Act, a number of honorable members will see that they have made considerable error as to the opinion of the people. Another matter I should like to refer to relates to the administration of the Military department. This House succeeded in substantially reducing the Military Estimates on two occasions, and it was distinctly understood, at least by me, that one result of the reduction would be the very material cutting down of the central staff and other expensive adjuncts of the military system. Yet we find, as set forth in a circular recently issued by the Minister for Defence, that the central staff of the

General Officer Commanding has been retained at practically its original strength. The staff is still costing, I think, some £15,000 a year, and those who insisted on retrenchment in the military forces are being blamed for all the trouble that is occurring in connexion with the forces in New South Wales and other parts of Australia. Personally, I take no responsibility for the disposition of the money which was placed at the disposal of the Minister for Defence. He had under his charge a sum in excess of the amount available for defence a few years ago, when the departments were under State control, but he seems to have spent a very large part of it upon the almost useless features of a military force. While I am convinced it is not necessary to spend in the training of men more than, if as much as, the sum now allotted for that work, I believe that it is necessary to expend a very considerable amount in improving our defences. A great number of our forts have obsolete guns. We have comparatively few modern rifles, and no effort has been made, notwithstanding a half promise by the Government some time ago to establish an ammunition factory within the Commonwealth, though it has been stated in the press that a contract is about to be entered into with the Colonial Ammunition Company for the supply of some 12,000,000 rounds per annum.

Sir GEORGE TURNER.—That company has a contract which cannot be broken, and which extends over a number of years.

Mr. WATSON.—That contract only affects the Victorian supply of ammunition, and would not prevent the Government from establishing factories in other parts of the Commonwealth. I think that they should have already taken steps for the establishment of an ammunition and also of a small-arms factory. It is imperative for the adequate defence of Australia that we shall have arms to put into the hands of our people in the event of war occurring. We are training a large number of men more or less efficiently; but, if war came, most of them would have to be armed with obsolete rifles, and, although the Minister for Home Affairs has told us that a Martini-Henry rifle is a dangerous weapon if one comes within range of it, we cannot be sure that an enemy would do so before attacking with guns of a longer range. The Minister for Defence ought to be able to assure the House that he has prepared

some scheme for providing the Commonwealth with an adequate supply of rifles, ammunition, and other munitions of war. I shall resist any proposal to give the Colonial Ammunition Company a larger order for ammunition than they now receive. Major-General Hutton, I understand, has recommended that factories for the supply of ammunition be established in different places throughout the Commonwealth.

Sir JOHN FORREST.—No.

Mr. WATSON.—I obtained my information from the press. If such a recommendation has not been made, I think that something of the kind should be done. We should not rely upon one factory. I do not know if the Colonial Ammunition Company make the cartridges which they turn out, or only roll and fill them with material brought from abroad. If they do the latter, the existence of the factory does not make us independent of oversea supplies, and the people are being lulled into a false sense of security.

Mr. CROUCH.—The company make everything but the cordite which they use, and it is made under patent in Victoria.

Mr. WATSON.—Is the brass work done here?

Mr. CROUCH.—No.

Mr. WATSON.—We should have factories capable of making everything necessary for ammunition, and we should supply them with sufficient work to keep the employees efficient. With regard to the proposal to increase the naval subsidy to the Imperial Government, I think we are bound to consider how far it is practicable for us to provide a sufficient sea defence for Australia at the present time. I am inclined to take the view that, even if we increase our subsidy to the Imperial navy, we shall not thereby obtain any adequate defence for our coast line. Could one squadron be reasonably certain of intercepting every hostile fleet that might descend upon our shores? Only recently, during the English navy manœuvres, the attacking fleet, operating in the narrow confines of the English Channel, got through the defending fleet, and entered port unobserved. If such a thing is possible in the English Channel, how much more likely is it to occur in the broad waters which surround Australia? It seems to me that we cannot rely upon any one fleet, whether locally-owned or under the control of the British Admiralty, to safeguard us from sudden piratical attacks by a foreign

navy. To make our position sure, we should have to provide for naval defence upon a scale which our financial condition is not likely to warrant for some years to come, and it is worse than useless to depend upon an inadequate defence. That being so, I think our better plan is, first, to insure that we have a sufficient, efficient, and properly-armed land force, and, secondly, that our ports and exposed positions are defended by position guns, and by other means of defence such as modern science is continually inventing. It may not be a completely demonstrated fact, but it seems nearly certain that submarine vessels provide a port defence which is superior to the older methods. In conjunction with them we might, if necessary, utilize gunboats of light tonnage but of a fairly heavy armament. It would be hopeless to expect one squadron to efficiently protect 8,000 miles of coast line.

Mr. HUGHES.—I apprehend that the squadron would have to defend only the capital cities of Australia.

Mr. WATSON.—I believe that that could be better done by preparations such as I have just referred to. I do not pretend to be an expert in these matters, but my remarks are based upon what I have learned and read of the opinions of those who profess to have knowledge.

Mr. KENNEDY.—What about the protection of our sea-going commerce ?

Mr. WATSON.—If we could protect it, well and good, but I do not see how that is to be managed. Supposing the Australian squadron contained six or eight vessels, they could not be separated without weakening the fleet so materially that one portion or other of it would be liable to annihilation.

Mr. KENNEDY.—They would give a good account of themselves to the attacking vessels when they met them.

Mr. WATSON.—No doubt they would hold their own ; but to guard the whole coast line the ships would have to be separated, and separately they could do nothing against an opposing fleet. If they were not separated, and I do not think they should be, I fail to see how they could adequately protect our shores. That being so, I do not think it worth our while to sacrifice other means of coastal defence to inadequately protect our sea-going commerce.

Mr. CONROY.—The expense would be greater than it was worth.

Mr. WATSON.—I believe so. I believe that we can more cheaply defend our ports, coaling stations, and exposed positions by land defences, with the assistance of torpedo boats or similar vessels, than by a squadron of our own, or provided by the Imperial navy. We cannot expect Australia to have much money available for the purposes of defence for a long while to come. For many years we shall be constrained by circumstances to contribute more, proportionately, to the other expenses of government than many other communities do, because of the greatness of our territory and the sparseness of our population. That being so, we should adopt those means of defence which are most likely to prove effective for the money spent upon them. I see no immediate prospect of the formation of an Australian navy. I believe that we can get Australian seamen to work for the protection of our ports against hostile attack ; but I do not think that an efficient naval defence for Australia is practicable. Therefore, I feel under no obligation to vote for the proposal to increase the contribution to the support of the Imperial navy. It is our business to provide as well as we can for our own defence, and if we do that we shall have done our duty to the Empire. If we relieve those in power at home from anxiety as to our position in time of trouble, we shall do all that can reasonably be expected from a small community settled in an immense territory. I think, therefore, that we should expend what money we have to spend for purposes of defence in efficiently protecting our ports and other exposed positions. There is another feature of the proposal to which I object. It seems extraordinary that, although we are asked to increase our contribution to the Imperial navy, the squadron is to be liable to be called away from Australian waters, so as to leave us without any protection for our sea-going commerce.

Sir JOHN FORREST.—It would not be worse than what the honorable member is suggesting.

Mr. WATSON.—Yes, it would, because every pound we give as a contribution towards the Imperial navy will have to be deducted from the amount available for safeguarding our own ports.

Sir JOHN FORREST.—But we should have no communication with the outer world.

Mr. WATSON.—In any case we should probably be deprived of that. If we were to bring into existence a navy such as the United States possesses, which, although it is not as large as some European fleets, is a very efficient one, we should accomplish a great deal. This might not be sufficient to adequately protect our ocean-going commerce, but I do not think any navy could do that to the fullest degree.

Sir JOHN FORREST.—We should have the whole British navy to protect our commerce.

Mr. WATSON.—Yes; but at a considerable distance. I trust that we shall have that in any case, even if we do not subscribe towards its maintenance. If we take our share of the responsibility in the defence of the Empire by providing for the safety of this portion of it, we shall still have the protection of the British navy for our commerce in other parts of the world, if not in these waters. The objection I have raised seems to me to be a grave one, and I do not see how the provision for taking the fleet away from Australian waters can be held to be of any value in connexion with the defence of Australia. Amongst other matters to which I desire to refer is the question of the High Court. During the discussion as to the desirability of adopting the Constitution Bill, I adopted the view that we should have a Federal High Court, or that we should have an Australian Judiciary to interpret Australian laws. With all respect to the members of the Privy Council, I have always held that we should be able to interpret our own laws, and better understand their spirit than any outside tribunal. During last session I shared the desire, manifested by many other honorable members, to economize as much as possible, and I hesitated to vote for the immediate passing of the Judiciary Bill, with a view to ascertain whether it would not be possible to find some less expensive way out of the difficulty. I thought it possible that we might appoint Australian Judges, not specially detailed and paid for the work, to the High Court, but on consideration I do not see that we could rely upon that method for the establishment of an Australian judiciary. I feel that even if we appointed the Chief Justices of the various States to constitute a High Court we should have to recognise the fact that they would still be responsible to the States and not to the Federal authorities.

Mr. CONROY.—They are not responsible to the States authorities, they are irremovable.

Mr. WATSON.—Their positions would still depend on the good-will of the States Parliaments.

Mr. HIGGINS.—They are absolutely independent of the States Parliaments, and cannot be removed except for misconduct.

Mr. WATSON.—However that may be, I trust that the Federal Parliament will retain control over the Judges appointed to any court that may be established. We should have the power to dismiss the Judges for misconduct. I do not pretend that the Federal Government or Parliament should have the right to revise their decisions. But we should at least have a greater degree of control over Judges appointed by us, than over Judges who were responsible only to the State authorities. Further, I think that if the Chief Justices of the States were appointed to act as Judges of the High Court, they would be liable to be influenced—I do not say corruptly—by the fact that they were still the officials of any particular State that might be interested in a dispute before the court. I think that might occur with regard to a number of questions that are likely to be submitted to the Court. It has been urged that we shall have very little business to submit to such a tribunal. But I judge that, although the number of cases may not be great, some of them will be of extreme importance. For instance, there is the question of the interpretation of the section of the Constitution which affects the using of river waters. This point has already been dealt with by the honorable and learned member for South Australia, Mr. Glynn, and in all probability it will have to come before some court before the question is finally settled.

Mr. JOSEPH COOK.—When?

Mr. WATSON.—The sooner it is brought before a competent tribunal and settled, the better it will be for the people of Australia, and the less will be the risk of friction.

Mr. JOSEPH COOK.—No difficulty can arise for the next five years.

Mr. WATSON.—Judging from the attitude of some State legislators in New South Wales, it is not at all certain that the agreement recently entered into with regard to the river waters will be ratified.

Mr. JOSEPH COOK.—If it is not, what is likely to happen?

Mr. WATSON.—The trouble will then be revived in a more acute form than a few months ago, and certainly all the circumstances point to the desirability of effecting a settlement. I think it is likely that some difficulty will arise in connexion with the contemplated legislation for the settlement of industrial disputes affecting two or more States. It will be necessary to ask some tribunal to decide how far Parliament will be justified in going, and to give its ruling as to what would really constitute a dispute affecting two or more States.

Mr. JOSEPH COOK.—That can be settled by the Privy Council.

Mr. WATSON.—I do not think it is right to have recourse to the Privy Council in regard to matters arising out of our Constitution.

Mr. CONROY. — The Privy Council is less likely than an Australian court to be biased.

Mr. WATSON. — I do not know as to that, but I have a firm conviction that the Australian court is more likely to be well informed. I do not think that any special bias is likely to occur among members of the High Court.

Mr. McCAY. — Why does the honorable member fear that it will exist in the minds of the Judges of the State courts?

Mr. WATSON.—I do not wish to imply any doubt as to the *bona fides* of the State Judges. I believe that we have excellent Judges in all the States, but I cannot help thinking that a State Judge sitting in the High Court would be unconsciously biased even from the fact that he was a State Judge.

Mr. A. McLEAN.—The same people will be affected in either case.

Mr. WATSON.—I admit that; but I claim that we are more likely to find Judges actuated by a federal spirit, if we create a purely federal tribunal, than if we rely upon a makeshift court composed of State Judges. Perhaps my point may be illustrated by the attitude which the members of the States Governments take towards the Federal Government. These gentlemen are actuated by the very highest motives, but they are influenced by the mere fact that they are State officials, and feel it incumbent upon them to urge the State as against the federal aspect of affairs at every opportunity. I do not say that this reflects discredit upon them, but simply point out the spirit by which they are actuated.

Mr. McCAY.—The Judges of the High Court must be chosen from the various States.

Mr. WATSON.—Yes; but the fact that they are chosen to form a part of the federal machinery will influence them to take a federal view.

Mr. CONROY.—Has the honorable member any idea of the number of cases with which the High Court will probably be called upon to deal?

Mr. WATSON.—No. I have already mentioned one or two matters, and doubtless there are many others which will arise as time goes on, and fresh legislation is passed.

Mr. JOSEPH COOK.—In the meantime, then, we are to keep the court waiting for some business to come along.

Mr. WATSON.—The High Court will not have to wait very long for something to do, if one may judge from the number of questions which have arisen in connexion with customs and other matters up to the present. However, I am prepared to support the High Court proposal, notwithstanding that it will involve the outlay of a fair sum of money. I do not consider it wise at this stage to enter into details as to the number of Judges to be appointed and the salaries to be paid. I am inclined to be as economical as possible consistently with the efficient discharge of the work. There is another matter which I hope the Government will be able to push through, namely, the measure which they propose to bring forward dealing with compulsory arbitration. I think that recent occurrences have made clear the urgent necessity for passing a law which will prevent the recurrence of disastrous strikes. I have always favoured the system of arbitration as against strike methods. While it is true that trade unionists may have to give up some portion of their liberty under a compulsory Arbitration Act, the experience gained in New Zealand and New South Wales has convinced me that that loss of liberty was a small thing compared to the greater security enjoyed by the men and the great benefits conferred upon the community as a whole. At present there is a great deal of friction—and this is a matter that will probably have to come before the High Court—amongst business men in Sydney, because they are compelled to pay certain wages to women workers, whilst Brisbane manufacturers,

who compete with them, are allowed to employ females at sweating rates.

Mr. MAUGER.—The same contrast exists between the Melbourne jam manufacturers, who have to pay fixed wages, and the Tasmanian jam manufacturers, who are free to do what they please.

Mr. WATSON.—Just so. There is no doubt pressing necessity for a measure which will tend to equalize the conditions of work throughout the Commonwealth, due regard, of course, being paid to climatic and other varying conditions. Concerning courts of conciliation, as an addendum or preliminary to the court of arbitration, I may say that the unionists in New Zealand, to whom I spoke in reference to their working, seemed to be satisfied that they were doing good. They said that in quite a number of instances the issues had been narrowed down by the courts of conciliation. Those tribunals did not in all cases settle the trouble, but the issues were narrowed down so as to minimize the amount of work which had eventually to be done by the court of arbitration. When we consider that in Australia any court of arbitration would have to embrace the entire Commonwealth in its operation, it will be seen that anything that will tend to minimize the issues that come before that court is a step in the right direction. It is necessary, I think, to have one court only as a supreme head, otherwise we shall have varying decisions under similar circumstances in different parts of the Commonwealth. We want something in the nature of uniformity in laws such as these, and therefore I feel there may be a reason for courts of conciliation in this connexion that does not exist to the same extent in any single State. I trust that the Government will see the necessity of pushing this matter forward, because I assure them that the whole question of the equal competition of people in the various States under a common tariff will never otherwise be satisfactorily settled. It is possible that the High Court may rule that we have not power to deal with cases such as those I have mentioned, but I believe that even under a reasonable construction of the Constitution we have that power, because it must be manifest that if the wages paid to the women workers, of whom I spoke, in Brisbane are so low as to constitute sweating, that fact must affect the wages paid in Sydney, Melbourne, and every other town in the Commonwealth.

Mr. MAUGER.—In Brisbane they pay them 50 per cent. less.

Mr. WATSON.—I know that they pay them considerably less. I do trust that the Government will push this matter forward. It is desirable that the lack of method in the conduct of public business which was displayed last session shall not be exhibited this session. I hope that we shall take up one Bill and dispose of it, instead of discussing several measures, dropping them, and again taking up their consideration at a later stage. It must be remembered that although we transacted a large amount of business last session, the period occupied in accomplishing it was extremely long, and I believe that we could have economized time to some extent if measures had been proceeded with consecutively. However, that is a matter for the Government themselves to arrange, and I refer to it only because I believe that this session we should endeavour to curtail as much as possible the time occupied in considering the various subjects which will come before us with a view to accomplishing a maximum amount of work. There are many other matters in the Governor-General's speech to which I should like to refer, but I fear that I have already broken my promise to make my observations shorter than usual. However, later on I will take an opportunity of referring to some of the Government proposals when they are actually before us. The programme which they have put forward contains many more matters than we are likely to deal with this session. Still I am in accord with them in their desire to pass a number of these important measures with the utmost expedition consistent with giving them fair consideration in the interests of the community.

Mr. JOSEPH COOK (Parramatta).—I think that the advice of the honorable member who has just resumed his seat is upon the whole very sound, and doubtless the Government, seeing the quarter from which it comes, will pay attention to it. I trust that they will endeavour to curtail the programme which they have put before the House with a view to the enactment of certain necessary legislation, so that honorable members may go to the country. I am sure that we are all anxious to get to our constituents, and I fear that the beautiful programme put before the House is saddened and tintured by the recollection that there is hanging over us a veritable sword of

Damocles in the shape of a dissolution. It may be that we shall survive the feeling until one or two of these imperative measures have been placed upon the statute-book, and that we shall then be able to go to the country and fight out the fiscal question, for however much the honorable member for Gippsland may desire that it should be allowed to rest, and however much the Prime Minister may denounce its re-opening as an outrage upon the people of Australia, it is already inevitable that it must be re-opened. The sooner, therefore, that we set about deciding it the better. In the meantime the Government have put before the country this manifesto in the shape of the Governor-General's speech. There is no doubt that they had their eye upon the country whilst they were concocting it. I have seen the speeches of some Governors at the opening of the States' Parliaments which were long enough in all conscience, but for length, to say nothing of its supreme importance, this speech "takes the cake." I cannot believe that the Government ever seriously entertained the opinion that they would accomplish a tithe of the work included in this programme. But, of course, they were shrewd enough to omit nothing lest some recalcitrant member of the House—and particularly one of their own supporters—might rise and say something unpleasant. Honorable members have already seen this Government in the most com-
plaisant moods, and we know that it is a matter of the greatest difficulty to induce them to make up their minds concerning either their legislation or their administration. They postpone matters until they cannot do so a moment longer. That is a charge which applies to their administration even more than to their legislation. I will deal with their administration first. Take the case of the federal electorates—a matter of supreme importance, not only to the country, but to every honorable member of the House. We are now told that the electoral rolls for Victoria cannot be completed before the middle of July. I submit that this delay will take us right up to a point at which discussion, fair survey, and revision, will become impossible, to say nothing of the impossibility of honorable members becoming thoroughly acquainted with the new electorates as they may be arranged. I can speak all the more freely upon this matter, because the draft of these electorates does not affect my position

so much. But I submit that this matter should have been dealt with long ere this. The Minister for Home Affairs has been guilty of culpable negligence in having delayed it. Why could not these commissioners have been at work months ago? What has been the hindrance? Only at the very last moment has the Minister appointed them. Thus it comes about that a matter which is of more immediate importance than any other has been left until the last moment to determine. Some honorable members remember their experience with the Minister in connexion with the mapping out of the existing federal electorates in New South Wales. He brought a plan of those electorates down to the State House only at the last moment, when there was no time to discuss it. He will probably adopt a similar course here, if he is not prevented from so doing. There are many honorable members to whom this is a very serious matter. The South Australian and Tasmanian representatives, for example, have to make the acquaintance of entirely new electorates, and it is only fair to them that this question should be speedily settled. There is another matter to which I should like to refer, namely, the payment for the transferred properties. When will that matter be disposed of?

Sir GEORGE TURNER.—When the States are good enough to send in their claims.

Mr. JOSEPH COOK.—Then I think that some pressure should be brought to bear upon the States.

Sir GEORGE TURNER.—We have made all possible endeavours to get the accounts from them, and have failed.

Mr. JOSEPH COOK.—The Federation has already been in existence for two years, and yet no settlement has been arrived at, or payment made in connexion with £10,000,000 worth of transferred property. Meantime, this matter is vitiating the accounts of the departments concerned. For example, no interest has been debited to the Postal department. Last year that department showed a loss of £80,000, whereas if the interest were added it would show a debit balance of £250,000. I am satisfied that that debit will increase if the present administration be continued. There is another question to which I desire to direct attention, namely, that of the selection of the federal capital site. At the last moment

of the last session we were promised that the report of the commission appointed to deal with this matter would be available by the beginning of April. Indeed, the Minister for Home Affairs told honorable members that he would give specific directions to that commission to make every possible use of Mr. Oliver's report, with a view to obviating useless peregrinations throughout the country. Instead of doing that we find them going over every item that has already been dealt with by Mr. Oliver; and when they have done their best their report will not be anything like so useful as the report of that gentlemen. In this way the Commission are wasting time and delaying the settlement of a very important question. The Minister for Home Affairs ought to insist promptly on the report being presented at the earliest possible moment, and the sooner Parliament decides the question the better it will be for all concerned. As to administration we were told by the Prime Minister that one reason why the Postal department was taken over early was that the Minister in charge might study its requirements with a view to legislation. If that be so the Postmaster-General made a very rapid study, for almost as soon as the department was taken over the Bill was drafted, and not very long afterwards it was submitted to the House. If the object was patient investigation of the requirements of the whole of the Australian postal service, the Postmaster-General must be a very marvellous man if he did what the Prime Minister alleges. But the Postmaster-General's handiwork is already beginning to show that he cannot have made any such patient investigation. The regulations which are placed on the table from time to time become more irksome as they multiply, and something will have to be done very rapidly to stop their issue if the department is to be carried on with anything like proper efficiency. The Prime Minister, in defending his colleague the other day at Sydney, said the Government were gradually and satisfactorily assimilating the postal services of the various States; but I am afraid that what he said did more credit to his loyalty than to his knowledge of the administration. I would like to call the attention of members to that brilliant regulation which provides that when the post-office loses a letter 2½d. must be paid as a deposit before any inquiry

or endeavour is made to find it. What reason there can be for an absurd regulation of that kind I cannot imagine. If the deposit were intended to cover the cost of investigation there might be some reason for the regulation; but as a matter of fact 2½d. would not even meet the expense of the departmental correspondence about a lost letter. That regulation, which was issued recently, has been in operation in Queensland for some time, and it should be known that the postal services of the other States are being harmonized with the same kind of administration that has always been current in the northern State. But we do not appreciate that sort of administration. The deposit may be a small matter in itself, but honorable members can easily realize how irritating it must be to people in the country. It is true that if it is found the loss of the letter is the fault of the Post-office, the deposit is returned; but, all the same, this is a twopenny halfpenny regulation, and the sooner it is abolished the better. There is another regulation, the working of which I can perhaps best illustrate by citing a concrete case which occurred a few weeks ago. Under the Commonwealth, State Government departments must pay all postage on their correspondence carried by the Federal Post-office; and that provision is right enough.

Sir EDMUND BARTON.—The Federal departments also pay for their postage.

Mr. JOSEPH COOK.—But the Post-office has made a regulation which makes all State departmental papers chargeable as letters, and the other day the officials of the department of Justice of New South Wales, when they desired to send a packet of documents to another part of the State, were asked to pay 10s. postage. Why, the Minister for Trade and Customs is "not in it" with the Post-office where collecting money is concerned. The officials of the department of Justice met the difficulty by taking the parcel to the railway station, and sending it by train to its destination at a cost of 3d. Surely, that is not the way to make the Postal department pay, displaying as it does a sort of wooden-headed administration. It may be said that the regulation is there and must be enforced, but such a regulation ought to be abolished as quickly as possible. The main point is that the Postmaster-General instead of getting more money, as he desires, for the work he does, is actually getting less, because the people use other means than the

post-office for forwarding their communications. There seems a general desire in the Postal department to suppress business, or drive it away, instead of attracting it, although if there is a department which more than another is a business department, it is that of the post-office. This is the department in which, more than in any other, ordinary business methods ought to be applied; and yet, what do we see in connexion with the telephone? All telephonic extension in the country districts is stopped by a ridiculous regulation of the Postmaster-General, which requires any person who wants a telephone fixed to pay in cash three-quarters of the cost of construction, and an amount sufficient to cover five years' expenses. No man in his senses would plank his cash down in such a way.

Sir EDMUND BARTON.—What is asked for is a guarantee.

Mr. JOSEPH COOK.—The department requires the actual cash to be placed in the bank. There used to be a guarantee, but because we lost a little money, owing to the expansion of an immense business—because as in an ordinary business, we made a few bad debts—the Postmaster-General has by this regulation stopped all further expansion. It is true that now the Postmaster-General will have no more bad debts, but at the same time, he will get no more new business. The other day the honorable member for Canobolas desired to get telephone communication with one part of his constituency. The honorable member already had communication with another part of his district, and for that had given a guarantee for £30. In regard to the new application the Postmaster-General said that it could not be granted unless under the regulation £680 in cash were paid into the bank. I have an exactly similar case in my own electorate.

Mr. SPENCE.—I have several cases.

Mr. JOSEPH COOK.—In the case in my electorate the total cost of providing telephonic communication between a number of fruit-growers with their market at Parramatta is £90, and although the post-office officials say that the wire will yield a revenue of £8 to £9 a year, or 10 per cent., the Postmaster-General insists on £60 or £70 being paid down in cash before the work is done. That is not the sort of administration which will enable the post-office to liquidate a deficit, and the Prime Minister had better consider a little before

he defends the Postmaster-General. If the postal services are being harmonized it is in such a way as to make the administration more irksome to the great body of the people in the interior of the Commonwealth. I should like to make some reference to the Pacific cable question, which is mentioned in His Excellency's speech. The position is, as I understand it, that the Pacific cable is losing £90,000 a year.

Sir EDMUND BARTON.—That is the estimate; the exact figures have not yet been ascertained.

Mr. JOSEPH COOK.—Australia's share of that loss is a little over £30,000.

Sir EDMUND BARTON.—I think that that loss will be equally chargeable to the three States of New South Wales, Victoria and Queensland. Under the bookkeeping clause, one-third will go back as a debit to each of the three contracting States.

Mr. JOSEPH COOK.—If that is the old agreement, the Government will surely not perpetuate a similar state of things in the new arrangement.

Sir EDMUND BARTON.—The position arises out of the requirements of the Constitution. During the bookkeeping period the Commonwealth takes over the obligations of each State in respect of any transferred department, and this is a continuance or maintenance of an agreement entered into as affecting the three States mentioned.

Mr. JOSEPH COOK.—Then I understand that on the Pacific cable there is a loss of £90,000, of which £30,000 is shared by New South Wales, Victoria, and Queensland, while South Australia and Western Australia do not bear any share?

Sir EDMUND BARTON.—The first three States mentioned are the largest partners.

Mr. JOSEPH COOK.—In the meantime South Australia and Western Australia are sharing in whatever advantages there may be arising from the Eastern Extension Company's operations. What I complain of is that while the Eastern Extension Company have been given privileges which enable them to turn round and compete as they are doing with the Pacific cable, and threaten the very existence of the latter from the financial point of view, some of the States reap all the benefits and allow other States to bear the loss. In my opinion, the deficit on the Pacific cable could be wiped out with good management. The Eastern Extension Company advertises largely, and is

now doing so even on the railway stations. That is only what any business firm would do in an endeavour to induce business ; but one never sees or hears a word, so far as I know, about the Pacific cable—nobody takes any responsibility in regard to the latter, while, so far as I can see, the Postmaster-General stands feebly by.

Sir EDMUND BARTON.—The whole management is in the hands of the Pacific Cable Board. We have represented to them the necessity for business management, and if they will empower us to hire canvassers in their interests we will do so.

Mr. JOSEPH COOK.—A very great wrong was done when we gave the Eastern Extension Company the special privileges they now enjoy. I quite approve of the new arrangement made by the Prime Minister in taking prompt steps to limit the term of the agreement with that company ; and I cannot help thinking that the step taken is an implied censure on his colleague who, when Premier of New South Wales, entered into the present absurd agreement, and signed an interminable contract with the company. I protested as strongly as I could against it at the time in the press, but without avail. In this respect Victoria set a better example to the rest of Australia than New South Wales did. Honorable members should recollect what the position was. We tried, when the old subsidy expired, to obtain from the company a reduction of rates, but they would give us nothing. They said—"Before we lay down another cable we want a subsidy for a further term of twenty years, and the old rates must continue for that period." We could not obtain any reduction or concessions from the company, and negotiations were broken off. But immediately Mr. Chamberlain gave his sanction to the Pacific cable proposal, the Eastern Extension Cable Company rushed in, and said—"We will give you almost anything you want if you will give us in return the advantages we ask for." New South Wales had no right to treat with the company, except with the concurrence of the United Kingdom and of Canada ; but the Minister for Home Affairs took the bait held out by the company, accepted reduced rates for a short year, and gave them an opportunity to fight the Pacific cable proposal, and menace its very existence. Sir George Turner was faced with the same temptation as confronted the Minister for Home Affairs, but,

to his credit be it said, he refused to yield to it. If New South Wales had acted as Victoria did, the Pacific cable would have been placed upon a paying basis from the start, and the cable rates would have been the same as they are to-day.

Sir EDMUND BARTON.—The honorable member admits that the Commonwealth was bound by the arrangement entered into by New South Wales.

Mr. JOSEPH COOK.—I am not complaining of anything the Prime Minister has done in this matter ; I am complaining of what was done by his colleague when Premier of New South Wales, which the right honorable gentleman has promptly set himself to undo. I have not much to say in addition about the administration of the Minister for Trade and Customs, though I wonder that he has so suddenly become dumb. During his peregrinations throughout the Commonwealth, he challenged all and sundry. He beat his breast like the Pharisee of old, and told the people of Australia that he was not like other Customs Ministers. He was doing things that should have been done long ago under State administration.

Mr. PAGE.—Hear, hear.

Mr. JOSEPH COOK.—By that statement the Minister suggested that other Customs Ministers had winked at evasions of the law and connived at improper practices, and that no other Minister had had the pluck to do his duty.

Mr. PAGE.—He was quite right, too. There is no back-stair influence with him.

Mr. MAUGER.—There may have been a lot of bad business going on in the past.

Mr. JOSEPH COOK.—The honorable member cannot be sure that bad practices will not continue under the present régime. If merchants find that the department pounces upon them on every conceivable excuse, and that they are forced into the court whatever they do, they will try to circumvent the Minister. In my opinion, the honorable gentleman is not reckoning in his boasting with human nature. It remains to be seen if we have in the Minister a heaven-sent administrator than whom no one could be better. He has undoubtedly exercised a great deal of vigour in the discharge of the duties pertaining to his office, but it is too soon yet to say that he has proved better than all the other Customs administrators who have preceded him. I have every admiration for a Minister who will hunt out fraud and prevent negligence, but there is a

reasonable way of administering the Customs Act, just as there is a reasonable way of administering other Acts. If the conspiracy laws were administered as the Minister administers the Customs Act, nearly every man in Australia would be sent to gaol, because whenever two or three persons met together at a street corner they could be indicted for conspiracy. Or what would happen if the law relating to trespass were administered with the same strictness? If one set himself to inflict every penalty possible under the law, and to diligently hunt for victims, they could be found in abundance. The Minister should exercise a little discrimination sometimes, particularly since the minimum penalty provided in the Act for any offence is £5.

Mr. CONROY.—And having regard to the fact that the Act does not allow justice to be done by the courts.

Mr. JOSEPH COOK.—The Minister might very well refuse to set the law in motion where cases of error alone are concerned. We should then have less of the friction which has occurred during his administration. He tells us, however, that he makes no distinctions, and that that is a proof of his fairness. The Prime Minister told us that he was as ready to prosecute a man like Senator Reid as a poor man who was bringing in a Bible to give to some one else.

Sir EDMUND BARTON.—I did not mention Senator's Reid's name.

Mr. JOSEPH COOK.—No, but he is the typical big man whom we all have in our minds just now. I have nothing to say against the Minister for prosecuting in cases where fraud or gross negligence can be proven; but where a little investigation will show that only an error has been committed, the case should not be taken into court. The Minister himself is not clear as to the meaning of the Tariff in every case. He is feeling his way, and interpreting its provisions from day to day. That being so, we should not haul to the police court people who are groping in the dark just as he is. One is tempted to say something about the administration of the Minister for Defence, but, instead of doing so, I shall wait to hear the details of his proposed reforms. He has, however, begun to retrench at the wrong end in cutting off the allowance to the bands of the mounted regiments.

Sir JOHN FORREST.—That has not been done. The allowance has only been reduced.

Mr. JOSEPH COOK.—I hope that the Minister will restore the full allowance.

Mr. McCAY.—What was the original allowance?

Mr. JOSEPH COOK.—About £225 per band.

Sir JOHN FORREST.—I reduced it to £150.

Mr. McCAY.—It might very well be cut down by a large amount. I keep a band of 30 upon an allowance of £50 a year.

Mr. JOSEPH COOK.—Is it a mounted band?

Mr. McCAY.—No, but that does not make much difference.

Mr. JOSEPH COOK.—Yes, it does, because of the up-keep of the horses. The mounted regiments ramify throughout New South Wales, and by the time the band horses are provided for, the bands are at least £50 worse off than the band which the honorable and learned member for Corinella provides. Coming to the proposal to establish a High Court, I wish to hear the Minister justify it. No doubt a tribunal for the final determination of causes is necessary, but the honorable and learned member for Northern Melbourne has told us deliberately that the machinery of the proposed court, and the salaries to be paid to its officials, will cost about £50,000 a year. That seems too large a sum to expend at this stage of our history. These questions of high policy, such as have been suggested by the honorable member for Bland, will, no doubt, come up for the consideration by the High Court; but the time for that has not yet arrived, and the High Court will be created soon enough when its work becomes quite apparent. We may not have to deal with the question of riparian rights for five or six years, nor need we trouble our heads about matters arising out of the proposed Arbitration Bill, because the Arbitration Court may not have to give a decision for some considerable time to come. The establishment of an Arbitration Court, such as has been suggested, should be proceeded with, and we could surely make some simple arrangement for settling any questions which may arise until a Court of the proposed costly character is needed. The honorable and learned member for Darling Downs has drawn a parallel between the United States Supreme Court and that which ^{is} proposed to

establish here, but there is no comparison between American requirements and our own. Our functions are not so extensive as those of the American federation, nor are they so large as those reposed in the Canadian Federal Government. In view of the small powers invested in us, there should be very little work for a High Court to do, and we may very well save the expense connected with the establishment of such a tribunal for many years to come. Nearly all the questions that call for immediate decision relate purely to trade and commerce, and I cannot understand why it should not be possible to refer these points to a more simple tribunal. I am in entire agreement with the Government in regard to the increased naval vote. I think that a very reasonable arrangement has been made by the Prime Minister so far as the amount of the subsidy is concerned. The question as to whether the conditions for the control of the squadron are equally good is arguable, but the amount proposed to be contributed is very moderate indeed. In this connexion, I cannot help being reminded of a speech by Lord Selborne, which was recently quoted by Mr. John Morley, in England. Lord Selborne said—

It so happens, that more of the money provided by the taxpayer of the United Kingdom is spent in the British dominions beyond the seas than the British dominions beyond the seas contribute to the maintenance of the British navy.

I think that this is a point which should appeal to us very strongly. It is important that our commerce should be policed upon the high seas, and that England should look after it for us. England could get along very well if all our commerce were swept from the seas, but it would be a very different matter for us, and therefore we should shoulder a fair share of the responsibility involved in protecting our oversea traffic.

Mr. CONROY.—Supposing we are dragged into wars which are none of our making?

Mr. JOSEPH COOK.—The rude arbitrament of war would expose us to exactly the same disadvantages as if we had a squadron of our own. If the necessities of Empire required the removal of the Australian squadron from our coasts, no arrangement made with the Imperial authorities would enable us to retain it. Moreover, even if we had a squadron of our own, and the Empire were in danger, I am sure that the honorable and learned member

for Werriwa would not decline to send it wherever the necessities of the mother country might require.

Mr. CONROY.—No ; I would not.

Mr. JOSEPH COOK.—Therefore the question of sending our squadron away in case of a great Empire war is not of very great importance. The provision in the agreement for control over the squadron by the Imperial authorities simply asserts a technical right, which places us at no greater disadvantage in case of a great war than if we had a navy of our own. At the same time, I am in favour of paving the way for the establishment of an Australian navy, and I see the beginning of this movement in the provision which is made in the agreement for the training of 1,600 Australians and New Zealanders in connexion with the squadron. That alone is worth the extra £94,000 which we are to pay towards the maintenance of the squadron. We shall get the full value for our money in the training which will be imparted to our men.

Sir EDMUND BARTON.—I anticipate that £40,000 of the extra £94,000 will come back to us in the form of pay to the seamen and reservists when the new arrangement is in full operation.

Mr. JOSEPH COOK.—Yes, but apart from mere bargaining, the growing requirements of our commerce on the high seas call for an increased contribution from us. Moreover, I see in this arrangement the establishment of some kind of balance between our naval and military expenditure. Our military Estimates now amount, roughly speaking, to about £550,000, and we are told by the Imperial authorities that the cost of maintaining the Australian squadron will be about £520,000.

Sir EDMUND BARTON.—The amount will be £519,000, including an allowance of 5 per cent. towards interest and sinking fund.

Mr. JOSEPH COOK.—Thus the expenditure upon our naval defence will be upon a footing somewhat similar to that of our military outlay, and we shall be to some extent reproducing the balance between the forces now existing in the old country. We are an island continent, with a long coastline to defend, and we are on sound lines when we are trying to maintain some balance between our military and naval expenditure. Beyond the reasons I have stated, we have the appeal—the urgent appeal—from the old country for an

increase of our contribution towards the maintenance of the squadron. This weighs with me more than anything else. The taxpayers of Great Britain find that the burden of Empire is pressing heavily upon them, and, in view of the fact that we share the benefits with them, it is only reasonable that we should make a larger contribution than that hitherto provided for. I do not know what will be the issue in Britain; but Mr. John Morley points out—

Mr. CROUCH.—He does not believe in our paying a subsidy.

Mr. JOSEPH COOK.—That is beside the question. There is almost a pathetic irony in the words which I am about to read. After quoting Lord Selborne, he remarks—

Therefore, the taxpayer of the United Kingdom has the privilege, not only of taking on himself the lion's share of the burden, the interest in which is shared between himself and his fellow subjects in our dominions beyond the seas, but also and not less a share of the burdens in respect of interests not his own, but exclusively those of his fellow subjects beyond the seas.

There is almost a pathetic ring in these words, and from Mr. John Morley's point of view there is immense force in them. He goes on to say—and here he bears out the remarks of the honorable and learned member for Corio—that he is opposed to subsidies. He says—

Pray do not think that I am making any ill-natured or carping point of this. Only do let us face the facts as they are. They talk of the expansion of England, and it is a very fine idea, a very fine phrase, a very fine thing. Only do please understand that the expansion of territorial England does not mean the expansion of the contributory area from which the taxation is to come. Now that is all I have got to say upon this main and central point. You will have to bear the burden. As I said, I do not want to carp. I have always thought that the colonies, from their social, economic, and political conditions, could not be looked to by a rational and provident statesman for a serious contribution to the share in our national burdens.

But Mr. Morley is logical. He says—"I do not want these burdens of Empire." He is against increasing them in any way. But we are in a position quite different from that occupied by him. We believe in the maintenance of the Imperial connexion, and in the maintenance and development to the utmost possible extent of every scrap of the Empire.

Mr. WATSON.—So does Mr. Morley, probably; but he does not believe in undue expansion.

Mr. JOSEPH COOK.—No. The honorable member is wrong. Mr. Morley would not undertake a war to obtain another bit of Empire.

Mr. WATSON.—No; but he might fight to retain what we have got.

Mr. JOSEPH COOK.—I am not quite sure even of that.

Mr. CROUCH.—Was he not speaking as a logical free-trader?

Mr. JOSEPH COOK.—The Empire is not governed by chop-logic. In the course of the same speech, Mr. Morley pointed out, almost in a tone of reproach, that whilst the colonies were prepared to share the military burden of the Empire, they declined point blank to bear any part of the financial burden. In view of the tremendous armaments of the mother country, which are weighing down the nation, because the taxation for the army and navy amounts to 29s. per head of the population of the United Kingdom, we should offer an increased subsidy, not in any spirit of bargaining, but as a free and generous contribution to the burdens of the Empire. Now I come to the question of preferential trade. I see that the Governor-General's advisers observe with gratification the recent utterances of the Colonial Secretary with reference to this subject. I see no cause whatever for gratification in that utterance. On the contrary, I see nothing in it but an astute electioneering dodge. Mr. Chamberlain returned from South Africa to find that a rot had set in amongst his party, and, as the most powerful and popular member of that party, he at once set himself to stem the tide which seemed to be bearing them on to evil days. That is all the importance that we need attach to this tremendously great speech by Mr. Chamberlain, which has resounded from one end of the Empire to the other. That is all that it means, and honorable members may rest satisfied that we shall hear no more about preferential trade. It will be disposed of in connexion with the amendment which has been submitted by Sir Henry Campbell-Bannerman in the House of Commons. I think that amendment is an inconclusive one that will not settle the matter in the way that it ought to be settled. While it seems the height of presumption on my part to criticise the tactics which are being employed when I am 12,000 miles distant from the scene, the brief cable published in regard to the matter

evidences to my mind a very inconclusive and untactful way of testing it. However that may be, this is no new idea on the part of Mr. Chamberlain. It is an old idea which is trotted out periodically. Mr. Huskisson suggested the same idea quite 100 years ago. Later on there was a revival of the old fair-trade controversy, which produced Thomas Farrer's book between 1850 and 1860. But the question never gets beyond the academic stage. The moment it is introduced into Parliament, a blast of the people's common sense is blown upon it and it is heard of no more. We may rest assured that the people of Great Britain will give the quietus to this latest proposal of Mr. Chamberlain, just as they have done to chimerical schemes before. To my mind the moment that Great Britain attempts to make a close trading corporation, that moment it will begin to disintegrate and its decay will set in. In view of the insular position of England, her difficult and bare natural resources, her increasing difficulties in competing with the more favoured parts of the world, I cannot conceive of her people consenting to a scheme which will have the effect of shutting them out from their natural markets.

Sir JOHN FORREST.—There are barriers against them everywhere.

Mr. JOSEPH COOK.—It is wonderful how she has managed to get along so well all these years. If she is decaying it is marvellous that she has a revenue of over £130,000,000. For England, the ability to buy in other markets what she requires to maintain her manufacturing industries is her very life blood, and the moment any movement takes effect to put a ring fence round the Empire that moment her commercial supremacy will be threatened. Knowing these limitations, the people of England are not likely to go back to the old days from which she emerged triumphantly long ago. But I do not attach as much importance to these matters as do the advisers of the Governor-General. If they are "extremely gratified" at the pronouncement of one of the most acute politicians in England they are easily satisfied. No one applauds the eminent services which Mr. Chamberlain has rendered to the Empire more than I do, but for all that he is not the pure-minded statesman alone. He is also the most acute man in the British Empire to-day so far as electioneering dodges are

concerned. I have already said that this session should close as speedily as possible in order that honorable members may go to the country and fight out that question, the raising of which the Prime Minister has already declared to be a crime against Australia. I notice one omission from this programme. No mention is made of the benign benefits which have accrued to the Commonwealth in consequence of the Tariff.

Mr. KINGSTON.—Be nine! Why, they are fifty.

Mr. JOSEPH COOK.—The *Age* in which the Minister lives does not say so. The *Age* says that it is a bastard Tariff; that it satisfies nobody, and should be altered as soon as possible. The Prime Minister himself says that it is a botch.

Sir EDMUND BARTON.—I have never said so.

Mr. JOSEPH COOK.—Does the Prime Minister adhere to that denial?

Sir EDMUND BARTON.—I do. If I had to chase and correct the erroneous reports of my speeches which appear in the *Sydney* and other newspapers, I should be doing nothing else all day.

Mr. JOSEPH COOK.—I think that the Prime Minister is almost the only man who would charge the *Sydney Morning Herald* with deliberate misreporting.

Sir EDMUND BARTON.—I do not charge them with deliberate misreporting.

Mr. JOSEPH COOK.—This is what the *Sydney Morning Herald* reports the Prime Minister as saying, and it is what the *Daily Telegraph* also reports him as saying. Evidently there must be a conspiracy among all the newspapers to misrepresent the right honorable and learned gentleman's utterances upon every conceivable occasion.

Sir EDMUND BARTON.—Because two agree, is there conspiracy amongst all?

Mr. JOSEPH COOK.—There are only four daily newspapers in Sydney, and I suppose that the same remark applies to all. The Prime Minister denounces the whole of them. Yet when he wants to attack the leader of the Opposition he is ready enough to do so on the reports of those very newspapers.

Sir EDMUND BARTON.—I would accept his denial of their accuracy, and that courtesy is due to me.

Mr. SYDNEY SMITH.—The Prime Minister did not accept his denial as to his remarks about taxation in Tasmania.

Sir EDMUND BARTON.—Yes, I did.

Mr. JOSEPH COOK.—The Prime Minister speaking at one place in his electorate is reported in the *Sydney Morning Herald* to have said—

The Opposition said that this Tariff is to be swept away and another one substituted. Under that the Opposition would fit a Tariff a little more of a botch than they had succeeded in making this one.

Sir EDMUND BARTON.—The quotation in itself is sufficient to show what the report is. "Fit" a Tariff—what does that mean?

Mr. JOSEPH COOK.—The present Tariff, therefore, is a botch.

Mr. KINGSTON.—Who says that?

Sir EDMUND BARTON.—The *Sydney Morning Herald*. I think the Minister knows it.

Mr. KINGSTON.—Yes, it gives six-forty-sevenths of the truth.

Mr. JOSEPH COOK.—I prefer to take the deliberate statement of the *Sydney Morning Herald* rather than the off-hand statement of the Prime Minister. I cannot believe that he remembers every word that he utters.

Sir EDMUND BARTON.—I do not, but an expression like the one you have quoted always strikes me.

Mr. JOSEPH COOK.—No public man can truthfully be held to remember all that he says. At any rate the Prime Minister has described his own Tariff as a botch.

Sir EDMUND BARTON.—I have not. The *Sydney Morning Herald's* discrepancy is not mine.

Mr. JOSEPH COOK.—The right honorable and learned gentleman went to some trouble to show that he kept faith with the Maitland manifesto. If the present Tariff keeps faith with that manifesto, then the Tariff in its original form did not.

Sir EDMUND BARTON.—I claimed that the Tariff, as introduced, kept faith with the Maitland manifesto, and I said so here the other night.

Mr. JOSEPH COOK.—Then this Tariff does not.

Sir EDMUND BARTON.—It lessens the value of the Tariff on the side of the maintenance of industries.

Mr. JOSEPH COOK.—This is the first time in the history of responsible government that I have known a Ministry content to accept such material alterations in a Tariff as were effected in their original production. It is the first time that a

Government have consented to more than £1,000,000 being cut away from a revenue of £9,000,000 by the vote of the House. If the Prime Minister is satisfied with the Tariff as it now stands, he must have been very much more satisfied with it in its original form. If he does not believe that it has been improved, and if he holds that it has been made very much worse, the Government are under an obligation to re-open the question at the earliest possible moment, and to have it definitely settled once and for all.

Mr. MAUGER.—We have a better card than that.

Mr. JOSEPH COOK.—By the way, I have heard no mention of all the new industries which have sprung into existence as the result of the operation of the present Tariff. The Prime Minister talks about them very freely upon the platform—

Mr. CHAPMAN.—I can give the names of every one of them.

Mr. JOSEPH COOK.—Why, the first industry which the honorable member mentioned in his speech at Orange the other day was started and the money spent upon it before the introduction of the present Tariff.

Mr. CHAPMAN.—Let the honorable member ask the people who started it, and they will tell him a very different story.

Mr. JOSEPH COOK.—We do not need to ask anybody; we live near the spot and know. The company that the honorable member has spoken of at Portland began operations eighteen months or two years before this Tariff was introduced.

Mr. CHAPMAN.—But it began operations immediately the Federal Ministry was established, and I can prove that.

Mr. JOSEPH COOK.—The honorable member may make the assertion, but he cannot prove it, because it is not a fact. That is the company which the honorable member places first amongst those represented in the £1,500,000 worth of industry; but he says nothing about the industries which have been closed up in Sydney owing to the increased difficulty experienced in the purchase of raw material.

Mr. MAUGER.—Let the honorable member tell us about McMillan's circular.

Mr. JOSEPH COOK.—Such a reference only shows the absolute poverty of argument to which honorable members on the Government side are reduced. They have

to settle the whole fiscal policy of the continent by what is stated in an importer's trade circular.

Sir EDMUND BARTON.—Is that the only answer the honorable member can give to that circular?

Mr. JOSEPH COOK.—I do not know anything about the circular; I have never seen it.

Mr. MAUGER.—We can give the honorable member 2,000 copies if he likes.

Mr. JOSEPH COOK.—I have no doubt the honorable member for Melbourne Ports has those circulars stored somewhere, seeing that he has quoted them throughout Victoria; but if Victorian audiences take that kind of political pabulum, they are easily satisfied.

Mr. MAUGER.—New South Wales people will take it.

Mr. JOSEPH COOK.—It will be found that the people of New South Wales will not take such pabulum at the next election. A Tariff which satisfies nobody is a standing invitation to unrest so long as it remains in force. How can things be regarded as settled when everybody feels that we have only a temporary Tariff? The Ministry and the whole party behind them, together with the *Age* newspaper, and the protectionists of Australia, are practically saying—"Give us a chance to feel our feet, and then we will alter the Tariff." Does that show any prospect of the peace for which traders are crying out? What is really meant by the Government is—"Let us alone, and as soon as we have got wind, and come back from the next election with the same free-trade votes that were given to us on a wrong basis at the last election, we will proceed further to undo the trading conditions of Australia." The Government sneaked in the Tariff the last time, but they are not going to do so the next time. This botch, this imperfect Tariff, which satisfies no one, should be submitted for the approval of the people on its merits.

Mr. CHAPMAN.—Are the honorable member and the honorable member for Macquarie prepared to take the duty off cement?

Mr. JOSEPH COOK.—If the honorable member addressed that question to some honorable members who have been supporting the Government it might have some point, which it has not when addressed to the honorable member for Macquarie and

myself. The honorable member and myself have shown what we are prepared to do.

Mr. CHAPMAN.—A simple "yes" or "no" would answer the question.

Mr. JOSEPH COOK.—The honorable member would not be satisfied whichever way we answered it, and therefore we shall answer it in our own good time. To claim that the Tariff is one which satisfies the Government only writes them down as political opportunists who would do anything and sacrifice any policy in order to remain in office. I cannot conceive a Government sitting quietly down when its policy has been so mutilated, particularly a Government with such an overwhelming proportion of strength in the House. I could understand the position if it were a Ministry such as that with which the Prime Minister was at one time associated, and which remained in office for two years with a majority of one.

Sir EDMUND BARTON.—The majority of one in that Parliament was never reached until after I left there. I think I may have been the one.

Mr. JOSEPH COOK.—That Ministry never had more than a majority of four.

Sir EDMUND BARTON.—The majority was eight at one time.

Mr. CHAPMAN.—And that Government did more good with a majority of four than any Government with which the honorable member for Parramatta was associated could do with a majority of 40.

Mr. JOSEPH COOK.—The honorable member for Eden-Monaro did not think so at the time, because he could be heard bellowing like the bull of Bashan throughout the whole of that Ministerial career. I merely allude to this in order to suggest that the Prime Minister may have been led by that experience to his present loose habits concerning Ministerial responsibility. The Government sat still while the Tariff was torn to tatters and made a botch of. Indeed, the Tariff reminds me very much of the knife owned by a little boy, who said it was the same knife that had been owned by his father and his grandfather, except that it had two new blades and a new handle. The Tariff is in that sense the same Tariff, and is the result of a game of "pull devil, pull baker" in this House. It does not satisfy the Opposition, nor does it satisfy the Government or their supporters, and the Ministry cry *peccavi* and plead to be left alone, on the ground

that it would be a crime against Australia to re-open the question, knowing that the only result would be weakening of their prestige and position. But, from the point of view of Ministerial responsibility, and for the sake of the prospects of the commercial life of the community, the question should be settled once for all by the people with their eyes open—at the ballot-box. The Opposition intend, as far as lies in their power, that there shall be no more sneaking in of Tariffs, and if the people of New South Wales indorse the present imposts they will do so knowing what the proposals of the Government really are. That is all we ask, and the sooner the question is decided the better it will be for the future of Australia.

Mr. TUDOR (Yarra).—I did not intend to speak on the address in reply, had it not been for the matter of the six hatters, which has excited considerable attention throughout the Commonwealth, and has, mainly at the hands of the press, been subject to more criticism than perhaps any other public question. I am supposed, at any rate by some of the newspapers, to have had some connexion with the stopping of these men from landing in New South Wales, and I consider that it is advisable that the facts of the case, from the point of view of the workers of Australia, should be put fairly before the House. The leader of the Opposition expressed the opinion that the Hatters Union could not be responsible for the action of one of its officers, and would repudiate it, in trying to obtain from the hatters a copy of the agreement under which they came to Australia. Further, it has been stated by the honorable and learned member for Werriwa that if these men had been coming to Melbourne they would not have been prevented from landing. I am in a position to contradict statements made to that effect, and I can further inform the House that the rules of the English Union prevent men under contract from working in any union shop, so that had these hatters landed in England under circumstances similar to those of the men whose cases we are considering, they would have had to find employment in some establishment not recognised by the union. The action of the union was taken exception to by the leader of the Opposition, but it must be remembered that these hatters were not the first who had arrived in New South Wales under agreement to Mr. Anderson

since the Immigration Restriction Act was passed; eight men had previously come out from England under agreement with Mr. Anderson. When that gentleman advertised for men, hatters from Victoria went to him, and others wrote to him offering their services, and it ought to be known that while the hatters who went from this State were given only two or three days' work per week, the men under agreement worked full time. The union were informed that Mr. Anderson distinctly said that he intended to use the men under agreement as a means to burst up the union and decrease wages, and it was then thought high time to interfere and stop him breaking the law, which both Mr. Anderson and the agreement men knew he was doing.

Mr. THOMSON.—Then the Government became the catspaw of the union.

Mr. TUDOR.—The eight men to whom I have referred were allowed to land because the Act was then not rightly administered. If the letters which had passed between the Acting Collector of Customs at Fremantle and the department of External Affairs were produced, it would be seen that the Act was not administered as it should have been, and as it is now administered in America. Altogether there were, I believe, thirteen persons previously allowed to come under agreement and start work with Mr. Anderson, and the whole circumstances show that there was no action on the part of any Melbourne organization with the object of preventing the progress of any Sydney industry.

Mr. CONROY.—Do I understand that the Government had previously allowed men to come in under agreement?

Mr. TUDOR.—The Government did not know the men were landed.

Mr. CONROY.—And the fact was not pointed out to the Government?

Mr. TUDOR.—Not when they arrived, but the fact was known to the Government when these six hatters arrived. The Sydney Hatters Union cabled to the general secretary of the English union on 1st December, 1901, informing him that no men under agreement would be allowed to join the Australian organization. That was done before the six hatters landed in Melbourne.

Mr. CONROY.—Had they started from England?

Mr. TUDOR.—Yes.

Mr. THOMSON.—Was the English secretary not informed that all agreements

signed before a given date were to be recognised?

Mr. TUDOR.—The cable stated that all agreements signed before the 1st December would be recognised by the Sydney union, and that cable was sent while the men were on the water. If honorable members see the agreement which was made between Mr. Anderson and these men, they will admit that it is very one-sided. I wish to point out how one-sided was the agreement which was made with the six hatters who landed in Sydney early in December compared with the agreement entered into by the boilermakers in England and the Western Australian Government. Those men, when they signed it, had no idea of the conditions obtaining in Australia at the time. Moreover, I believe they were well aware that they were breaking the law of the Commonwealth. The secretary to the Felt Hatters' Association in England was warned in May last year that after the passing of the Act men coming to Australia under agreement would be prevented from landing. The society here has come in for a great deal of blame for the action which it is supposed to have taken. It has been asserted that they were behind the Government. But if any member of this House or any section of the community knows that the law is being broken, he or they have a right to make the fact known to the authorities, and the newspapers which have denounced the society for what they did on that occasion are those who cry out most loudly about law and order. To prove that the society here did not object to the men coming out, but objected to the manner in which they had been brought out, I will read the first letter written in connexion with the case. The secretary of the society here knew that the Act was being administered by the Customs officials, and consequently thought that the case should be brought under the notice of the Minister for Trade and Customs; consequently he addressed that Minister first. His letter is as follows:—

May I be permitted to submit on behalf of my society the following questions:—

1. Is it legal for felt hatters to enter into agreement in England to serve employers in the Commonwealth?

2. Does the Immigration Restriction Act, section 9, affect our trade?

We offer no objection to the men as journey-men felt hatters, but strongly object to them under contract, as they receive regular work and wages, while men not so placed suffer from lost

time arising from fluctuations of the demand for labour, thus giving these men undue advantage over all others.

The society did not set the law in motion until it found that its members were being penalized in Sydney, and were being compelled to walk about in order to find full employment for the contract men who were admitted in contravention of the provisions of the Act. Then they thought it time to interfere. The newspapers knew that thirteen individuals were admitted under contract to whom no exception was taken; but that fact was not made public. One section of the press of Melbourne, and the principal Sydney newspapers, were anxious to strike at the Government, and they saw an opportunity to do so in connexion with the action taken in regard to the hatters. It has been said that if the Prime Minister intended to release the men, he should have released them at once, without detaining them on board the ship. As a matter of fact, they were not detained on board the ship. I have heard from those who worked with them that they were allowed to go on shore every day, and that they never had such a good time before in their lives as when they were supposed to be in durance vile. When the Western Australian Government imported twelve boilermakers under contract the terms of the contract were very different. That contract specified what hours the men should work, what wages they should be paid, and what the rate of overtime should be, and stated that if the men worked for a certain period they would not be charged for their passage out. The contract with the hatters was a very different one. It was in these terms—

1. Charles Anderson agrees to engage the said J. J., as planker and hardener, for a term of three years at a weekly wage of £3 per week, and the said Charles Anderson advances to the said J. J. for his passage out, viz., £25, which shall be deducted from his wages by amounts of 10s. per week, until this sum of £25 is liquidated. Holidays not to be paid for.

2. J. J. agrees that he is an efficient hand in planking and hardening, and that he is perfectly competent in his work. Also, J. J. contracts to be sober, attentive to business, and to do his work to the satisfaction of the said Charles Anderson.

In the first place there is no limitation there upon the number of hours to be worked per week, so that if the employer desired, he could compel the men to work the number of hours worked in England—56½ hours per week or even a greater number

if he so desired. Those were the hours worked there when I was in that country.

Mr. SYDNEY SMITH.—There have been great changes since then.

Mr. TUDOR.—I have the rules of the society in my pocket, and if the honorable member likes to read them he will see that the hours worked in 1894 are the hours worked now. These men practically put themselves beyond the pale of their own union in signing the contract. Had they returned to England to work for any employer under agreement, they would not have been allowed to enter any union shop. They tried to take advantage of the fact that the union in Sydney is not very strong. When the press was making such a noise about the matter, it was stated that they had been promised by the trade organizations here a hearty welcome to Australia in February. At that time, however, the only organizations were those in Melbourne and Adelaide. There was none at all in Sydney until May, and I am positive that the men cannot produce any letter showing that a welcome was promised to any men under contract. I have looked through the association's letter-book here to find if such a letter was sent, and I am satisfied that the only letter sent was the warning I have mentioned, enclosing a copy of the Immigration Restriction Act. A paragraph was published in the newspapers circulating in every felt hatter's district, that men coming out here under contract would be breaking the law.

Mr. THOMSON.—They would not be breaking the law.

Mr. TUDOR.—I think that they would. Of the first batch of six hatters, two were practically unknown men, and their expertness is not sworn to in any affidavit produced to this House. Neither Mr. Anderson nor Mr. Sharpley would swear to-day what they swore then, that the men were experts such as could not be obtained in Australia, since some of them have already been displaced by other men who have gone over from Melbourne. The man whose clearance was read out by the leader of the Opposition was made foreman of a particular branch, but he was displaced by another man brought from this State to take his place, so he could not have given satisfaction in that position, and he has since gone to New Zealand. Honorable members can ascertain the accuracy of my statement by telegraphing to Sydney.

Mr. CONROY.—Did he go to New Zealand of his own accord?

Mr. TUDOR.—He is the man who was interviewed by the Sydney *Daily Telegraph* as to his expert ability and the qualifications he held, and who stated that he thought the country was a grand one, and that he would send for his son to come out, too. I presume that when he was displaced by a workman from this State, he preferred to leave Sydney rather than submit to the humiliation of being pointed out as the man about whom so much bragging was done. My object to-night is to show that the union was justified in the action they took. They were willing that men should come here to compete in the market on the same conditions as themselves, free to get their discharge, and to accept work in any shop they liked. The men in dispute preferred, however, to come out under a contract in which there is no stipulation to the effect that the union conditions either of England or of Australia shall be observed.

Mr. CONROY.—Does the honorable member know that the union has been told that if it will pay the expense of bringing these men out here the contract will be cancelled, and that that offer is still open?

Mr. TUDOR.—I have heard a rumour to that effect. But why did not the person who imported the men make a contract with them on terms similar to those contained in the Western Australian contract? I maintain that the organization of which I am a member was justified in the action it took, and that the Government was right in preventing the men from landing until their employer had asked for an exemption. He did not do so until 11th December, and the men were released on the 13th. But according to the facts in my possession, he was not entitled to obtain an exemption, and to prove that statement I will read part of his statutory declaration—

My foreman in my hat factory, one Walter Sharpley, is an Englishman, and learned his trade and became an expert in felt hat making in England, and prior to writing to Messrs. Jepson Bros. as aforesaid, I consulted him and asked him to make a list of the best men he knew of in England in the branches of the felt hat making for which I required experts in my factory.

The said Walter Sharpley thereupon compiled a list of the best men he knew of in England, and whom he could recommend as thoroughly expert.

Of the twelve in all who were brought out under agreement, Sharpley has sworn that

he knew only seven. Honorable members are mistaken if they think that only six were brought out. There were another six following those six. If you admit six men in defiance of the provisions of the Act, you might as well abolish the law altogether, as to my mind there is no difference between six and sixty or six hundred, because you will afterwards have to admit every one who chooses to come.

Mr. CONROY.—If they are able-bodied men they will be of value to the community.

Mr. TUDOR.—No doubt, but it is not right that we should allow them to come here under conditions which will tend to make things worse for those men who have been here for many years, and have helped to build up our industries. The Hatters Union were quite willing that any number of men should come in here, provided they were free to accept work wherever it might offer, and to leave any employment with which they might not be satisfied. The first letter which I read made that clear.

Mr. CONROY.—And yet the unions were not prepared to permit men to freely pass from one country to another.

Mr. TUDOR.—Yes, they were, so long as the men were not under engagement. As a matter of fact, the men who came out here under contract could not pass freely from one State to another. They could not, for instance, leave New South Wales with a view to seeking more profitable employment in Victoria.

Mr. CONROY.—According to the honorable member's own story, one of them went to New Zealand.

Mr. TUDOR.—Yes, but he ran away, and could, if his employer had chosen, be brought back again and compelled to work. I believe that the workers should have the same free conditions as the honorable and learned member for Werriwa would desire to see apply to the importation of goods. I hold that a workman should be free to go where he chooses, and to sell his labour as he likes, and to obtain the best conditions possible, and that he should also be protected against entering into agreements which would prevent him from siding with his fellow-workers in time of trouble.

Mr. CONROY.—Would the honorable member permit apprentices to be bound?

Mr. TUDOR.—Yes; apprentices are bound under indentures in the hat trade all

over the world so as to learn the trade properly.

Mr. CONROY.—Then they are not free.

Mr. TUDOR.—I believe that even in the profession which is adorned by the honorable and learned member apprentices, or their equivalent, have to be bound under articles. Mr. Sharpley says, with regard to the first six men, that he knew only four of them. He says—

I know, and am well acquainted, with Messrs. Joseph Joules, Frank Pollitt, Fred. Davies, and William Gee, who are at present detained on the ship *Oronites* in the port of Sydney, having worked and been associated with them as a felt hatmaker in England.

2. Of my own knowledge of these men, I say that they are each specially qualified as felt hat makers, and are skilled artisans in that industry.

If the leader of the Opposition had been attacking the Government for admitting the hatters, he would not have failed to point out that the evidence upon which they were adjudged to be specially qualified was utterly insufficient. At least two of them were not known as experts.

Mr. CONROY.—But they held the union certificates.

Mr. TUDOR.—Yes, but that only showed that they were members of the union. The honorable member for North Sydney remarked that the Hatters' Union had practically made an attempt to "boss" the Prime Minister, but that was not correct. They became aware that the law was being broken, and they considered it their duty to bring the fact under the notice of the Prime Minister, and to ask him to enforce the Act. The union officials did not object to the introduction of workmen, but they had strong reasons for opposing any wholesale importation of men under fixed agreement. Mr. Anderson himself said that he was arranging for the introduction of several more batches of men to follow the six regarding whom all the fuss was made, and the union in the light of their knowledge at the time took an absolutely straightforward course, which subsequent events fully justified.

Mr. CONROY.—They entertained the men and extracted their agreements from their pockets.

Mr. TUDOR.—I do not know whether they entertained the men or not. As a matter of fact, I was not in Melbourne at the time, and I did not see any of the papers regarding this particular question until they

were placed on the table of the House, with the exception of one letter which was sent to the Minister at a late stage of the trouble, after a deputation of employers had asked him to break the law. The party of "law and order" had no hesitation in asking the Prime Minister to set aside the law when they thought it was operating to their disadvantage. With reference to the second batch of six men, Mr. Sharpley says—

I know and am well acquainted with Messrs. Arthur Wood, Sam Grimshaw, and William Taylor, . . . having worked and been associated with them for many years as a felt hat maker in England. . . . I am also informed by Mr. Albert Booth, of Sydney, foreman finisher, that he personally knows and is well acquainted with Messrs. Alfred Kennedy and James Redfern.

That is a nice sort of declaration to accept as evidence regarding the fitness of these men for admission to the Commonwealth under special engagement, and would not be accepted in any court as evidence, and I can imagine how the leader of the Opposition would have pulled these statements to pieces if he had been attacking the Government from a stand-point opposite to that adopted by him. There was no reason for bringing these men into the Commonwealth, because there was a sufficiency of labour already here. There is no desire on the part of the Hatters' Union to retain the work for themselves, but they want any tradesman who comes here to be at liberty to pass freely from shop to shop, or from State to State; and they consider they were justified in fighting for a principle. The public have been entirely misled in this matter. The union men were not actuated by motives of jealousy, nor did they desire to prevent the hat-making industry from being established in Sydney. On the contrary, they are most anxious that hat factories should flourish there, as their position will be improved if other factories are started, where they can go for employment. I went to Sydney as a member of the union and formed a branch organization there last May, and one of the men who came out in the second batch from England happens to be a high official of the Sydney union at the present time. We have nothing against the men. All the union were anxious to do was to prevent the law from being broken with impunity, and to guard against the country being glutted with labour under conditions which would tend to the disadvantage of those already settled here. Under the terms of the agreement the men could

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be compelled to work for any number of hours.

Mr. CONROY.—Nonsense. The honorable member knows very well that could not happen under the provisions of the Arbitration Act in operation in New South Wales.

Mr. TUDOR.—The Arbitration Act does not regulate the number of hours to be worked by the men in the hat trade. No doubt if the honorable and learned member for Werriwa had had his way it would not have been necessary to introduce even six hatters into New South Wales. The industry there has been encouraged by the protective duties, and it must be a matter of surprise to free-traders that a much larger number of manufactories have not been established, because they predicted that the duties which were imposed under the Tariff would prove prohibitive, and that local manufacturers would enjoy a most profitable monopoly. However, the position has not developed as was expected, as we only find one factory started in New South Wales, and the predictions of members of the Opposition during the Tariff debate have not come true. It was said that these men were required because of their possession of special knowledge and skill, but it is singular that whilst they were being engaged at £3 per week, Mr. Anderson was offering £3 10s. per week to men employed in Victoria with a view to secure their services. The honorable member for Gippsland said that there could be no objection to the introduction of these men, because there was no industrial dispute in progress at the time, but disputes might be very easily brought about by introducing men under the conditions which obtained in the case under notice. Under the terms of the agreement the men can be dispensed with at any time that the employer may consider their work to be faulty. There is no appeal from his decision, and thus he could, upon the most trifling pretext, get rid of the most expert men in the world. That would be the best way of bringing about a dispute, and the Government not only did right in detaining those men, but in my judgment they should have required further evidence before admitting them at all. I would further point out that no action was taken to bring pressure to bear upon the Government by any section of workers in the community. The Employers' Federation, however, waited upon the Prime

Minister on the 16th December, and urged him to override the law upon this matter. By the way, Mr. Walpole, the secretary of that association, who, I am informed, receives £1,000 a year, goes about the country as a paid agitator, preaching against conciliation and arbitration, and endeavouring to create disturbances. It was this gentleman who made a statement at Lilydale, when speaking there against the Factories Act, that marriage was a luxury for the workers, as were also "long sleepers," attending theatres, and the like, and that it was not fair to compel employers to pay for such things. This paid agitator receives £1,000 a year for stirring up trouble between employer and employé. Yet when the workers dared to engage a paid lecturer for a few months the honorable member for Gippsland denounced the proceeding, and declared that the labour organizations obtained the best men they could from abroad. He stated that the workers had no right to adopt that course.

Mr. A. McLEAN.—Did I? Look at *Hansard*.

Mr. TUDOR.—I was remarking that the Employers Federation, if its members hold the same views as those entertained by its secretary, were anxious that these hatters should be kept in the position of bondsmen, and that all Arbitration and Conciliation Acts should be swept away or not brought into operation, because they know the workers are likely to obtain justice there, and they know that under such an Act the condition of the workers would be improved. Indeed, at a later stage, they urged the Prime Minister not to introduce a Conciliation and Arbitration Bill during the present year. Then it was that the Hatters Union appeared for the first time and asked the Prime Minister to enforce the provisions of the Act.

Mr. THOMSON.—Did not the Union send in an agreement before that?

Mr. TUDOR.—They sent in letters pointing out what was going on, and that the law was being broken. The deputation from the Hatters Union did not wait on the Prime Minister until after the first six hatters had been admitted. Consequently, there was no reason for the outcry which has been made against the union. If honorable members had known the full facts of the case they would not have been led away by the press upon that particular matter.

Mr. CONROY.—The Prime Minister stopped the men at the bidding of the Hatters Union. The Minister for Trade and Customs knew all about it.

Mr. TUDOR.—He did not. The first official intimation which the Prime Minister received was from Mr. Baxter, sub-collector of customs, Sydney, who is neither a member of the labour party nor of the Hatters Union.

Sir EDMUND BARTON.—I gained my information without either seeing or hearing from the Minister for Trade and Customs.

Mr. TUDOR.—The Prime Minister took action before he had been approached by the Hatters Union. But seeing that these men were coming to Australia under an agreement, members of that organization had a right to petition against their admission. The honorable member for the Grampians stated last night that we had a right to admit as many people as chose to come here under contract. I join issue with him upon that point. I have as much consideration for the man who is free to sell his labour in any factory, the men who are settled here, who have brought up families here, and some of these are unemployed to-day, as I have for the individual who is bound to one employer, and if the honorable member for the Grampians is true to his free-trade principles, he should believe in the worker being able to sell his labour to the best possible advantage for himself. These men admitted that they had no idea of the conditions obtaining here. Why was no provision made in their agreements in regard to the question of overtime or that union conditions would be observed? Probably it was because the employer was anxious to work them longer hours, and give them only £3 per week.

Mr. CONROY.—The Arbitration Act would prevent that, and the honorable member knows it.

Mr. TUDOR.—The society was not registered under the Arbitration Act. The employer could compel them to adhere to the conditions of the agreement.

Mr. THOMSON.—No.

Mr. CONROY.—The men could compel the employer to pay them, irrespective of whether or not they were employed.

Mr. TUDOR.—It does not say so in the agreement. The agreement distinctly states that holidays will not be paid for. The men themselves admitted that if they had

been aware of the conditions prevailing they would have come here as free men. Had they done so, even if they had been out of employment for twelve months, not one of the newspapers which created such a fuss about the matter would have uttered a word in their favour. When I came to Australia from England, I walked the streets for about twelve weeks, and the newspapers did not publish a word in my favour. But, because they were anxious to discredit the Government, they gave a great amount of publicity to this matter, and refused to print the full facts. Indeed, I was interviewed by a representative of one of the newspapers, and I told him that these hatters were not the first who had come to Australia under special contract. Did the newspaper in question publish that fact? Certainly not! The press were anxious to make it appear that it was against all British tradition to exclude the men, when, as a matter of fact, I believe that a similar law operates in Canada. I know that similar legislation exists in America; there the authorities are very particular about asking a man whether or not he is under contract. That practice has led to a lot of lying, just as I have heard that many merchants have lied with regard to certain invoices which have come before the Customs authorities. These merchants might have aimed at the truth, but, if so, they were very bad shots. Before closing, I wish to say a few words in reference to the question of the promised Navigation Bill. I regret that the Government have not given more prominence to that measure. Last night the right honorable member for Tasmania, Sir Edward Braddon, told the House that the mail vessels which come to Australia remain here only a week or a fortnight, and that we have no right to ask them to pay their seamen the Australian rate of wages. But I would point out that upon some vessels, which trade on our coast to the detriment of Australian ships, the crew are frequently shipped at the Islands. In this connexion, I might instance the Dean line, which has been trading here, month after month, to the detriment of our own shipping. I trust that, if time permit, the Government will endeavour to pass some sort of navigation law, though not for the sake of the employers, who are quite able to fight their own battles. If the present unfair competition is allowed, the rate of wages for Australian sailors will probably come down. Only last December

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our firemen and seamen had to suffer a reduction in wages of 10s. per month on this account. Some protection ought to be afforded to our shipping industry, which, I believe, employs a greater number of men than any other industry we have. When the honorable member for Bland was referring to the agreement between the Defence department and the Colonial Ammunition Company, I felt that it would be very desirable for a copy of that agreement to be laid on the table before it is finally adopted.

Sir JOHN FORREST.—That will be done.

Mr. TUDOR.—I know something of the conditions which obtain in the works of the Colonial Ammunition Company, under the present management, and I am anxious to see more protection afforded to the employés. Not many years ago an accident occurred there, and during the consequent excitement many facts were brought out in the press which were not creditable to the establishment. I should prefer to see the ammunition required for the defence forces manufactured by the State, so that we could then regulate the conditions of labour. Last night the honorable member for Grampians said he hoped that the provisions of the Post and Telegraph Act regarding the mail service would receive attention, and that the inconvenience arising from the recent strike on the Victorian railways would not be allowed to recur. In that hope I join, and I trust that the Government will go further and carry a Conciliation and Arbitration Bill this session. Honorable members may say that the Victorian railway strike was a State trouble, but I believe that either the Supreme Courts of the States or the High Court when established, would rule that such a dispute did extend beyond the limits of any one State, seeing that the people of New South Wales and South Australia were prevented from travelling by rail, and had to resort to water communication. The honorable member for Wentworth, speaking on a motion submitted by the honorable and learned member for Northern Melbourne last session, in favour of the Commonwealth acquiring power to make laws regulating the conditions of labour, said—

Since we met in the Federal Convention, which framed this Commonwealth Constitution, there has been a very considerable evolution of thought with regard to certain matters that were then discussed. I confess myself, that by reflection, and by listening to arguments, to be more

convinced than previously of the necessity of including certain powers in the Commonwealth which we decided to leave in the States.

These remarks were made on the question of fixing the rates of wages, hours, and conditions of labour. The honorable member for New England on the same occasion, said—

I have always regarded it as a misfortune that the Constitution Act did not provide that the question of conciliation and arbitration, and the regulation of wages, and conditions of labour generally, should be left as matters for the sole control of the Federal Parliament.

Sir WILLIAM McMILLAN.—It was a great mistake.

In any case, I trust the Government will at an early opportunity introduce a Bill to prevent any recurrence of troubles, similar to that lately experienced in Victoria, and I hope that during this session we will be able to do something to prevent a recurrence of this dispute, and bring about better conditions for all employes in the Commonwealth.

Mr. CAMERON (Tasmania).—I have always regarded the debates on the Address in Reply as, to a great extent, a waste of time, unless there was a motion of want of confidence before the House. On the present occasion, however, I think the debate is a little more important than usual, seeing that we are a new Parliament legislating for a number of federated States. In a short time we shall have to give an account of our stewardship, and it seems to me that some of the few measures we have passed will call for hard names from those for whom we have been legislating. There are two measures which most prominently stand forward, namely, the Tariff and the Immigration Restriction Act. The Prime Minister, in his addresses in the different States, has always urged that the Tariff should be left alone in order that the people may have an opportunity of seeing how it works. He has also, I understand, claimed it, in its present form, as the result of his Maitland speech; but we, on this side of the House, have also a strong claim to be regarded as contributors to the Tariff as finally passed. In fact, I may describe the position as an alliance between a young free-trade father and an old decrepit protectionist mother. The result of that alliance is a child, of which the free-trade father is thoroughly and utterly ashamed, while the protectionist mother, knowing full well that from her age and other

circumstances, she will never have another, is determined to preserve her bantling to the utmost of her ability. My own opinion is that, as a result of the next election campaign, the protectionist bantling will die, more particularly when the Australians come to realize what they are called upon to pay as a result of its birth. I do not know whether honorable members have realized the result of this protective Tariff, and I desire to call their attention to the item of sugar. Owing to the protection given to the manufacturers or producers of sugar, the amount which the people have to pay, and which does not go to the benefit of the revenue, is over £500,000 per annum. I have carefully gone into the matter, and I find that there are, in round numbers, 8,000 persons deriving benefit from the sugar industry, and honorable members know that there is an excise duty of £3 per ton, and a duty of £6 per ton on sugar coming in from outside sources.

Mr. KINGSTON.—That is on cane sugar.

Mr. CAMERON.—So far as sugar grown by black labour is concerned, the cost practically amounts to the same as that on cane sugar produced outside Australia. I understand that a rebate will be allowed on sugar grown by white labour during the twelve months to the amount of £60,000, or about £2 per ton on 30,000 tons of sugar. There are something like 160,000 tons of sugar produced in Queensland and New South Wales.

Mr. KINGSTON.—No; that is the consumption.

Mr. CAMERON.—The honorable member for Gippsland last night stated that £60,000 was being paid to the producers of sugar by white labour, and that when the kanakas were deported in the course of some six years, the whole of the sugar produced, which I understand is 160,000 tons—

Mr. KINGSTON.—I said that about 170,000 tons would be the total consumption.

Mr. CAMERON.—Then the Minister ought to have told the House how much sugar is going to be produced in Australia, or otherwise, why was £340,000 mentioned as the amount the Customs were going to lose when the full rebate was allowed? At the present moment, in order to encourage the growth of sugar by white labour, and to encourage the growth of sufficient to

meet our own requirements, the manufacturer is at present receiving practically a bonus of £3 per ton. Imported sugar is being landed and sold throughout Australia at practically 10s. per ton less than the price at which the Australian sugar is sold, though it is a fact that in certain cases the price is the same. If imported sugar can be brought in, duty paid, and sold at such prices, then local producers ought to be able to supply the community at £17 or £17 10s. per ton. If the local producers bring the price up to the same as that of the imported sugar, it means that the people of Australia are paying to a small section of the community something like £500,000 per annum, and that payment will go on so long as the present duty continues. We were told that this is a bonus to the growers of Queensland and New South Wales.

Mr. A. PATERSON.—It is a bonus for the abolition of black labour.

Mr. CAMERON.—But the question arises whether we can do without black labour; and in the meantime, until the kanaka goes, the consumer is paying £3 per ton more for sugar than there is any necessity to pay. The Immigration Restriction Bill has excited great indignation over a large portion of Australia. I do not suppose that such a Bill would have been allowed to pass had it been thought that it would be administered as the Government have administered it. From a return laid on the table on the evening before last I find that 680 persons applied for admission under this Act. Of those, 633 were rejected because they were not able to comply with the education test, which consisted in asking them to write a certain number of words consecutively. No fewer than 33 of the men rejected were white men, and I am sorry to say that three or four of them were British. Now, we know that it is only within the last few years that the governments of the various countries of the world have devoted much time and trouble to the education of their peoples, and that there are, therefore, a number of very able and intelligent men who in their youth had no opportunity to acquire the art of reading and writing. It may thus have happened that men who would have made good colonists were rejected because they were not educated. But although 33 white men were rejected because they could not pass the test, the same number of coloured men were admitted

because they could read and write. Therefore it seems to me that the test is worse than useless.

Sir EDMUND BARTON.—Does the honorable member say that, when he knows that 630 coloured people were rejected?

Mr. CAMERON.—I and another honorable member were the only two who strongly objected to the provisions of the Act. It is true that I supported the Government in providing for an education test rather than a colour test, but I did so upon the principle that of two evils one should choose the lesser. When the measure was under consideration I told the House that I was prepared to limit the number of Chinese and Japanese who could come here, not because I was afraid that the people of those races would come here in such numbers as to reduce wages, but because I felt that if they came here, and increased to large proportions, they might eventually menace the safety of Australia. I am, however, no believer in the "white Australia" cry. I told honorable members that I saw no reason why, in order to provide for the continuance of the sugar industry, an arrangement should not be made with the British authorities in India for bringing a certain number of Hindoos or other men of Indian race here under agreement to work in the fields, to be sent back when their term of service had expired. Parliament, however, passed the Act which we now have on our statute book, and the result was the very unpleasant incident which has been so much discussed. It was sought to refuse admission to men belonging to the British race who were in every respect desirable immigrants.

Sir EDMUND BARTON.—Can the honorable member refer to a case in which such men have been refused admission?

Mr. CAMERON.—The men I allude to were not allowed to land as British subjects ought to have been allowed to land in what is practically a British country.

Sir EDMUND BARTON.—Notwithstanding the law!

Mr. CAMERON.—If they had been felons or malefactors the law might very well have been put into force against them, but they were refused admission simply because they came out under an agreement by which, although they may not have contracted for

the high rate of wages now prevailing in Australia, they were to receive better wages than they were being paid in England. That having happened, I think the sooner the Act is removed from the statute-book the better, and I trust the leader of the Opposition, or some other honorable member, will, before the session closes, take steps to secure its repeal, now that we have seen the mistake which we have made. A short Act dealing with aliens such as the Chinese, would answer all purposes, and would place Australia in a higher position in the eyes of the civilized world. With regard to the proposals contained in the Governor-General's speech, there are one or two which I shall cordially support. I have always held that, Australia being an island continent, a fleet is a form of insurance to us, so that we could not do better than, so to speak, subsidize the British authorities, if they require a subsidy, to provide for our defence. I do not see that great prominence has been given in the speech to the arrangement for the taking over of New Guinea by the Commonwealth. I presume that what we agreed to last session will be ratified, and I ask honorable members who made such a howl about a white Australia a few months ago how they will reconcile their position then with their unanimous approval of the proposal to take over New Guinea? We have been told that if we allow aliens to come into Australia we shall have a piebald population; but if New Guinea is incorporated in the Commonwealth the time must come when its people must be admitted to all the rights and privileges of citizens of the Commonwealth, because it will be colonized largely by men who have gone from Australia. When New Guinea contains a large population of white people, we shall be unable to refuse them the franchise. We cannot say to them—"So long as you remain in New Guinea you will be regarded as aliens, and will have no voice in the framing of the laws of Australia." They will demand, and we shall be compelled to yield, the privileges which are enjoyed by our own people. But another difficulty arises. As a rule when men go to countries which are inhabited by coloured people, they to a certain extent carry their lives in their hands, and most of them go unmarried. But if they settle in such a country they often in course of time make alliances with the natives amongst whom they live, and in

this way a mixed population is created. How can the Commonwealth call itself a "white Australia" when it has within its borders such a population as must spring up in New Guinea? The thing is absurd. I do not intend to discuss the other Bills on the programme, because there are many other honorable members who wish to address the House; but I desire to say that I thoroughly approve of the intention of the leader of the Opposition to endeavour to obtain at the next general elections an opinion from the country as to whether we should adopt a protective or a free-trade policy. As the honorable member for Parramatta has said, honorable members were to a certain extent returned under false pretences at the last elections. Many of them were returned, not because of their fiscal opinions, but because they had occupied important positions in the State Ministries and Parliaments, and it was felt by the electors that the ablest men offering should be chosen. The Government have succeeded in passing a very hybrid Tariff, and one which is, I think, unsatisfactory to both parties. I have always been a revenue tariffist. I could not, like an honorable gentleman who spoke yesterday, reconcile free-trade opinions with the advocacy of a duty upon potatoes and oats. The furthest I have gone in the direction of protection—if I can be said to have gone in that direction at all—is in voting for the Bonus Bill when it first came before us. I voted then for the payment of bonuses for a certain limited period. When the Bill came before us on the second occasion, I voted against it, because it had been altered in an important particular. I trust that the battle of free-trade and protection will be fought out to the bitter end. No doubt, honorable members opposite would like the present Tariff to continue in force for a little while to see how it works. I have already shown what the consumer has to pay on sugar, and how he is being robbed. If all the sugar consumed in Australia were locally produced, the manufacturers would be able to pocket the duty of £6 per ton, and the consumers would have to pay £800,000 within a few years. Referring to the question of revenue tariffism, as distinguished from protection, I still feel very sore at the attitude assumed by the leader of the free-trade party with regard to the tea duties. I hold that as a revenue tariffist it was his duty to have

supported that impost. One of the arguments used by the right honorable and learned gentleman was that as duties were being levied upon nearly everything, and New South Wales would receive a far larger amount of revenue than it required, he did not feel justified in supporting the tea duty. Whilst, however, the Prime Minister, on various occasions, has twitted the leader of the Opposition upon his attitude, I say that ten times more blame attaches to the Government for the action they took. If the Government had desired to study the interests of the smaller States, they should have called their supporters together and told them that the imposition of the tea duty was a matter of policy by which they would stand or fall, and that if the interests of the smaller States were not studied to the extent they regarded as necessary, they would hand in their resignations. If they had taken this attitude a large majority of the Government supporters would have stood by them, and the duty would have become the law of the land. They, however, left their supporters to do as they pleased, and in spite of the support received from ten members of the Opposition the duty was defeated. Their action was neither more nor less than a sop to the labour party. If it were not so, why in the name of decency was not the duty dealt with in the order in which it appeared upon the Tariff? It was dangled like a carrot at the nose of the donkey, and the donkey followed it and eventually had the pleasure of devouring it. Without detaining the House at any further length, I will conclude by venturing to hope that the remarks which I have made will bear fruit in due season.

Mr. THOMSON (North Sydney).—Whilst I highly appreciated the strong and eloquent speech of the honorable member for Gippsland, I cannot say that I was fully in agreement with him. I cannot support the high eulogium he passed upon the Prime Minister's speech. I quite agree that that deliverance was excellent, but excellent only in passages. Like the curate's egg, it was good in parts, but the parts which were bad, were exceedingly objectionable. The right honorable gentleman offered the weakest defence I ever heard, even from a barrister-at-law, in regard to his statements made during the recess as to the action of the Opposition in the case of the tea duty, and in relation to

the Immigration Restriction Act. He had the audacity to endeavour to support these statements, although, as has been pointed out, a larger proportion of the members of the Opposition than of the Ministerial supporters voted for the tea duty.

Mr. CHAPMAN.—Is it not a fact that a number of members of the Opposition led the Government to believe they would vote for the duty, and then were wheedled into opposing it?

Mr. THOMSON.—I do not know whether that is a fact or not, but I am not prepared to believe it. I know that when the division came on, the honorable member for Eden-Monaro was looking for the Attorney-General, because that Minister had left the House in the face of an important division without pairing. It was a particularly audacious thing for the Prime Minister to say that there was an alliance between the Opposition and the labour party to defeat the Immigration Restriction Act, and it savoured very much of ingratitude on his part not to acknowledge that six members of the Opposition had actually saved the measure from defeat. Then, again, the Prime Minister made use of base insinuations as to the motives which prompted the Opposition in certain criticisms of the administration. He declared that the Opposition was influenced in its criticism of the Customs administration by a desire to aid the rich importers. He further said that they were induced by a disposition in favour of black labour to adversely comment upon the Government action in regard to the Immigration Restriction Act. He said that they were prompted, not by honest motives, but by spiteful feeling against the Government. He charged them with having in some mysterious way originated and spread the reports in regard to the rejection of the six hatters, which caused such a commotion throughout the British Empire. That statement has been fully answered by one of the Prime Minister's supporters, who condemned the action of the administration in the strongest possible terms. The Hon. Henry Copeland, the Agent-General of New South Wales, who is reported to have stated that the refusal to admit the hatters into the Commonwealth had created a bad effect in England, is a protectionist supporter of the Prime Minister, and protectionists throughout Australia were at one with the free-traders in condemning

that action. I do not intend to re-warm virtuals that have become cold during recess, but I must deal with certain acts of administration in connexion with the Customs and with the Immigration Restriction Act, because, owing to the Prime Minister's insinuations, it is necessary to give good reasons, instead of the bad ones suggested by him, for the attitude of the Opposition in each case. In the first place, however, I desire to allude to some of the leading features of the Governor-General's speech. The Prime Minister stated that the leader of the Opposition had discovered very little in the speech from the Throne with which he could find fault. The explanation lies in the fact that nearly all the proposals are with regard to machinery measures required to bring into force those provisions of the Constitution, to which effect has not yet been given. In this category I include the High Court Bill, the New Guinea Government Bill, the provision to be made for the direct representation of the Commonwealth in London by a High Commissioner, a uniform Patent Law, and the proposal to create an Inter-State Commission. The Defence Bill is also a machinery measure, although it is being brought forward very late in the day. The work outlined in the speech is no doubt altogether too much to be dealt with in one session. Some of those proposals which do not come within the description I have given are not open to criticism until we have seen the Bills when they are brought before the House. With regard to the High Court Bill, the proposed appointment of a High Commissioner in London and the Inter-State Commission Bill, I desire to say that whilst I am as anxious as is any other honorable member of this House to limit the expenditure of the Commonwealth, I shall support these proposals, if a good case can be made out for them. Regarding the Inter-State Commission I have no hesitation in saying that if the proposed Bill is founded on the provisions of the measure which was introduced last session, it will have my opposition. I cannot agree to the absolutely unnecessary expense that would be involved in bringing every common carrier throughout Australia—every bullock driver who crosses from one State to another, and every steamer that navigates our coasts—as well as the railways, under the control of that commission. I admit that there seems to be some necessity for the creation

of the commission, because preferential rates exist upon the railways in absolute contravention of the Constitution. These rates are really a substitute for the inter-State customs duties, which have been abolished, and we must adjust matters as soon as possible.

Mr. KINGSTON.—The fight is now at the railway stations instead of at the Custom-houses.

Mr. THOMSON.—Yes ; it is as the Minister says. At the same time, I do not think we should go further than is absolutely necessary. We should appoint a commission upon the cheapest possible basis, and restrict its work within the closest possible limits. If, in future, it is found necessary to extend the functions of the commission, we may introduce Bills referring other matters to its jurisdiction. With regard to the federal capital site, I am entirely in accord with the terms of the Governor-General's speech, and I hope that the Government will see the necessity and justice of pressing this matter to a decision during the present session. The honorable member for Gippsland alluded to the heavy new taxation which all the States would bear in connexion with certain matters which he mentioned. One of these was that of the sugar excise. But in this connexion it should be remembered that, although the total of his figures was a large one, it does not approach the extra taxation to which New South Wales had to submit to enter the Federation. Nearly £1,500,000 additional taxation had to be paid by the people of that State as a consequence of it entering the Federal union.

Mr. KINGSTON.—They had need of it, too.

Mr. THOMSON.—They did not need it, but like many other people, when they found their hands full of money they became spendthrifts, and incurred expenditure after expenditure until, instead of a surplus, they had a deficiency. That they did not need it was evidenced by the fact that they were before well able to carry on without it. To induce them to accept this burden and consent to the bond of union, provision was made in the Constitution that the capital site should be in New South Wales territory. That was recorded in the bond, and is one of the reasons why the site should be selected at the earliest possible moment. Then there is the matter of the establishment of Courts of Conciliation and Arbitration. I am fully impressed with the desirableness of avoiding

those contests between capital and labour which eventuate in strikes; but I have yet to learn how the combined powers of legislation on the part of the States and of the Commonwealth are going to work in unison upon this matter. I think it would have been better to await the results of the working of the Acts in the different States, to ascertain if they require amendment, and then for the Commonwealth to obtain the consent of the States to deal with the whole question.

Mr. JOSEPH COOK. — The need for amendment has now been pretty well indicated.

Mr. THOMSON. — I do not think that all the points which require amendment have been indicated. In addition to the clashing of legislative power, I am afraid that we may encourage the frequency of disputes by the multiplicity of courts. I am afraid that there will be a tendency both on the part of masters and men, when defeated in the State court, to take their case into the Federal court. Again, when a decision has been given in the Federal court in regard to an industrial dispute extending beyond the limits of a State, either side may create trouble in one of those States, and the arbitration court of that State may give an entirely different decision from that of the Federal court. Of course, it is possible that the Minister may have found a means to overcome these difficulties, but if his proposals, instead of reducing industrial disputes, are likely to increase them, I shall not be found supporting him. I need not enter largely into a discussion of the naval defence question, because I agree with those who have so ably supported the contribution to the Imperial Government. The honorable and learned member for Northern Melbourne, and the honorable and learned member for South Australia, Mr. Glynn, in their opposition to that subsidy, both made a strong point of the fact that if we commit ourselves to such a contribution, we shall eventually be committed to bearing our full proportion—on whatever basis it may be determined—of the expenditure necessary for the naval defence of the Empire. I do not think that that question arises at the present stage. If it comes to that, we are already committed, because we already contribute.

Mr. CROUCH. — Only the States contribute.

Mr. THOMSON. — The Commonwealth itself has contributed. The only thing which we are now asked to do is to contribute a little more than we have done previously, and I think there is reason for that. If we are to contribute at all, I think the amount for which the Government are asking is certainly not too much. In my opinion, it is even too little. We must also remember that all the schemes for local defence which are put forward by experts differ entirely. What one says is necessary another declares is unnecessary. One would employ heavily-armed vessels for defence of our harbors and offings, whilst another recommends cruisers to keep off the fast armoured vessels which might attack our commerce at sea. Which of these plans are we to adopt? To my mind, we require more knowledge of what is required and of the important developments which are at present going on in the way of naval warships. At the end of ten years, when this agreement expires, if there be then any sound reason for establishing an Australian navy, we shall be in a better position owing to the expiration of the Braddon clause to undertake the necessary expenditure.

Mr. CROUCH. — This agreement will never expire unless we terminate it by a deliberate act.

Mr. THOMSON. — Surely, if we have the option of ending it we can do so if we wish.

Sir EDMUND BARTON. — It continues for ten years, and may be terminated by two years' notice at the end of eight years.

Mr. THOMSON. — Precisely. If we do not see fit to terminate it, I presume it will be because it is to our own interests to continue it. The adjustment proposed of the rebate of the sugar excise duty I shall be prepared to consider when the Ministry bring forward the Bill relating to it. I know that the proposal will confer an advantage upon the State which I represent, but I am quite willing to consider other States in the matter: and, if I see good reason to oppose it, the fact that it will benefit New South Wales will not weigh with me. Another measure which is foreshadowed in the dim and distant future, and which, I suppose, is intended as the *pièce de résistance* for the elections, is the Navigation and Shipping Bill. I am very doubtful of the efficacy of such a measure. It seems to

me that it is intended to support what is already growing on our coast—a shipping ring ; and, whilst a measure to deal with rings and trusts is also promised by the Government, I think it will be found very difficult to handle that question in such a Bill. I do not suppose that the Minister will attempt to lay it down that the rates shall not be uniform, and if they are uniform I think this Bill will fail to operate, as similar measures have done elsewhere. The only other matter to which I wish to allude is that of preferential trade. I notice that the reference to this question is put very gently in the Governor-General's speech, which reads—

My advisers observe with gratification recent utterances of the Secretary of State for the Colonies, advocating the encouragement of trade relations between various parts of the Empire.

If we can judge from the telegraphed reports of Mr. Chamberlain's utterance—and I do not think we should hold him to them until the full text of his speech is available—it is not encouragement of trade, but compulsion of trade at which he aims. The idea is that trade shall be compelled to go in a certain direction. Now, I have a great suspicion of the compulsion of trade in any form. Just as the leader of the Opposition, in quoting Mr. Gladstone, said that we have been left free to buy our experience in any market, so we have been left free to buy or sell our goods in any market. That is a privilege for which we ought to be grateful, and one which we ought to hesitate before we give up. Under the new system, if it is ever adopted, we shall not be able to decide a Tariff for ourselves in what we consider the best interests of our own country. Word will come from Great Britain and other parts of the Empire that we must not do this or that, or retaliatory steps will be taken. Instead of offering, as it is supposed to offer, grounds for more cordial relationship between the mother country and her daughters, the system offers every opportunity for dissension, disagreement, and perhaps disruption, and its adoption would be the entering on a very dangerous course. I am at one with the honorable member for Parramatta—who put the matter so well—in having no belief that Great Britain will adopt such a system. What would it mean? According to the telegrams it means, not merely arrangement with the States of Australia and other parts of the Empire,

but it also means concessions to, in return for concessions from, the other powers of Europe. That implies a Tariff so extensive and so high in Great Britain that I do not believe for a moment the people there will entertain any such proposal. As to the questions of administration to which I have alluded, I should have liked to hear the Minister for Trade and Customs before I spoke, so that I might know, after his tour through the States and his experience at different meetings—very pleasant experience for the most part—and, after his interviews with different Chambers of Commerce, to what extent he is prepared to modify that administration of the Customs which has met with criticism so severe. I shall, however, have to do without the assistance which would have been rendered by that speech. In regard to the remark of the Prime Minister, about rich importers and poor sailors, I have to say that we are bound to look at this question apart altogether from the richness or poverty of those concerned. We desire to see even-handed justice extended to all, and to see no unnecessary interference with trade and commerce, which are the life blood of the community.

Mr. SALMON.—So long as trade is honestly conducted.

Mr. THOMSON.—I quite agree with that remark. I am afraid that in this, as in other matters, Ministers who get extreme powers are inclined to use them to the fullest extent not only in extreme cases, but in the most ordinary cases. In Sydney the Minister for Trade and Customs alluded, rather unkindly, perhaps, to a member of one of these Houses, whose speeches, he said, were like the reading of the Riot Act, inasmuch as every one fled when they began. I do not think that was a justifiable remark, but rather that the Minister and others would have found a great deal of benefit by staying to hear the speeches.

Mr. KINGSTON.—I said the speeches were as good as the Riot Act or "God Save the King."

Mr. THOMSON.—If we gave the Minister a Riot Act he would read it at every street discussion, judging from the way in which he administers the powers already invested in him. These powers are not extraordinary, but may be found in many Customs Acts.

Mr. JOSEPH COOK.—The Minister says that he is the only honest Minister for

Customs there has ever been in Australia.

Mr. KINGSTON.—I did not say anything of the sort.

Mr. THOMSON.—We will accept it that the Minister is an honest, though not the only honest, Minister. Some of these powers were given to the Minister before the Federal Tariff came into force, when he was administering the State Tariffs. How is it that they were never exercised then?

Mr. SALMON.—For a very good reason in Victoria.

Mr. THOMSON.—I am not speaking of Victoria; there are other States which have equally drastic provisions of the kind. When we gave the Minister the powers under the Federal Act, it was understood he would exercise them with a discretion similar to that he had shown in exercising the powers under the State Acts.

Mr. KINGSTON.—Does the honorable member mean with the discretion complained of in Queensland, which allowed the revenue to be robbed and honest merchants plundered? I did not know of the cases until they were brought under my notice by merchants.

Mr. THOMSON.—Why did not the Minister put in force the powers he had under the State Act?

Mr. KINGSTON.—I did as soon as I got the chance.

Mr. THOMSON.—The Minister had the chance immediately he took over the department, but he did not avail himself of it.

Mr. KINGSTON.—I sent men out to look after the matter.

Mr. THOMSON.—When the Customs Bill was before Parliament, the drastic nature of these powers was recognised by many honorable members, who had not perhaps observed that there were similar powers in other Customs Acts, and they were thought very severe, and, if unwisely used, dangerous. But the Minister assured the House that discretion would be used and that no honest man need fear. Honest men may not fear, but they suffer.

Mr. KINGSTON.—I referred to honest and careful men.

Mr. THOMSON.—In the other Chamber, Senator O'Connor, in reply to an objection that one section might be used with too much severity, and a fine of £5 imposed for a trifling mistake, said—

Of course, with regard to these trifling matters which are always used as an illustration, the answer

is, in the first place, in 99 cases out of 100 there will be no prosecution over these small things, and in the second place, if there is it is not likely they will be pressed in any way for the recovery of the few shillings, or the pound or so, which may be involved.

Has there been any fulfilment of that undertaking? There is good ground for reasonable leniency in the administration of such a Tariff at its early stages. The Tariff is difficult of interpretation, the lines that divide different classes of duty being narrow and vague in many cases. The difficulty is proved beyond doubt by the hundreds of decisions the Minister has given, and by the fact that many of these decisions are contrary—that a second decision cancels the first. That shows the difficulty of interpretation even by the framer of the Tariff. There have been prosecutions against individuals for breaches of the Act, and afterwards a decision has been given by the Minister showing that the view taken by the importer was a correct one.

Mr. KINGSTON.—Nay.

Mr. THOMSON.—The Minister stopped the goods of several firms in Melbourne.

Mr. SALMON.—The honorable member mentioned prosecutions.

Mr. THOMSON.—There have been prosecutions in connexion with cases where a decision was afterwards altered.

Mr. KINGSTON.—To what cases is the honorable member referring?

Mr. THOMSON.—I am speaking from memory, but I shall look up the cases. I could not even tell the Minister now what are his contrary decisions; but he himself knows there are a considerable number; and if any action was taken under the first decision it is patent that under the second decision a prosecution would not stand.

Mr. KINGSTON.—That is not so.

Mr. THOMSON.—It must be so.

Mr. KINGSTON.—It is not so; there have been prosecutions only from misstatements in regard to the nature and value of goods.

Mr. THOMSON.—There have been prosecutions of every description of offence, errors involving from 2s. 8d. to hundreds of pounds.

Mr. KINGSTON.—For misstatements of goods or value.

Mr. THOMSON.—And for perfectly evident errors, where no fraud at all was involved. Surely the Minister must never read the newspapers.

Mr. KINGSTON.—I do not rely much on some of the newspapers.

Mr. THOMSON.—If the Minister sees the newspapers he must know that magistrate after magistrate has regretted extremely having to impose fines in cases which they thought should not have been brought into court.

Mr. MAUGER. — Magistrates say that about every law.

Mr. THOMSON. — I was not aware of that, but I suppose I must take the honorable member as an authority. I may say that Judges have even refused to accept the law, as is shown in a case reported in the newspapers.

Mr. KINGSTON. — What does the honorable member think of such Judges ?

Mr. THOMSON. — In the case to which I refer, the Judge said the law was against natural justice ; and so it was.

Mr. KINGSTON.—Can the honorable member mention the case ?

Mr. THOMSON.—It was the case of an illicit still which was discovered on land over the crop of which somebody had a lien. When the party went to reap the crop he was arrested for having this illicit still, and because he did not bring evidence—though there was no statement or evidence of his guilt—to prove that he was innocent, as he was bound to do under the section of the Customs Act, which provides that persons shall be deemed guilty until they have proved their innocence, he was convicted. On appeal, the Judge said that such a law was against natural justice.

Sir EDMUND BARTON.—No Judge ever set aside the plain terms of the law on such a ground.

Mr. THOMSON.—The case I refer to was reported in one of the Melbourne newspapers on, I believe, the 23rd of April, and I shall endeavour to get the extract.

Mr. KINGSTON.—It must be from a reputable paper, and further corroborated by the facts.

Mr. THOMSON.—Whenever a member of the Ministry is in a corner, it is newspapers reports which are wrong ; and now it appears that the same view is taken not only in regard to reports of speeches, but also in regard to Judges' decisions. I am sorry I have not the newspaper extract here, and I should not have mentioned the case but for an interjection, but I have it on the premises, and I can show it to the Minister. Another reason for

breaches of the law is the improper system whereby duties are imposed on goods according to the use to which they are to be put. Certain articles are dutiable if they are to be used for certain purposes, and they are not dutiable if they are to be used for other purposes.

Mr. KINGSTON.—Will the honorable member give me an instance ?

Mr. THOMSON.—“Lining” is such an article, and there are many others. I objected strongly to such duties on every occasion when they came before us. I pointed out that an honest man who imported such goods might know that a certain quantity of them would be used for a purpose for which they were not dutiable, and another quantity for a purpose for which they were dutiable, and, with every desire to be just he would be unable to know what duty he should pay on the whole importation. An extremely honest man might pay duty upon everything imported, while a man who was not honest would pass the whole without the payment of the duty, as imported for a purpose which rendered them non-dutiable. That system has given an opening for the evasion of customs duties, and similar openings are given in many other directions. The first case which I will lay before honorable members does not display undue severity in the collection of revenue on the part of the Minister, but rather laxity in that respect. A petition on the subject is already before the House. The Colonial Sugar Refining Company allege that 9,000 tons of sugar have escaped the payment of excise duty, and they have asked for an inquiry into the matter. I know nothing of it personally, but a statement of the facts has been given to me, and I will briefly recite it to the House. The company say—

The Tariff was imposed on the 8th October, 1901, and all the sugar in our stores in Brisbane was taken possession of then and duty levied thereon as it went into consumption. Part of stock consisted of raw sugar bought from other manufacturers, and therefore in second hands : such sugar was also seized in the stores of the Millaquin Refinery.

In addition, all sugar made and bought by us in Queensland—whether on board steamers on the 8th October, or at our mills—was taken possession of, either in the mills or stores, or on delivery at the refineries, the only exception being some 50 tons in a store belonging to a forwarding agent at Mackay, of which no notice was taken.

At the same time five manufacturers in Queensland—one refiner and four mill-owners—held

about 9,000 tons of white sugar, which was regarded by the Customs as exempt from duty. It is believed that most of this sugar had been removed from the factories prior to the 8th October, but a quantity was, we have been informed, on steamers in Queensland waters, and the remainder was in the stock, custody, and possession of the manufacturers in Brisbane and elsewhere. In at least one instance the sugar was, we understand, in buildings owned by the manufacturer.

On the 18th October, the Collector of Customs in Brisbane was asked why he had not levied duty on the sugar, and a few days later the matter was reported verbally to the Comptroller in Sydney, further representation being made to him in Melbourne on the 31st October on the subject.

No considerable quantity of the sugar in question had by that time been disposed of, as all buyers had stocked up before the duty was imposed.

As the Comptroller had stated officially that this 9,000 tons of sugar should pay duty, we thought justice would be done to us, so did not appeal to Parliament at the time; but further remonstrances were addressed to the department during November, and on the 10th December we received a letter stating that the matter was under the consideration of the Minister.

Nothing more was heard from the Customs, and, as it was generally supposed in Queensland that the duty collected on the stocks of sugar on the 8th October would be given up, further action was not taken until the sugar duties had been discussed in the House, when the statement of the Minister showed that he intended to retain the money thus collected. An appeal was therefore made to the Senate for an amendment of the Act, so that the legality of the proceedings of the Minister could be tested in the Courts, but the majority voted against such amendment.

Mr. KINGSTON.—Was all this set out in the petition presented to the House?

Mr. THOMSON.—Not all of it. These are further particulars which I asked for—

It is to be noted that all proceedings taken by the department in this matter have been legalized under sub-section (b) of section 5 of the Excise Tariff Act, which provides that the stocks liable to duty were those "subject to the control of the Customs, or to excise supervision, or in the stock, custody, or possession of, or belonging to any brewer, distiller, or manufacturer, or refiner thereof."

The only sugar under the control of the Customs in Queensland was that on board steamers; what we had was seized. It is said that a portion of the 9,000 tons was on steamers at Bundaberg, or in Brisbane, or between these ports; if so, this was not taken for duty.

The stocks under excise supervision were those held by the brewers; in no case, we understand, was duty charged on these. The whole of the 9,000 tons above alluded to were unquestionably in the stock, custody and possession of the manufacturers, and under the Excise Act the Customs could at once have demanded full particulars as to places of storage, etc., so that the duty might have been collected. This was not, however, to our knowledge, done in any instance, and

the Brisbane collector was allowed to override the Comptroller, who, as before stated, regarded the sugar as subject to duty, and held that its exemption was an injustice to other manufacturers who were compelled to pay.

The view of the department on this point is set forth in the following ruling, of which a copy has been forwarded to us:—"If this sugar was manufactured before the 8th October, 1901, and on that date still belonged to the manufacturer, it is undoubtedly dutiable under paragraph (b) of section 5 of Excise Act 1902. This applies to all sugar belonging to the manufacturer thereof on the 8th October, 1901, notwithstanding it may not be in his possession on that date, or afterwards returned to his possession."

It is clear that in the last sentence "in his possession," should be read as meaning "in his premises," because the minute referred to certain sugar which had been removed from a mill in September, 1901, and returned thereto a year afterwards; and it shows that the department considered all sugar so removed was dutiable. Why, then, was not any effort made to collect the duty on the 9,000 tons? The sugars seized in Brisbane and elsewhere in Queensland, which belonged to us, were in every instance in buildings free of Customs or Excise supervision at the time the Tariff was introduced.

The suits entered by us against the Customs are to determine the legality of the seizure on the 8th October, and raise a number of difficult points of law. None of them touch or can touch in any respect the question of the exemption from duty of certain stocks here alluded to, which is a matter of administration solely, and cannot be reviewed by a Court as the law stands now.

Mr. KINGSTON.—Has there been any determination to exempt the sugar from duty?

Mr. THOMSON.—The department has not charged duty upon it. The best way of exempting an article from duty is not to charge duty upon it, and to let it go into consumption.

Mr. KINGSTON.—If any one owes money to the department he will be made to pay it.

Mr. THOMSON.—The department cannot collect the revenue upon this sugar if it has been allowed to go into consumption.

Mr. KINGSTON.—If the duty was ever due it can be sued for as a Crown debt.

Mr. THOMSON.—I do not think that under the circumstances it can be recovered. However, it would have been better to collect it ten days after the Tariff was passed.

Mr. KINGSTON.—Undoubtedly it would have been better to collect it immediately it became due.

Mr. THOMSON.—If the statement I have read is correct, the opportunity to collect it was not taken. I am not responsible for the accuracy of this statement,

though I asked that every care should be taken in compiling it. If the statement is correct, and the Minister could not collect the duty on the 18th October, 1901, how can he collect it now?

Mr. KINGSTON.—There was no authority for exempting any one from the payment of duty, and any one who owes duty will be called upon to pay it.

Mr. THOMSON.—The time to ask for payment was when the duty became due.

Mr. KINGSTON.—The matter is a subject for inquiry.

Mr. THOMSON.—Yes, and an inquiry has been several times asked for on the facts alleged. Before the Minister spoke in Sydney the managing director of the Colonial Sugar Refining Company wrote a letter to the Sydney newspapers, drawing his attention to the matter. The letter repeats some of the statements which I have already read, and which I will not read over again; but the writer goes on to say—

Our first petition was to the Senate, and all that the Government could advance against it was a remark by Mr. R. E. O'Connor that our clear statements of bare fact were impossible and incredible.

To the next petition, which was sent to the Governor-General (i.e., the Executive), the reply was that the Minister of Customs—at whose door the charges were laid—had ascertained that no discrimination was exercised by his officers in the collection of the excise duty.

That is not a reply at all. I think that the truth or otherwise of the non-payment of duty on the 9,000 tons should have been alluded to. It should have been stated whether the sugar existed to the knowledge of the Customs' officials, and why, if it so existed, it was not charged with duty.

Mr. KINGSTON.—The petition stated that there had been discrimination. The officer reported that nothing of the kind had occurred, and information was given accordingly.

Mr. THOMSON.—If the sugar did not pay duty, a discrimination was shown.

Mr. CONROY.—The Colonial Sugar Refining Company did not send any one to the Minister to represent their case in a proper manner.

Mr. THOMSON.—In connexion with the next step taken—the passing of a resolution by the four principal chambers of commerce in Australia, calling for an inquiry into the matter—I might point out that the members of those bodies were no more interested in the people who paid the duty than

in those who did not pay. The writer of the letter says—

The third step taken was a representation by the four principal Chambers of Commerce in Australia, to the Prime Minister, that an inquiry was called for in the matter, and it is significant that after several months Sir Edmund Barton has not been able to find a word of justification or even apology for his colleague's action.

Another Minister has, however spoken—the Attorney-General—who last week in a newspaper interview is reported to have said, first, that we were moving in the matter because we wanted the money paid by us to be returned, and, secondly, that so long after the event it would be difficult to prove anything.

Mr. L. E. GROOM.—Did they ask for a refund of the duty?

Mr. THOMSON.—Here is an answer to that question. Mr. Knox writes—

As to the first remark I have to say that it is not true.

This refers to the suggestion that it was desired that there should be a refund of the duty. Mr. Knox proceeds to say—

Mr. Deakin ought to know that the Customs cannot return any duties which have been legally levied.

That is so. The company recognised that if the duty were legally levied they would have no right to escape their responsibility for its payment, on the ground that the authorities had not made a similar levy upon others who might be equally chargeable, and they knew that the question as to whether the duty could be legally levied at all was one to be determined by the courts. The letter which I have read is a very strong one, which should receive the attention of any Minister. It is as much in the Minister's own interests as in the interests of the Customs administration generally that I bring this matter forward. The whole question should have been inquired into at an earlier date. Requests have been made for an inquiry, and yet the Minister has not taken any action. If he is able to say that he has done so, I shall be only too pleased to hear him.

Mr. KINGSTON.—There was no discrimination exercised in favour of any one. My instructions were to collect any duty that was available.

Mr. THOMSON.—I did not say that there was any intentional discrimination, but if the facts are stated correctly discrimination was exercised. I do not know whether that was done by the Minister, or by some one else connected with the Customs, but the Minister must be held responsible

for his officers in the same way as merchants are held responsible for the acts of their clerks. There is the strongest reason for inquiry into the points whether the sugar was in store as reported, whether the Comptroller stated that it was liable to duty, and whether the duty has or has not been collected. I do not vouch for the correctness of the statements which I have read to the House, but I have given them as they were conveyed to me. At all events, the case is one which calls for the closest inquiry by the Minister, and information should be furnished to the House as early as possible as to whether that duty was collected. If it was evaded, we should be told why the officers of the Customs or the Minister allowed the evasion, when the matter was reported to one of their departments on 10th October, further reported at a later date, and again on the 31st October, whilst correspondence and petitions have been passing on the matter ever since. There is another point to which I desire to direct the attention of honorable members, namely, the dangerous system that has arisen, partly under the powers given by this House in connexion with the Tariff, of allowing what is practically legislation by the Minister. I find list after list, some of them very long ones, exempting goods classed as minor articles for use in manufacture. Scores of instances might be quoted under this heading where articles are required to pay a duty if they are designed for one purpose, and are admitted free if they are said to be intended for use in manufacture. I took several articles haphazard from a list extending over at least two columns of the *Commonwealth Gazette*, which were enumerated under the heading of "Manufacture of Vehicles." Included among these are—"Couplings (shaft and pole); hinges (concealed and butt); joints (concealed); shackles; seat slides; staples (breaching). These, and a number of other articles appearing under the same headings will leave hardly any of the component parts of a vehicle subject to duty. Now, that is a very dangerous power for any Minister to exercise. Then we come to the taxation of substitutes, and I think the Minister has taken a wrong view of his duty in this respect. I tested this very question in New South Wales, and a decision was secured in favour of the view to which I am about to give utterance. Articles which were well

Mr. Thomson.

known at the time the Tariff was introduced, should not be taxed as substitutes for other articles. We had the power to tax such articles when the Tariff was before Parliament; and if the Minister desired them to be included in the dutiable list, he should have applied to Parliament for the necessary authority. If these articles were well known to the Customs at the time the Tariff was passed, they ought not subsequently to be taken as substitutes for other known articles. Just consider for a moment how far the system adopted by the Minister might extend. Any food preparation might be held by the Minister to be a substitute for some other food, and he might in this way impose duties upon articles which had been left free. I have not time to go through the whole of the Minister's decisions upon this point, but I have noticed two articles which, according to the Customs authorities, come within the category of substitutes, but which I say should not be so regarded. For instance there are mica chimneys. These articles have been imported for years, and were well known to the Customs at the time the Tariff was under consideration, and should then have been taxed if they were considered to be fit subjects for duty. Another article is curled fibre, which is also well known, and is now regarded by the Customs as a substitute for curled hair. We had an opportunity of taxing this article if we had chosen, but the Minister did not ask us to do so. Now, however, it is declared to be taxable as a substitute. The case of cartridges and the shot contained in them has already been mentioned. Under the Tariff cartridges were declared to be non-dutiable, but shot was made dutiable. I quite agree that there is some inequality in this, and if the Minister brings in a measure to make dutiable the shot contained in cartridges, I shall support him on the ground of justice. But when the matter was before Parliament it was decided, notwithstanding the fact that they might contain shot, that cartridges should not be dutiable. In spite of this the Minister has taken upon himself to legislate, not merely outside the authority of Parliament, but in the face of the decision of Parliament, and has endeavoured to impose a duty upon the shot contents of cartridges. It has been pointed out to me that cartridges appear upon the free list in the Tariff guide prepared by the Customs department, and

yet a duty was sought to be imposed upon them. I am very glad that the Minister has issued the Tariff guide, upon which a great deal of work has been expended, and which will prove very useful to the trading community. I do not intend to weary the House by reference to the various autocratic actions of the Minister to which exception has been taken from time to time. If honorable members want to find instances, let them refer to Senator Pulsford's lists. In regard to many of the complaints, no reply has been given by the Minister, and no doubt Senator Pulsford will direct attention to these cases in another place. I shall refer to only one case, in which a gentleman in Sydney was concerned. This gentleman endeavoured to obtain a hearing at the recent meeting of the Minister in Sydney, but he was not allowed to speak. I do not wonder at his indignation. The facts are these—The Fuller Carrying Company passed an entry for an invoice relating to 22 cases containing 441 separate items. There were two mistakes in the entry, one being an error in excess to the extent of 25s., and another an error under which the duty paid was 17s. short. Balancing one item against the other the department still stood with 8s. to the good. The importer, however, was brought up to the court on account of the shortage of 17s., and was fined. I believe that the Minister has stated that the fact of the over-payment was not brought to light until the case came into court.

Mr. KINGSTON.—Hear, hear.

Mr. THOMSON.—But when the over-payment was brought to light the case was not withdrawn, and the man who had actually paid the Customs too much was fined. Not only so, but before he could get delivery of his goods, although he had over-paid 8s., he had to enter into a bond, and obtain sureties, that if the goods were forfeited their value would be paid. Further, although the goods were landed in October last, the bond was only cancelled by the Collector of Customs on the 28th of last month.

Mr. PAGE.—How much was he fined ?

Mr. THOMSON.—Five pounds.

Mr. PAGE.—Did not the Minister return the fine ?

Mr. THOMSON.—He had not done so when he spoke in Sydney the other day.

Mr. PAGE.—The money should be returned.

Mr. THOMSON.—Cases of this unjust nature naturally provoke indignation. I do not intend to quote any more of these instances, because they are very numerous, and it would only occupy the attention of the House unnecessarily. At the same time I must admit that the Minister is to some extent moving from the untenable position which he assumed when he first undertook the administration of the Tariff. I do not complain of that, because I think the right honorable gentleman is moving in the right direction without endangering the revenue. But I would point out that the change which he is making, is, in itself, an indication that injustice has been done in the past. At one time the right honorable gentleman said that no discrimination ought to be exercised, that the courts should decide whether the cases which came before them involved fraud or merely error, but that he would not take it upon himself to decide the matter. Only the other day, however, in replying to a deputation from the Sydney Chamber of Commerce—and I congratulate him on the spirit which animated him on that occasion—he said that a discrimination is being exercised. Mr. Rogers remarked—

It was only the intention of Parliament that those extraordinary powers should be exercised, not in cases of trivial error, but in cases where there is an attempt to defraud.

Mr. KINGSTON.—That is another incorrect report.

Mr. THOMSON.—I will not be certain, but I think that I saw the statement recorded in both newspapers.

Mr. KINGSTON.—It is wrong. What I told the deputation was that importers must declare to the authorities the nature of the goods and their value.

Mr. THOMSON.—Further on Mr. Wall said—

He (the Minister) should be satisfied with genuine invoices giving the proper values and discounts, supported by a bill through a bank.

Mr. Kingston.—I quite agree with you that no importer should be prosecuted for a mistake in the duty, and I have put that in the letter to you. All I can say is I will sanction no prosecution of any importer so long as he properly describes the goods and gives their proper value. I will look after the rate.

Mr. Wall.—The practice does not bear that out.

Mr. Kingston.—I will look after that.

That is, so far, a step in the right direction.

Mr. KINGSTON.—That was done nine months ago.

Mr. THOMSON.—Mr. Wall is a gentleman who passes hundreds of entries per day through the Customs, and he says that it is not the practice. I admit that the Minister may have given the instruction nine months ago, because on several occasions I have discovered that his instructions have not been properly carried out.

Mr. KINGSTON.—I was sitting with the Collector of Customs at the moment Mr. Rogers read the letter, and he assured me that my instructions had been carried out.

Mr. THOMSON.—Another matter which calls for attention has reference to the long delays which have taken place in obtaining decisions. Frequently six, nine, and twelve months have elapsed. I know of one case in which goods were held for six months when the only thing required was a decision. I admit that the Minister has been burdened with work, and that for a time his health was not good. But there are officers in his department who are quite as capable of dealing with these matters as he is. If the work is getting too much for him some of the higher officials who are familiar with the policy which he has adopted should be allowed to decide them, thus facilitating prompt settlements.

Mr. SALMON.—But the Minister would be responsible.

Mr. THOMSON.—The Minister is responsible for a great many more things than his officers do. Recently we saw in the public press that when the Treasurer took charge of the Customs department, in the absence of the Minister, these decisions on long-standing undecided cases came out in scores, if not in hundreds.

Mr. SALMON.—The honorable member complained a little time ago that there were too many decisions.

Mr. THOMSON.—I did not say there were too many. I said that the number of separate interpretations by the Minister illustrated the difficulty of reading the Tariff. Then again, I think we should require some consistency from Ministers in the administration of their departments. For example, we find the Postmaster-General administering his department in one way and the Minister for Trade and Customs controlling his in quite another. As illustrating my remarks, I would direct attention to the following notice relating to the administration of the Postal department which appeared in a Melbourne paper of the

25th April, in reference to letters, money orders, &c., being enclosed in packets—

Senator Drake has been exercising the discretionary power given him by the law to fine rather than to prosecute. In some cases he has fined offenders as much as £1, but this regulation has been broken so frequently of late that the Postmaster-General wishes to notify that he may order prosecutions for the future.

These two departments therefore are managed in entirely different ways.

Mr. SALMON.—Does the honorable member suggest that the Minister should deal with those cases himself, because that would be a very dangerous practice?

Mr. THOMSON.—There is not the least danger in what I propose. I do not offer these criticisms from the stand-point of an opponent. The Minister for Trade and Customs knows that I have always been willing to make any suggestions I could to improve the administration of the Customs, and if he chose to adopt them I should be amply awarded by the knowledge that the department was working more smoothly in its relations with the public. But I desire to see all unnecessary friction removed. I am with the Minister in declaring that in all cases in which the element of fraud is present, or appears to be present, the importer should not be spared from a prosecution. But I do say this—that the inequality of Customs administration is not justified. And there is an inequality. There should be less discrimination than there is. There is now a discrimination between fixed duty entries and *ad valorem* duty entries. If a merchant makes a mistake, say weights, in a fixed duty entry, that mistake is corrected by the Customs, there is an end of the matter. But if he makes an equivalent mistake in an *ad valorem* duty entry he has to go to the court, because he has signed a declaration as to the accuracy of his statement. The offence is the same; but in the one case there is no prosecution. Why? Because it is claimed that the Customs have the goods there and can weigh them. But they have a far surer way of checking an *ad valorem* entry. They have the invoice, which is sworn to be the genuine invoice, and they have an opportunity of comparing that with the entry. Surely the sensible thing is for the Minister to say as he has said—although I fail to see that he fully carries out his principle—“I will be satisfied if you give a full disclosure and present to me the genuine invoice and the genuine goods at the wharf.

As to any error in your duty or any error that may enter into a declaration, my clerks are there to check your statements." In transactions between different merchants, if an overcharge is made by one to another, there is no part of the British Empire where that is treated as a crime and the man is taken into a court. The clerks of the other merchant are there to check, and as long as honest data upon which the calculation is formed are given to the Customs the Minister need require nothing more. If it is thought necessary to discourage error in the calculations based on each data, let there be fines for mistakes, and let them be imposed at once, as a matter of rule, by the officers receiving the entry. The Minister has power to impose fines. Let there be fixed fines imposed. The Minister can if he likes fine merchants 10s., £1, or any other sum for each error that is made. That is one way to secure correctness. If he demands full disclosures both of goods entered under fixed duties and *ad valorem* duties he has full security, and then if mistakes are made let him fine the individuals concerned indiscriminately without dragging them into the police courts. If a person commits an offence with the post-office by insufficiently stamping a letter the receiver is fined. Why should not the Customs adopt the same practice? There would be nothing in it which would assist evasion of duties on the part of those dealing with the Customs. Let the Custom-house be conducted on the most rigid lines as to honesty, but there is no need for all this friction, disturbing the good relations which should exist between the trading community of Australia and the Customs authorities. There are dishonest persons in the community who will try by every means and system to rob the revenue of large sums. At present the proceedings of the Custom-house suggest to me that the Minister and his staff are so busy catching mice that they cannot catch tigers—and the tigers are those persons in the community who will seek by every device to rob the Customs. We want those persons to be exposed, not a multitude of trivial errors which will occur in business. As to the administration of the Immigration Restriction Act, the Prime Minister states that his administration is in accordance with the intent of Parliament, and absolutely in accordance with the terms of the law. He says that he intends to administer the whole

Act in strict accordance with the law. I interjected while he was speaking that I did not recognise the accuracy of that statement. I will now endeavour to show that I was right in my view. If we look at the debates on the occasion of the introduction of that measure we find this statement, which was made by the Prime Minister, and which enabled him to get the powers which the Act conferred upon him. The right honorable gentleman said, alluding to a previous speaker—

He also knows that Governments must be credited with common sense, or it is no use committing to them the administration of such measures at all. This amount of common sense and discretion must be credited to the present Government and its successors.

Then he says further on—

I have told honorable members why we think it necessary to take large power, namely, because large powers are necessary to deal with the cases which we have to meet, and also because it is necessary to give a large discretion to the Government in the belief that they will not act harshly in those cases which are not within the evil we wish to meet.

That is the common covering request which secured the passage of the Act in its present form. Of course the amendment was not then in the Bill, but what did the Prime Minister say as to the object of the amendment. He said—

As to the other question, I think the amendment is a fair one. It tends to prevent the admission into the Commonwealth of persons who especially if they are not well educated, will be probably—or may be at any rate—brought here in ignorance of our industrial conditions, and who will thus enter into bargains which they would not have made if they had had the opportunity of observing the working of our institutions.

That is one thing the Prime Minister said ; here is another—

Moreover, this legislation has the further disadvantage of guarding against the making of agreements of which the workmen who made them would repent as soon as they landed on our shores. I think the amendment is a fair one, and shall, therefore, support it.

These are the assurances given to us by the Prime Minister, and the intention of those who passed the measure was never that it should be exercised in the way it has been exercised. Other honorable members have quoted extracts which show that this was the opinion current in the House. When the Prime Minister says that if that is not the intent of the Act it is the law, and that he will administer the law to the letter, I reply that he will not do so, and

that he is not doing so ; further that if he did do so, then we should have to take out of his hands, or the hands of any Minister, a measure that would work such trouble and be so decidedly objectionable. Other provisions of the Act exclude all persons likely, in the opinion of the Minister, or of an officer, to become a charge on the public or any public charitable institution, persons suffering from infectious or contagious disease of a loathsome or dangerous character, persons who within three years have been convicted of an offence, not merely political, and sentenced to imprisonment for one year or longer and have not received pardon, and prostitutes or persons living on the prostitution of others. But it cannot be doubted for one moment that some members of these classes have come in since the Act was passed. It would be ridiculous to say that amongst the multitudes which have arrived and are arriving here such persons are not included. Does the Prime Minister stop them? No. Is he carrying out the terms of the Act? No.

Sir EDMUND BARTON.—How did you learn that? Is it imagination? There is no basis of fact for the statement.

Mr. THOMSON.—I put it to the Prime Minister whether he dare tell me that since the Act was passed he has excluded all the arrivals that come under those descriptions?

Sir EDMUND BARTON.—Wherever I could find them out, I have done so just as I exclude those who are under contract.

Mr. THOMSON.—But how would the Prime Minister have to act if he wished to exclude all these undesirable persons, or a large portion of them?

Mr. KENNEDY.—That objection applies to all laws.

Mr. THOMSON.—It applies to many laws, but the Prime Minister says that it shall not apply to this law, because he is going to administer it in all its strictness. Is he administering those other portions of the Act in all their strictness?

Sir EDMUND BARTON.—To the same extent as in the case of the hatters.

Mr. THOMSON.—The Prime Minister excludes only those undesirable immigrants of whom he knows.

Sir EDMUND BARTON.—How can I exclude those of whom I do not know?

Mr. THOMSON.—I am not saying that the Prime Minister can do so, but I am asking what action he would have to take

in order to find out who are undesirable immigrants, of the classes I have just mentioned.

Sir EDMUND BARTON.—The same action as I would take in other cases.

Mr. THOMSON.—I may say that I have anticipated all the arguments that may be used by the Prime Minister, and I am quite prepared to answer them. In order to see that he was not allowing these undesirable people to come in, the Prime Minister would have to make all persons arriving prove that they were not undesirable. Was that horrible state of affairs anticipated when the Act was passed? What action did the Prime Minister take with the hatters? He made them prove that they were not prohibited immigrants. What I say he should do, if he administers the Act in such a case as he does in the cases of the other classes of undesirables, is to have a good *prima facie* case before he acts.

Sir EDMUND BARTON.—The Act makes the existence of the contract or agreement a *prima facie* case.

Mr. THOMSON.—The Act allows the admission of those whom the Prime Minister considers to have the skill required in the Commonwealth.

Sir EDMUND BARTON.—Not until he has grounds for considering that to be the case.

Mr. THOMSON.—The Prime Minister has to exclude all those undesirable people I have mentioned, but he does not do so until his attention is called to their entry, and then he only interferes if he has good reason to know that they are undesirable. But in the case of the hatters the men were imprisoned on board a steamer in Sydney Harbor before he had proof that they were undesirable. The Prime Minister may smile at the term "imprisonment," but a night in gaol, although perhaps not very serious or more severe than an all-night sitting of this House, is felt as an indignity, because it deprives the man of his liberty to move about the world like other men, and if wrongful entails heavy penalties on those in fault.

Sir EDMUND BARTON.—Those men could have walked ashore at any moment if they or their master had shown that they possessed special skill required in the Commonwealth.

Mr. THOMSON.—If the Prime Minister is going to put a specially severe interpretation on this section in response to pressure

from anybody, it is time the provision was taken out of the Act.

Sir EDMUND BARTON.—I give the imputation of pressure an indignant and flat denial.

An HONORABLE MEMBER.—Or persuasion.

Sir EDMUND BARTON.—Or persuasion.

Mr. THOMSON.—The Prime Minister may deny as he likes, but we have the papers before us, and we see that pressure was brought to bear.

Sir EDMUND BARTON.—It is utterly untrue that at any time persuasion or pressure was attempted on me, and I have already said so to the honorable member.

Mr. THOMSON.—The pressure was from certain unions, who made an application.

Sir EDMUND BARTON.—I knew nothing of any such application until I gave my decision.

Mr. THOMSON.—The application was sent to the Prime Minister.

Sir EDMUND BARTON.—It may have been sent to another Minister, but I was not aware of it, and the honorable member ought to accept my denial.

Mr. THOMSON.—Did the Minister to whom it was sent not make any representation to the Prime Minister?

Sir EDMUND BARTON.—Not till after the decision. He simply sent the letter on without comment. I explained that in my speech.

Mr. THOMSON.—I only know that if similar action is to be taken in connexion with every man who comes to Australia, knowing or not knowing the conditions; if he is to be kept in prison—a bondsman on board ship—when perhaps he is perfectly entitled to enter the country, and the Prime Minister knows nothing to the contrary, then this clause must come out of the Act.

Sir EDMUND BARTON.—If the honorable member calls the ship a prison, each of these men had the key in his pocket.

Mr. THOMSON.—The men had not the key, and they were released only when they proved that there was no right to stop them. The Prime Minister knew that the Act was never intended to apply to these six men. The right honorable gentleman told us that the section is to prevent ignorant men, who do not know the conditions of the Commonwealth, being deceived, and he knew these men were aware of the conditions.

Sir EDMUND BARTON.—I knew nothing of the sort. I knew nothing but the fact that they were under contract.

Mr. THOMSON.—The Prime Minister ought to have known.

Sir EDMUND BARTON.—How could I know?

Mr. THOMSON.—The Prime Minister ought to have made inquiry.

Sir EDMUND BARTON.—May I inform the honorable member, as I informed the House, that inquiry was made at Fremantle, and it was ascertained that these men gave the officers there no reason to believe they were under contract?

Mr. THOMSON.—I do not know anything about that, but it is perfectly absurd for Australia to exclude men who are being brought here to start industries, and who, before leaving their native country, have sought to secure their position by entering into an agreement which rendered them freer than if they had come without an agreement. The clap-trap which has been talked about their being bondsmen is a disgrace to the proceedings of a Legislative Assembly. A man is freer when he is free from the danger of poverty and want of employment, and has a secure position, than if he enjoys none of those advantages. The men themselves recognised that, because they asked for the agreement.

Mr. RONALD.—But if six can be brought out, why not 6,000? The principle is the same.

Mr. THOMSON.—The principle is not the same. When these men entered Sydney Harbor, they must have thought—"Here is a land which our forefathers discovered, and helped to settle, and whose people owe their liberty to those from whom we have sprung, and yet we are precluded from landing on its shores, when we are here, not as members of an invading army, or in immense numbers, to disturb its industrial peace, or in any way to injure it, but, on the contrary, to benefit it by the establishment of a new industry. We are not here without the consent of our union, because we carry certificates from our union in Great Britain. Furthermore, our admission has been agreed to by the Sydney union, which resolved that all agreements entered into by Mr. Anderson before 1st December should be recognised." The honorable member for Yarra had to admit that last fact to-night. The men were not objected to

by the Sydney union, but some one in Melbourne—I am not going to impute motives, because I do not know them—made representation to two of the Ministers, and the men were stopped. The Prime Minister had his answer ready—"This is not a case in which I should interfere."

Sir EDMUND BARTON.—Where is the justice of saying that, when I have already stated that I gave my decision before I knew of the existence of any union? No representation was made to me by any union until my decision was given.

Mr. THOMSON.—The Sydney union passed a resolution favouring the admission of the men. It was the Melbourne union which lodged an objection to their admission.

Mr. F. E. McLEAN.—How did the Prime Minister become aware of the existence of the contract?

Sir EDMUND BARTON.—Through the sub-collector of Customs in Sydney, who telegraphed the information. That was the only intimation I had at the time.

Mr. THOMSON.—The *prima facie* evidence that the men were required in Australia was as strong as the Minister could have desired.

Mr. RONALD.—Does the honorable member suggest that the Prime Minister should have winked at the law?

Mr. THOMSON.—He should have done in the first place what he did at the last. Does he intend to exclude all who come here until good reason is shown for not excluding them? The fact that a manufacturer thought it worth his while to send to England for the men, engaged them there at union rates of wages, and advanced their passage money, is *prima facie* evidence that they were required in Australia.

Sir EDMUND BARTON.—That is equivalent to saying that the contract which was a reason for excluding was also a reason for not excluding.

Mr. THOMSON.—In this case the existence of the contract was a reason as evidence of the need of the men for not excluding. The action of the Prime Minister has made Australia the laughing-stock of the world. If he intends to continue to administer the Act in that way, the sooner we get the section under which he acted expunged, or very materially altered, the better for the whole community, including the working classes themselves; because nothing could do more harm to unionism than an action such as

was taken. If the Prime Minister carries out the other provisions of the law in the same way, he will have to make everybody who comes here prove that he is not a prohibited immigrant under the Act, and he is not prepared to do that. The Act is a discretionary measure. The Prime Minister, as I have proved by quoting his own words, asked for it as such. He told us we must trust the Government to administer it with due regard to common sense.

Sir EDMUND BARTON.—I was speaking of the education test, which is the only discretionary provision in the Act.

Mr. THOMSON.—The Prime Minister was speaking of the Act. He said "such measures."

Sir EDMUND BARTON.—Any one would know from the tone of the debate that I was speaking of the education test.

Mr. THOMSON.—In all other cases the Minister does not exclude until he has the clearest proof that the persons whom his action affects are undesirable immigrants.

Sir EDMUND BARTON.—The honorable member is unable to appreciate the language of the Act.

Mr. THOMSON.—I am at least able to appreciate the absurd position into which the Prime Minister has got the Commonwealth. It is only too manifest, not only to the members of the Opposition, but to some of his own supporters and to the world at large. The Prime Minister stated last night that the irritation he noticed on this side showed the strength of his arguments. I suppose he is not unwilling that I should turn his remarks on himself.

Sir EDMUND BARTON.—If I have displayed irritation, it was because the honorable member did not appear to be ready to accept my disclaimer.

Mr. THOMSON.—I accepted the right honorable gentleman's statement, and did not repeat my own after it was made. The Prime Minister has expressed great indignation because he has been charged with having brought down a Tariff which was not in accord with the terms of his speech at Maitland. The Tariff was certainly not such as was expected by many of those who voted for him and for his supporters in New South Wales. I desire to point out further that either the Prime Minister did not know during the electoral campaign what the Tariff was going to be, or that he concealed it from the electors. It would have been very easy for him to

indicate the character of the Tariff. He might have announced that it would contain duties ranging from 10 to 15 per cent., or from 20 to 30 per cent., or from 40 to 50 per cent., as the case might require; but not one word was said as to the real weight of the Tariff, although questions were asked on more than one occasion. Either it had not been decided upon, or accurate information regarding it was withheld from the public. Therefore it is perfectly reasonable, now that the Tariff has been brought forward and put into force, that the people whom it affects should have a chance of expressing their opinion regarding it. If honorable members do not give the people that opportunity, they will take it for themselves. I know that in New South Wales the electors will not be content to bury the Tariff question, and I am quite in accordance with the leader of the Opposition in his determination to bring it forward. If honorable members on the other side are as confident of victory as they profess to be, why are they so little eager for the struggle?

Mr. RONALD.—We had enough of it here last year.

Mr. THOMSON.—Let me tell the honorable member that the people of the Commonwealth have already had enough of the Tariff, and that they wish to see it altered. I should have been only too delighted if, instead of adversely criticising the administration of Ministers, I could have expressed myself in terms of approval regarding their work. It would have been much more pleasant if the results of the first year of the Federal administration had been more generally satisfactory to the people of Australia, because apart from our fiscal differences, which will have to be settled by the people, much of the perfectly justifiable dissatisfaction with the Federal Government would have been removed by better administration on the part of Minister

Debate (on motion by Mr. HENRY WILLIS) adjourned.

SPECIAL ADJOURNMENT.

Resolved (on motion by Sir EDMUND BARTON)—

That the House, at its rising, adjourn until tomorrow, at 10.30 a.m.

House adjourned at 10.47 p.m.

House of Representatives.

Friday, 29 May, 1903.

Mr. SPEAKER took the chair at 10.30 a.m., and read prayers.

ST. LOUIS EXHIBITION.

Mr. WILKINSON.—I desire to ask the Prime Minister whether the Government have considered the matter of the representation of the Commonwealth at the great exhibition to be held at St. Louis next year, and, if so, what decision has been arrived at?

Sir EDMUND BARTON.—The Government considered the matter some time ago, and came to the determination that it would not be desirable to spend the public funds upon the representation of the Commonwealth as such at the exhibition in question.

PAPERS.

Sir EDMUND BARTON.—In laying on the table the following papers:—

Papers relating to the refusal of certificates of domicile to three Chinese.

Supplementary papers relating to the admission of certain boilermakers into Western Australia.

I desire to explain, regarding the latter, that I had to obtain the permission of the Premier of Western Australia before I could present them to the House. They consist of a letter from myself to him, and his reply, and although not official papers in the full sense, are, I think, necessary in order to complete the information presented to honorable members.

IMMIGRATION RESTRICTION ACT ADMINISTRATION.

Sir EDMUND BARTON (Hunter—Minister for External Affairs).—The honorable member for Tasmania, Mr. Cameron, referred last evening to three British subjects who had been refused admission to the Commonwealth, and in order to remove all doubt I wish to explain that these three persons were not kept out for any reason other than those specified in the parts of the 3rd section of the Act which follow the provision for the education test. Two were prevented from landing on the ground that they were idiots, and the third was excluded as a person likely to become a charge on the public funds.

GOVERNOR-GENERAL'S SPEECH.

ADDRESS IN REPLY.

Debate resumed from 28th May (*vide* page 291), on motion by Mr. L. E. GROOM—

That the following address in reply to the Governor-General's opening speech be now adopted:—

MAY IT PLEASE YOUR EXCELLENCY—

We, the House of Representatives of the Parliament of the Commonwealth of Australia in Parliament assembled, beg to express our loyalty to our Most Gracious Sovereign, and to thank Your Excellency for the speech which you have been pleased to address to Parliament.

Mr. HENRY WILLIS (Robertson).—

It is not my intention to speak at any length upon the Governor-General's speech. I have been informed by gentlemen of large experience in the framing of speeches from the Throne, that for the most part the debate upon the address in reply is regarded as advantageous to the Government, inasmuch as it affords Ministers an opportunity of judging from the speeches delivered by honorable members as to the measures with which they may successfully persevere, and those which may be judiciously abandoned or postponed. I do not therefore think it necessary to say very much regarding many of the Government proposals until they come before the House for full discussion. I think, however, that I might appropriately address myself to matters arising out of the administration of certain measures passed last session. So much has been said in opposition to the administration of the Minister of Trade and Customs, that it is unnecessary for me to add greatly to the volume of criticism directed against him. There is no doubt that he is the most unpopular administrator within the Commonwealth. At the same time, I believe that the course adopted by him will render the work of his successor in the department very much easier than it otherwise might have been. The services of the right honorable gentleman in connexion with the prevention and exposure of frauds are such as to entitle him to our warmest thanks; but the practice followed by him of requiring reports to be sent from far distant places, such as Port Darwin to Melbourne, in order that his decision may be given upon the cases to which they relate, and the tyranny exercised by him in small and unimportant matters will, I am afraid, destroy any moral effect that might have been produced by the

honesty and impartiality of his administration. There is no doubt that the Minister of Trade and Customs—to say nothing of the Prime Minister, who seems to have vied with him in annoying the public—deserves the best thanks of the Opposition for having prepared the way for a very successful campaign against the Government, because the whole of the people of the Commonwealth are up in arms against their administration. We have heard a great deal about the successful legislation that has been enacted by this Parliament, and, so far as I can gather, the members of the labour party take to themselves most of the credit for passing into law the Franchise Act, the Electoral Act, the Immigration Restriction Act, and the Pacific Island Labourers Act. As a member of the Opposition, however, I claim to be amongst those who voted for these measures, and I affirm, further, that if it had not been for the attitude assumed by the Opposition, the Acts referred to would not have proved so beneficial in their operation. The Government were not always at the mercy of the labour party, but whenever anything was proposed for the benefit of the Commonwealth as a whole, they had to yield to the influence of the Opposition.

Mr. AUSTIN CHAPMAN.—Does not the honorable member consider that the labour party did good work?

Mr. HENRY WILLIS.—I have the greatest esteem for the members of that party. The liberals among them might very well sit upon this side of the chamber, but some of them are conservatives, from whom it will take some time to rub off the excrescences. This process, however, will be facilitated if they come much in contact with the honorable member for Darling, who is essentially a true liberal, although even he goes astray sometimes.

Mr. WATSON.—I believe the honorable member for Darling intends to contest the Robertson constituency at the next election.

Mr. HENRY WILLIS.—I have no fear of that, as I am sure that no one who is acquainted with my career will venture to meet me there. I notice one paragraph in the Governor-General's speech, which reads as follows:—

You will be asked to ratify an agreement between the Admiralty and the Government of the Commonwealth, which modifies the existing agreement, and secures for the naval defence of

Australia the protection of a powerful and continuously efficient squadron of warships at a moderate cost.

I find that Sir Henry Parkes took to himself considerable credit for introducing, on the 24th November, 1887, a Bill embodying the substance of an agreement entered into between the Australian and British authorities with reference to the maintenance of a squadron on the Australian station. That agreement was ratified by the several States, and formed the basis of the arrangement now in force, under which the Commonwealth contributes £106,000 per annum towards the maintenance of the squadron. It is now proposed to increase the amount to £200,000 per annum. Article IV. of that agreement reads as follows :—

These vessels shall be under the sole control and orders of the Naval Commander-in-Chief for the time being appointed to command Her Majesty's ships and vessels on the Australian station. These vessels shall be retained within the limits of the Australian station, as defined in the Standing Orders of the Naval Commander-in-Chief, and in times of peace or war shall be employed within such limits in the same way as are Her Majesty's ships of war, or employed beyond those limits only with the consent of the colonial Governments.

If we admit the principle that we ought to contribute to the British Navy for defence purposes, I am of opinion that £200,000 is not sufficient. I agree with the suggestion made by the leader of the Opposition that the Australian squadron ought not to be employed beyond the limits of the Commonwealth without the consent of the Government. To my mind, that is a very wise stipulation to impose. The forts of Australia in themselves do not provide an adequate defence, in addition to which the floating trade of the Commonwealth must be protected. In times of peace it is of little consequence whether or not a large fleet is stationed in our waters. It is only in time of war that we require such protection. Therefore, I hold that the Government of the Commonwealth should be consulted before these warships are removed from Australia. No less an authority than Captain Mahan has declared that it is most difficult for the guns stationed in forts to strike a moving object. Several instances have recently come under our notice which confirm that view. It is within the recollection of every one that Admiral Dewey's fleet had almost passed the forts in Manila Bay before it was discovered, and when it was, the batteries on shore were unable to

strike any one of his ships. I see by the sneer of the honorable member for Bland, that he assumes that the objective of any hostile fleet would be known long before it reached Australian waters, and that consequently we should be on the alert. But I would point out to him that whilst the forts at Sydney are well manned, and the submarine mines are under perfect control, similar conditions do not obtain in every port of the Commonwealth. During the Russian scare, nearly 20 years ago, I remember that a small Russian squadron appeared in St. Vincent's Gulf, passed Cape Borda, and anchored just beyond the Semaphore at Glenelg unnoticed, during the night. On that occasion it would have been quite possible for the Russians to capture Adelaide during the night, to loot the coffers of the banks and to make off with their treasure before breakfast. The instances which I have given evidence that it is quite possible for a hostile fleet to make a descent upon Australian shores without being observed. Commenting upon the Russian scare, the late Sir Henry Parkes declared that it was well known that Russia at that time had designs upon Australia. What was intended then could be easily accomplished by any great naval power to-day. Both the French and the Germans have established naval bases in the Pacific. Whilst Great Britain seems somewhat indifferent about her strength there, the French have been considerably increasing their fleet. They have a naval base at New Caledonia, and could very readily make a descent upon Australia. Consequently, if our ships were withdrawn from Australian waters, it is just possible that even some of the obsolete vessels belonging to the French—knowing that they would meet with no opposition—would swoop down and obtain a foothold upon our shores. The same remark is applicable to Germany. The Germans have secured a naval base in Samoa, which was given to them as a sop to prevent their taking hostile action against Britain in the Transvaal war. Samoa is within a short distance of New Zealand—no further indeed from it than is Melbourne, and in this connexion it should be remembered that the efficiency of the German Navy has excited even the admiration of England. Should Great Britain ever be defeated by a combination of the great Powers so that she could not provide Australia with an adequate naval defence, an enemy might very easily

obtain a footing in Western Australia or Queensland.

Sir JOHN FORREST.—There is no railway from Western Australia.

Mr. HENRY WILLIS.—The construction of the transcontinental railway would not overcome the difficulty, because although it would enable us to concentrate troops there within a few days, in the interim the enemy would have scooped all the available treasure and have made off. A very great deal has been said in regard to the administration of the Immigration Restriction Act. During the past few days I have heard honorable members confess that they were not aware that the particular provision in that statute to which attention has been directed was so stringent as it appears to be. I do not plead any such ignorance. I find that the provision is most clear and explicit. Sub-section (b) of section 3 declares that any person who is likely, in the opinion of the Minister or of an officer, to become a charge upon the public or upon any public or charitable institution shall be excluded from the Commonwealth. That is a very proper provision. Then sub-section (g)—which was the provision applied in the case of the six hatters—declares that prohibited immigrants shall include “any persons under a contract or agreement to perform manual labour within the Commonwealth.” That section, however, must be read in conjunction with section 11, which says—

No contract or agreement made with persons without the Commonwealth for such persons to perform manual labour within the Commonwealth whereby such persons become prohibited immigrants within the meaning of paragraph (g) of section 3 shall be enforceable or have any effect. The agreement entered into by these workmen became invalid as soon as they arrived in Australia. It is very clear, therefore, that the Act provides that if men are engaged abroad at a lower rate of wages than that which obtained in Australia, they may upon their arrival be excluded from the Commonwealth, because they have been brought here in ignorance of local conditions. If men have a knowledge of those conditions, or if they take the precaution to demand a fair rate of wage, they are eligible for admission; but the agreement is not binding upon them. That is a very proper provision, but it should not apply to British workmen brought here under agreement stipulating that they must receive the highest prevailing rate of wages and be paid overtime.

Mr. TUDOR.—Payment for overtime is not stipulated in the agreement.

Mr. MAUGER.—And it is not correct that these men were to receive the highest rate of wages.

Mr. HENRY WILLIS.—I am personally acquainted with Mr. Anderson, having known him as an honorable business man for ten or twelve years, and last night he told me that these men were paid at the highest—£3 per week—and overtime.

Mr. WATSON.—A wage of £3 per week is not at the highest rate.

Mr. TUDOR.—Mr. Anderson was giving £3 10s. per week to Victorian hatters.

Mr. HENRY WILLIS.—There may be isolated cases in which men are in receipt of more than £3 or £4, or even £5 per week.

Mr. MAUGER.—They are not isolated cases.

Mr. HENRY WILLIS.—It may be that men receiving these higher rates are managers of departments.

Mr. MAUGER.—The honorable member is wrong.

Mr. HENRY WILLIS.—At any rate I do not think that any workman will say that £3 per week is not a fair wage, or that in this particular trade it is not the highest rate prevailing.

Mr. TUDOR.—It is the minimum wage of the union—that is all.

Mr. HENRY WILLIS.—The contention of the labour party is not, I think, that these men would have been admitted if the wages to be paid to them had been higher, but that the employment of such skilled artisans must of necessity compete with the employment of others already in Australia.

Mr. WATSON.—I did not say anything of the sort. What is the use of misrepresenting?

Mr. MAUGER.—The very first letter sent by the Hatters Union said, on the contrary, that the men were heartily welcome, but that there was an objection to their coming under contract.

Mr. HENRY WILLIS.—These men were picked men from the Denton Mills near Manchester, and were to receive higher wages than they are paid in England.

Mr. MAUGER.—They might easily receive higher wages than are paid in England.

Mr. HENRY WILLIS.—As to the charge of misrepresentation, if honorable members will peruse the papers which are

on the table of the House, they will see that these men were objected to, not because they were undesirable men in the interests of Australia, but because they were highly skilled men.

Mr. TUDOR.—That is not so; the objection was that they were under contract.

Mr. MAUGER.—Read the first letter that was sent by the union.

Mr. HENRY WILLIS.—That letter contained the following:—

We offer no objection to the men as journeymen felt hatters, but strongly object to them under contract, as they receive regular work and wages, while men not so placed suffer from loss of time arising from the fluctuations of the demand for labour, thus giving those men undue advantage over all others.

Does not that mean that these hatters, if brought here, would come into competition with men already employed in the Australian trade?

Mr. MAUGER.—Into unfair competition.

Mr. HENRY WILLIS.—I contend that I am not misrepresenting the case when I say that that was the sole reason for the objections raised to the admission of these hatters. Is not the meaning of the opposition of the labour party that if these men were employed in Sydney, they would cause competition with the Denton Hat Mills of Melbourne—that this competition might overtake the demand now supplied by the craft in Melbourne, and thus take away trade, and possibly throw men out of employment in the latter city?

Mr. WATSON.—If the honorable member for Robertson applies that remark to me, he is absolutely misrepresenting what I said.

Mr. HENRY WILLIS.—I find that Mr. Smith, who represents the Hatters Union, wrote to this effect—

R My memo. of yesterday's date, I have the honour now of forwarding you a copy of the agreement supplied by one of the men who have come out to work at the Sydney Hat Mills. I may add that Mr. F. T. Tudor suggested that I should interview you re the same, but I think you may be able to answer the questions in the previous memo. without a personal interview. If not, I shall be pleased to meet you at any time convenient.

The agreement made between Mr. Anderson and the hatters runs thus—

Mr. SPEAKER.—What the honorable member proposes to read was read last evening.

Mr. HENRY WILLIS.—I was not aware that the agreement was read last night, and I have been challenged to refer to it. I desire

to show that these men were employed at a high rate of wages.

Mr. JOSEPH COOK.—I rise to a point of order. Surely it is admissible for an honorable member to read a statement which has already been read if he desires to point an argument? There is no rule to the contrary that I am aware of.

Mr. SPEAKER.—There are rules against undue repetition, and if an honorable member is simply reading a document which has been read at a previous stage of the debate, I shall certainly call his attention to the fact. I should be very far from preventing the reading of such document if an honorable member were desirous of raising a new argument. If the honorable member intimates that his object is to present a new argument or new interpretation I shall permit him to proceed.

Mr. HENRY WILLIS.—I desire to make some comments on the agreement in reply to an interjection. The agreement is as follows:—

1. Charles Anderson agrees to engage the said Joseph Joules as planker and hardener, for a term of three years at a weekly wage of £3 per week, and the said Charles Anderson advances to the said Joseph Joules for his passage out, viz., £25, which shall be deducted from his wages by amounts of 10s. per week, until this sum of £25 is liquidated. Holidays not to be paid for.

2. Joseph Joules agrees that he is an efficient hand in planking and hardening, and that he is perfectly competent in his work. Also, Joseph Joules contracts to be sober, attentive to business, and to do his work to the satisfaction of the said Charles Anderson.

These men were brought out by Mr. Anderson, who advanced each of them £25 for the payment of his passage, and made provision for defraying the expenses of their families in England whilst they were on the way to Australia. The honorable member for Bland last night described these men as slaves who could not leave their work, although in the same breath he gave instances of men who were brought out under contract to work in the mines of New South Wales, and who broke their agreement by absconding.

Mr. SPENCE.—And were sent to gaol for doing so.

Mr. HENRY WILLIS.—And some of these men preferred to undergo that penalty to working at a lower rate of wages than that prevailing in Australia. These hatters were of the very same class as the miners; that is, they were unionists who stipulated for the highest rate of wages procurable in England or Australia.

Mr. SPENCE.—No, they did not.

Mr. HENRY WILLIS.—I am assured by Mr. Anderson that the agreement made with these men in England was merely provisional, seeing that under the Act it must become invalid as soon as they arrived in Australia. I am further informed that when the men did arrive another agreement was entered into with them.

Mr. TUDOR.—Does the honorable member say that these hatters signed a second agreement?

Mr. HENRY WILLIS.—They voluntarily entered into an agreement with Mr. Anderson to work at the same rate of wages as had been stipulated for in the previous contract. That was after the interview with the honorable member for Yarra, and I very much regret to find that an honorable member of this House should take so important a part in attempting to exclude British workmen of the very highest class who are brought here for the promotion of an industry which would be so largely beneficial to the Commonwealth. However, notwithstanding that these hatters knew the facts—notwithstanding the statement of the honorable member for Yarra that they were not aware of the Australian conditions when they entered into the first agreement—it is true that they entered into a fresh contract with Mr. Anderson.

Mr. TUDOR.—Does the honorable member really say that these men signed another agreement here?

Mr. HENRY WILLIS.—On the authority of Mr. Anderson, I say that another agreement was entered into with these men as soon as they landed in Australia.

Mr. TUDOR.—With the six hatters?

Mr. HENRY WILLIS.—With the six notorious hatters, and Mr. Anderson further informs me that one of the men, after entering into the second agreement, went away to New Zealand, leaving Mr. Anderson his creditor for something like £30.

Mr. MAUGER.—Serve him right!

Mr. HENRY WILLIS.—Although the honorable member for Bland described these men as slaves, who would not follow the example of the miners and run away from their employment, the facts show that, without the intervention of the honorable member for Yarra, or Mr. Smith, the secretary of the union, they were well able to

take care of themselves. The honorable member for Bland said—

On behalf of the labour party he wished to say that he had no objection to a number of British white people coming here to make homes for themselves and to assist in the development of Australia.

The honorable member for Bland intimated that he was then speaking on behalf of his party; and a member of that party is the honorable member for Yarra, who, with Mr. Smith, took a very active part in the endeavour to secure the exclusion of these competent men from Australia.

Mr. MAUGER.—That is not fair.

Mr. RONALD.—Is the honorable member for Robertson an authority on Acts?

Mr. HENRY WILLIS.—I am an authority on the Immigration Restriction Act, to the passing of which I was a party.

Mr. SPENCE.—How does the honorable member know that these men were competent?

Mr. HENRY WILLIS.—Mr. Anderson himself stated that the man who went away to New Zealand was highly competent.

Mr. MAUGER.—Why did he go away?

Mr. HENRY WILLIS.—I suppose he thought that New Zealand was a glorious country, where he might do quite as well as in Sydney, and by going there he had the advantage of clearing £30 by the fraud he was perpetrating on his employer. That was an inducement to him to leave Sydney. The honorable member for Bland said—

What they did insist upon was that these men should come free from any control as to their employment, and free to compete on equal terms with their fellow workmen.

These men were free to compete on equal terms, for we have the information that they voluntarily entered into another agreement when they knew the local conditions. After all the stir that had been made, after the members of the union in Victoria had interviewed them, and told them possibly, as the honorable member for Yarra intimates, of the conditions prevailing in the trade here—with all this information before them they were satisfied with the terms of the new agreement, and with the wages that were offered. I shall now refer to the administration of the Act by the Prime Minister. The Act is specific, and is satisfactory from my point of view. It specifies that no man shall be brought here in ignorance, and that if he is brought here under agreement, it shall be

invalid as soon as he arrives. The men therefore were absolutely free, but the Prime Minister was most anxious to follow the dictation of representatives of the labour party, and prevent the admission of these men, who were brought out for the purpose of working in a new mill that would turn out goods in opposition to those manufactured in Melbourne. He made it his duty to follow the dictation of the labour party, and prevent these men from coming in, and, in order to prove that that was the case, I refer honorable members to a letter in this batch, which I shall not read for fear that it may have been read in my absence from the chamber, and in which the manager of the Denton Mills in Melbourne takes the trouble of saying that, while at one period of the year there are not sufficient men even for his own requirements in Australia, at other periods his men have to be worked overtime. He goes the length of putting upon paper these facts for the purpose of influencing the Prime Minister to prevent competent men from coming to Australia to work in a competing factory.

Mr. MAUGER.—Will the honorable member read that letter? It is a misrepresentation, because the managers of the Denton Mills supported the hatters coming in.

Mr. HENRY WILLIS.—The letter is in the batch. The Prime Minister allowed himself to be used by the labour party for the purpose of keeping out these hatters, although the evidence was before him that they were skilled men, from the very fact that they were required in an industry which was not fully manned, and that they would receive the highest ruling rate of wages. It seems to me that the honorable member for Bland, who states candidly that he has no sympathy with the contention that we should keep Australia for ourselves and our families, takes a brief on behalf of the men who would wish to keep out of Australia competitors in their own line of life. Am I to understand that he leads a party—a small section of the community—who would make him a bond slave rather than a free man, that he must follow their behest, and see that hatters are not allowed to enter Australia, and compete with them in their particular craft, and that he would have the Act perverted? When he found that public indignation was aroused and contempt showered on the labour party for its action, then he said

the Prime Minister should have acted more promptly—that is, that he should not have stopped the men coming in, I take it.

Mr. WATSON.—He did not stop them.

Mr. HENRY WILLIS.—Before the honorable member went to New Zealand, he fairly egged on the union men to keep up the agitation against the admission of the hatters—I read his remarks in the press—while another honorable member was taking an active part in preventing the admission of skilled men, and bringing all the influence he could to bear upon the Government in their administration to pervert the true meaning of the Act respecting the importation of objectionable immigrants. I do not think it is necessary to go into other matters which are referred to in the speech. The Bills will be brought forward in due time, and shall receive my very careful consideration. I hope that the Government will not follow the dictation of any particular section of the House, but will administer the laws as they were intended to be administered, so that every citizen of the Commonwealth shall have full justice done to him.

Mr. McCOLL (Echuca).—There is a disposition in certain quarters to condemn the making of speeches on the address in reply. But I think it would be somewhat unreasonable if this well-established practice were put on one side. There are only a few occasions upon which honorable members are enabled to speak their minds upon general topics, and to criticise the administration to any extent—the address in reply, the Budget, and perhaps a motion of no confidence. These speeches clear the atmosphere, enable honorable members to express their views on many questions, which perhaps during the session they might not otherwise get an opportunity of discussing. Therefore, I think reasonable time should be allowed for discussing the topics in this opening speech. I should not have risen to speak but for the address delivered the other day by the honorable and learned member for South Australia, Mr. Glynn, on the Murray River question, and the water question generally. So far as I can ascertain, the conduct of affairs by the Government has been giving very fair satisfaction throughout the country. Of course, opposition men, whether in or out of Parliament, will always find causes of offence on the part of

the Government. Strike high or strike low, these opponents will never be satisfied, simply because the Government cannot please them, no matter what it does, or how long it stays in office. We can quite understand that attitude, and, of course, it discounts all their utterances. Under the somewhat stricter régime of the Commonwealth as regards customs administration and postal administration there will be a good deal of friction, until people get used to the new conditions. The stricter administration of the laws has been the cause of dissatisfaction. But when we consider the whole subject in a fair and impartial light; when we consider the new problems which have had to be solved, and the many changes which have had to be worked in various directions, when we consider the peculiar constitution of this House, and the way in which parties are balanced, I think it will be admitted that it would have been very difficult to obtain a Government who would have done better under the circumstances than has been done. The leader of the Opposition has been touring Australia. He has made the gravest charges; he has, so to speak, slated the Government in every possible way. But there has been very little response indeed to his attacks. In fact, it seems to me from what I have read that in every place he has left the Government in perhaps a little stronger position than it was in before he went there. He is very desirous of raising the fiscal question again. It is somewhat difficult to understand his attitude. He declines to take office, although his friends in the press say that it is waiting for him if he will only consent to sink the fiscal question. But he declines to take office unless he can lead a free-trade majority. Seemingly he is not very anxious for office, because he must know in his inner consciousness that the chance of his leading a free-trade majority in the House is very remote indeed. What the country wants is not a stirring up of fiscal strife, but rest, economy, and development. I should like to see the Parliament and the Government doing a little towards bringing about those three things. The opening speech is a very long one, and to me it is unsatisfactory in this respect, that it comprises nine or ten items which are associated with the expenditure of money to a very great extent, but does not contain

Mr. McColl.

a single item of expenditure for the development of the country, and helping the people to earn more money than they did before, and thus meet the increased expense which, to a certain extent, the Commonwealth has brought upon them. The speech fails very much in that respect. In Australia we have gone through very bad times indeed. We have had a terrible drought. We have seen our people driven off the land after having been there for very many years. There is only one remedy for that condition of affairs, and that is the development of our resources and increased production. From beginning to end of this speech, there is not a suggestion to help our people in any way. There are many ways in which that help might be given. There is not to my mind that leaning towards economical Government which the people expected to find in the speech. I represent a farming community, and so far as I can, I intend to preach economy and practice it. Whenever an expenditure is proposed, which in my opinion is not necessary in the country it shall have my opposition, no matter by whom it may be proposed. I think it would be a gross injustice to Australia at the present time to go to any great expense in selecting the federal capital. I am quite aware that it is provided in the Constitution that the capital shall be in New South Wales, and I am quite prepared to abide by the letter of that provision: but no time is specified. While I am quite content to see the site of the capital selected, I shall oppose any undue expenditure of money in that connexion at the present time.

Mr. WATSON. — Would it necessitate much expenditure immediately? I do not think so.

Mr. MCCOLL. — As the honorable member knows, a Government or a Parliament always starts in a small way at first, but one thing leads on to another, and before it knows where it is it may be committed to a large expenditure, which, under present conditions in Australia, is not required, and cannot be justified. With regard to the capital, while I am content to see the site selected, I am not willing to go further. I am not anxious to keep the seat of government in Melbourne, and am quite content to put up with the inconvenience of travelling to Sydney to attend the meetings of Parliament. But I intend to oppose any undue expenditure. There is

also the question of the establishment of the High Court. From what I am able to learn, it does not appear to me that the proposed expenditure upon the High Court is justified. I do not see that there is any need for running into great expense at the present stage. Apart from that, the salaries proposed under the Bill strike me as being extremely high. We are to have a Chief Justice at £3,500 a year, and four other Judges, each of whom will receive a salary of £3,000 per annum. That is not the worst of it; for if these men become incapacitated after a few years service they will be in receipt of large pensions. If the Chief Justice retires from the bench after six months service he will receive a pension of £700 per annum; if after five years service, £1,050; if after ten years, £1,750; and if after fifteen years, £2,450. Any one of the other Judges could retire after six months on a pension of £600; after five years on a pension of £900; after ten years on a pension of £1,500; and after fifteen years on a pension of £2,100. I am dead against this pension proposal. It would be even better—high as the proposed salaries are—to pay the Judges more money and allow them to make provision for their later years by insurance or otherwise. It does not seem to me that these gentlemen should be treated in a different manner from any member of the rank and file of the service. They will be paid high salaries, and should be well able to make provision for themselves, considering that their extra expenditure will be amply covered by allowances. I do not see my way to give these proposals of the Government my support, and there will have to be very strong reasons adduced if I am to change my views. Another proposed expenditure that is not necessary is that upon the Inter-State Commission. We have heard some little talk about friction in regard to railway rates and river charges, but it does not seem to me that there is any occasion at present for incurring the proposed expenditure. Undoubtedly we shall require an Inter-State Commission by-and-by, but let us wait until Australia grows in wealth, population, and importance before we bring this body on to the stage. With regard to the much vexed question of the six hatters I do not propose to say very much. I went to a considerable length in supporting the labour party with regard to the Immigration Restriction Act, because I recognised that Australia being so

close to the vast hordes of population in Asia, there is a danger lest those people should come here and attain undue proportions, and I recognise, from what has taken place in Pennsylvania, in the United States, where large numbers of lower-paid European workmen were brought in to compete with local labour, that there is a need for imposing severe restrictions. The effect of the immigration into Pennsylvania was that not only were workmen ruined, but trade and business throughout the State were brought to a very low ebb. I was prepared, therefore, to go to a great length in support of this policy. But when the news came to hand that British-born workmen—men of “the bulldog breed”—had come here and been refused admission to practise their lawful avocations—agreement or no agreement—it struck me, as it did the great majority of the people of this country, with a kind of shock. Something should be done to prevent that kind of thing. I do not know whether the leader of the Opposition has the courage of his opinions, and is prepared to submit a clause to amend the section of the Immigration Restriction Act. If he does not propose something of that sort, I shall take it that he is not very sincere in his condemnation of the Act. I hope that something will be done to modify the measure, so as to permit British-born workmen to have a free entrance to these portions of the British dominions. But the difficulty that has arisen might have been solved much sooner than it was had a little more judgment been shown—or perhaps I should say, had it not been for the wilful perverseness of the man who imported the six hatters. It seems to me that there was a deliberate intention not to settle the matter quickly. There was an intention on the part of the importer of the hatters to flout the Government and bring them to their knees. It seemed to be thought that the force of public opinion would compel the Commonwealth Ministry to admit the men without having regard to the provisions of the Act. For this reason, I had not so much sympathy for the employers of the men as I should otherwise have had. With reference to the subject mentioned by the honorable and learned member for South Australia, Mr. Glynn, the other day—that of our water supply, and more especially of the use of the waters of the River Murray—I have some remarks to make. I

consider that this question of water supply is one of the most important that can possibly be considered in this Chamber. There is no factor that has so much to do with the prosperity of Australia as the supply of water, and there is nothing that will tend more certainly to bring prosperity to the Commonwealth than the utilization of the water supply which we have. We have in Australia some 3,000,000 square miles. In that area there are 1,219,600 square miles of territory with a rainfall of under 10 inches. There is an area of 843,100 square miles with a rainfall of from 10 to 20 inches; an area of 399,900 square miles with a rainfall of from 20 to 30 inches; we have under 225,700 square miles with a rainfall of from 30 to 40 inches; under 140,300 square miles with a rainfall of from 40 to 50 inches; only 47,900 square miles upon which the rainfall is higher than from 50 to 60 inches per annum; while we have only 70,000 square miles upon which there is an annual rainfall of over 60 inches per annum. These are serious facts that this House should take into consideration, if we are going to develop this country. We cannot progress unless we take steps for the conservation of river waters, and the utilization of them to the fullest possible extent. Many reasons are given for the greater comparative advancement of New Zealand than the Commonwealth. Many people believe that the labour legislation has a great deal to do with it. I hold, however, that it is the land resumption policy and the water supply that have given to New Zealand the position it has to-day. Their crops are so much more certain. With us, throughout the greater part of Australia, agriculture is a pure gamble. It is a chance whether or not a man will get any return for his efforts. There are many agriculturists in Australia who sow with little certainty of getting any return. Whatever we can do to make the man who tills the land more secure should be done, both by the State Houses and also by the Commonwealth Parliament. How can we hope to get population to come here unless we improve the agricultural prospects of the country? We cannot possibly provide for a great many more people in the cities unless we have a larger back country—unless we feed the great reservoirs, our cities, by means of the streams of production which will come from a closely-settled country.

Mr. McCulloch.

It stands to reason that we cannot progress otherwise. We have here a large continent that is at present only settled in the proportion of one and a half to the square mile, as against 48 to the square mile in Asia and 99 in Europe. We should do all that is possible to make provision for the settlement of the population that is born in the country, and for those who may be attracted here. But it is necessary to study the geographical conditions of Australia if we are to carry out this policy. We have a very big country. Honorable members are as well conversant with the map of Australia as I am, but I must remind them of some features. We have here, beginning with the Grampians in Victoria, a mountain range running east, and then right up north, and then westward to Warrego. That mountain range runs from 1,000 to 7,000 feet in height. On the outside of that range every drop of the water that falls goes to the sea; on the inside of the range, for the space of some 900 miles by 500—some 420,000 square miles in all—every drop of water that falls, if it were possible to save it, would find its way to the junction of the Darling and the Murray. We have there our great arterial river system, which, while we have not a great rainfall—because it must be remembered that it is in the winter that we have any large rainfall, and in the summer we have scarcely any at all—offers conveniences for conserving the supply, and should enable us to make use of it in times of drought, and during the summer months. But that great catchment area is not all effective. Out of an area of 420,000 square miles there are only about 160,000 square miles which are actually effective in securing and conveying water. Much of the water that falls in the form of rain is lost in wide open spaces, and in sandy country where it percolates rapidly away. Therefore, there is only a moiety of the area that is effective in giving water to the rivers. Of that effective area there is in Queensland, 67,690 square miles; in New South Wales, 75,499 square miles; and in Victoria, 15,310 square miles. Although the effective area in Victoria is smaller, yet, because of its having mountains close to the Murray, it supplies a larger proportion of water to the Murray than do the other States. The Murray itself is the main drainage course of the east and south

eastern portion of Australia. The honorable and learned member for South Australia, Mr. Glynn, says that the State which he represents gives away a large quantity of water, whereas as a matter of fact not a drop of water which flows into the Murray and feeds it falls within South Australia. To show what goes down the Murray, I will take the volumes of Albury and Echuca. In a high year at Albury, there flows down 264,000,000,000 cubic feet, sufficient to cover 5,280,000 acres 12 inches deep. In the lowest year known—not including last year, which may be lower than the lowest year on the printed records—91,000,000,000 cubic feet of water flowed by Albury, sufficient to cover 1,820,000 acres 12 inches deep. In a mean year there are 144,000,000,000 cubic feet of water, sufficient to cover 2,880,000 acres 12 inches deep.

Mr. CONROY.—Does the honorable member mean sufficient to cover that area at the season of the year when the water is wanted?

Mr. McCOLL.—To enable this water to be utilized at a time when it is wanted, there would have to be a system of water conservation, so that the water would be ready for use when it was required. At Echuca, there flows down the Murray in a low year 403,000,000,000 cubic feet of water, sufficient to cover 8,060,000 acres 12 inches deep. In a low year 157,000,000,000 cubic feet is sufficient to cover 3,140,000 acres, while in a mean or average year, 254,000,000,000 cubic feet is sufficient to cover 5,080,000 acres. It will thus be seen that if we only conserve these waters—if the Government will take the matter in hand, and, with or without the co-operation of the different States, will provide storages to conserve the waters of the river—enormous possibilities will be opened up for the interior of this continent.

Mr. CONROY.—Does the honorable member think the work would return interest?

Mr. McCOLL.—I shall come to that question in a moment. The honorable and learned member for South Australia, Mr. Glynn, complained that the allotment of water which had been made to South Australia was too small. I shall deal only with the lowest—that of course will cover all the rest. Under the lowest allotment it is provided that South Australia shall have 150,000 cubic feet of water per minute passing over her boundary

at Morgan. No matter how straitened New South Wales may be, no matter how straitened Victoria may be—even if our crops are perishing—this allotment, according to the agreement arrived at by the Premiers, must pass down the river at Morgan. The other States are to lose their water in order to make good that supply. According to its report the Royal Commission on the River Murray, which has been sitting, would allow in low years only 70,000 cubic feet of water to pass over the boundary at Morgan, and the arrangement made by the Premiers is one that I cannot understand. The ostensible object for which this volume of water is desired to pass over the boundary is that navigation may not be interrupted. This supply of 150,000 cubic feet per minute is to be sent down in order that South Australia's trade with the Darling and other places may not be interfered with. As a matter of fact, however, such a supply would not allow of navigation, because I understand it would allow only vessels with a draught of 2 feet to pass up and down stream. Therefore, I cannot understand why this quantity should go down the river at the expense of Victoria and New South Wales. We must remember that in conveying that quantity some hundreds of miles down to the river to the boundary at Morgan, an enormous loss of water must take place. The whole of that water could be utilized for production higher up the river, whereas it may simply be wasted in going down stream.

Mr. CONROY.—What would be the quantity that would have to pass at Balranald in order to give that supply at Morgan?

Mr. McCOLL.—I cannot say. I have not gone fully into the figures so far as they affect New South Wales. It may be interesting to learn what this 150,000 cubic feet of water a minute would do. It would irrigate some 1,576,000 acres of land, and surely its utilization in that way would provide a better asset for this country than would the mere passing of the water down the river in a volume which would not even allow of navigation, and would only be wasted in the sea. I do not understand why the Premier of Victoria gave away in regard to this point. Before leaving Melbourne for Sydney he took up a very strong attitude. He claimed that Victoria had a right to use her own waters to her own advantage and in the best possible way.

In order to allow of navigation at Morgan the river would have to be at least 4 feet above summer level, and it would require nearly 400,000 cubic feet a minute to be sent down to secure that level. The honorable and learned member for South Australia, Mr. Glynn, said that there was only 276,000 acres of land under irrigation in Victoria. Possibly that was the case last year, but the area of land under our irrigation trusts is nearly 2,000,000 acres. The failure to some extent of our irrigation schemes has been due not to anything essentially wrong in the schemes themselves, but to the fact that the work of conservation and distribution has not been carried out as originally projected. No loss would have been occasioned by these irrigation schemes, and there would have been no writing off of the capital advanced by the Government of Victoria to the various trusts if the original proposals had been carried out. The amount written off was not anything like as large as that mentioned by the honorable and learned member. He said that we had written off £1,750,000 on account of our irrigation schemes. That is not the case. The total amount written off consists of £1,068,399 in respect of capital, and £574,252 in respect of interest. That writing off of capital and interest, however, was in relation to water schemes which have been in progress for the last 40 years. Various local councils, waterworks trusts, and other bodies for the distribution of water participated in it. When the whole matter came up for rectification, every local body seized the opportunity, and wherever it was found that they could not pay interest on the money advanced, a writing down took place. The amount written off in respect of our irrigation trusts was only £720,252 in respect of capital, and £337,239 in respect of interest. The writing off of capital and interest in this way is not an unusual occurrence in regard to irrigation in other countries. The whole undertaking was new to Victoria, but even new as it was, and untrained as our people were in the work of irrigation, success would have attended their efforts had the work of conservation and distribution been carried out as projected by the honorable gentleman who is now Attorney-General of the Commonwealth. In that event there would have been no scarcity of water. Drawbacks might have been experienced during the first few

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years, but the irrigation trusts would have ultimately proved a success. We are now anxious that these works for the conservation and distribution of water should be carried out, and we require the water supply to make the trusts the success which they should have been years ago. Complaint is made that the Victorian Government are constructing works of great magnitude which will carry large volumes of water over our country. I would point out, however, that those works are not being constructed with a view of depriving the people of South Australia or others lower down the river of the supplies they require in the low seasons. They are being constructed so large because during the winter months, when water is rather a curse than a blessing to other places, enormous volumes which flow down our streams could be barred in their way to the sea, and conveyed over thousands and thousands of acres in the north-west as well as over the northern plains. There it could be stored in dams, lakes, reservoirs, and other places for use during the summer months. Honorable members know that under the conditions which prevail in our northern districts a farmer is always certain of a good crop if he can give his land a flooding in winter, and whilst a large area to the west does not look for water when it is wanted elsewhere, if it could only get it at a time when it is being wasted, the farmers there would be able to make a living, and by means of their increased production increase to a very great extent the prosperity of the country.

Mr. PAGE.—Does not the honorable member think that is a very selfish policy?

Mr. McCOLL.—On the contrary, I think it is a wise policy, and I should be very glad to see Queensland make some provision in the same direction. My argument is that if Victoria is to be deprived of these waters the same principle will apply to Queensland, and in urging the claims of Victoria I am speaking just as much for New South Wales and Queensland as for the people of this State. The honorable member's interjection shows that he does not understand the question in the slightest degree.

Mr. PAGE.—The honorable member wants all the water for the people of Victoria; he does not want the people of the other States to receive any.

Mr. McCOLL.—I have never said anything of the kind. The honorable and learned member for South Australia, Mr. Glynn, said that a sum of £250,000 was invested in boats on the Murray. That, however, is a mere circumstance compared with what we could do by the utilization of this water for irrigation purposes. It may be of interest to honorable members to learn what is the value of the water that is running away to the sea every year, and what effect it would have upon the production of our country. In the fourth progress report published by the Victorian Royal Commission in 1899 the value of water in various countries is set out. In Italy, according to this report, 60,000 cubic feet of water per minute is worth from £500 to £1,600; in France, it is worth from £500 to £2,250; in America, it is worth from £800 to £8,000. According to the last book issued by Mr. Wilcox, the eminent engineer of Egypt, every milliard of water which comes down the river and is utilized there is valued at £300,000. Having regard to the millions and millions of cubic feet of water which we permit to run to waste every year, honorable members will see what an enormous wealth we are allowing to slip away. The honorable and learned member for South Australia, Mr. Glynn, referred somewhat lightly to irrigation, and to a very great extent discredited its use. He pointed out, for example, that in countries where the system had been tried it had not been attended with much success. In making that assertion he was entirely in error. In the United States of America, they did not go in for irrigation to any great extent until about 1871 or 1872—just a little while before the subject was mentioned in Victoria. The growth of irrigation there has been such that there are now 8,000,000 acres—the reference will be found in Smyth's *Conquest of Arid America*, published a year or two since—commanded by irrigation channels.

Mr. DEAKIN.—There are now over 11,000,000 acres commanded by them.

Mr. McCOLL.—Yes. The book which I quote is a year or more old. In the irrigated districts of the United States the progress made has been five times as great as that in the more prosperous dry districts. In passing I might mention that I am speaking somewhat under difficulties, as I left my references at home, and have had

to collect my notes very hastily. If I had my references here I should be able to give honorable members the exact figures. In California, where irrigation has been introduced into the various counties, the progress has been five times as great as in those districts where they have kept to dry farming, and in many of the irrigated colonies in Southern California there is now a population of 500 to the square mile. Production is increasing there by leaps and bounds, and in consequence of this increased production, California is going ahead at a truly marvellous rate. At the last meeting of Congress, the President of the United States of America dealt very strongly with this question, and urged the conservation and utilization of every drop of water that could be obtained in the western districts of the States. The honorable and learned member for South Australia, Mr. Glynn, made some reference to irrigation works in Egypt, and from his remarks it would appear that he has not kept himself in touch with what has been done there. Egypt possesses some 6,250,000 acres of cultivable land, and it has to be remembered that not an acre is cultivable without irrigation, owing to the fact that it is a rainless country. They have made an expenditure of £16,000,000 on the Assouan dam and other works connected with it. Two years have not elapsed since the completion of these works, but during the year following their construction the Government secured an enormous increase of revenue from their land tax. That tax, properly speaking, is a water tax, because, if the people obtain no water to irrigate their land, the tax is not levied on them. The revenue obtained through this source during the year following the completion of these great works was raised from £22,000,000 to £28,000,000, and the expenditure mentioned has added an asset of £60,000,000 to the wealth of Egypt. Within two years, owing entirely to irrigation, Egypt, which has laboured under a debt of £105,000,000, has been able not only to pay her way, but to build up a surplus of £2,000,000 to the good. That has taken place in a country which in 1876 was ruined by Ismail Pasha, who ran the national debt up from £5,000,000 to £70,000,000 in six or seven years. Egypt has been able to recover its position only by the aid of English engineers, who repaired the Nile works, thus enabling the

application of its waters to irrigation purposes. If we desire to see our country grow, we shall have to adopt a somewhat similar policy. I come now to the condition of India. There we find that enormous works have been carried out. From 1890 to 1899 its revenue was £18,500,000, while the expenditure was £20,000,000, showing a loss of £1,500,000. But from 1897 to 1899 the irrigation works picked up, and while the revenue was £7,088,487, the expenditure was only £6,470,431. In 1891 there were 13,500,000 acres under irrigation in India. I believe that there are now some 25,000,000 acres under irrigation, and the works up to a late period were returning 4·2 per cent. interest. With respect to the agreement entered into between the Premiers of the different States in Sydney, the honorable and learned member for South Australia, Mr. Glynn, expressed the hope that it would be passed. It is, no doubt, very favorable to South Australia, but it is not favorable either to New South Wales or Victoria. I take a strong exception to that agreement; in the first place, because, for the first time, it permits the interference of outsiders in the control of our own local waters required for local purposes. It proposes to limit the use of the water falling within our own territory to a very much lesser volume than we are in Victoria already committed to in connexion with our water trusts. Our limit, under the agreement, is 147,000 cubic feet in low years, but our commitments in Victoria amount to 267,000 cubic feet—103,000 cubic feet for the western channel, 24,000 cubic feet for the eastern channel, the Murray trusts are committed to 80,000 cubic feet, and the Mildura Trust to 60,000 cubic feet. The stagnation and the distress in the north-western districts of Victoria have arisen in consequence of our not utilizing this water, and instead of our being restricted in its use we should be encouraged and enabled to use it to a greater extent. The terms of the agreement give, to my mind, an undue preference to navigation as against irrigation, which the relative value of the two interests does not in any way justify. The agreement gives an unreasonable arbitrary flow to South Australia for navigation purposes, which is prejudicial to the interests of Victoria, and much more than the Murray River Commission decided that South Australia was fairly entitled to. I believe that if such an agreement is passed into law

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it will block the development of the water resources of New South Wales and Victoria for the next five years. The trouble is that nothing is proposed to be done during the five years to settle the points of difference at present existing between South Australia and the other two States. We are just to maintain the *status quo*, and at the end of the five years we shall have to fight the whole battle over again. Under the agreement, it is proposed to place the Murray in the hands of a commission of three. It gives to that outside body a controlling power, to which, as a Victorian, I decidedly object. We have spent a very great deal of money, and in the matter of water conservation have advanced far ahead of the other two States, and I therefore object to put Victoria in a minority on a commission having control of the lives, fortunes, and interests of our people in the north, who have been induced by the water policy of this State to settle there in many thousands. This agreement will not only prevent national development, but it will check individual enterprise, because in the case of streams flowing into the Murray, and covered by the agreement—some six in Victoria, and others in New South Wales—not a single offtake can be obtained, and not a single engine can be erected upon a stream or river beyond what is now there to pump a drop of water from it without the consent of this controlling body. I object to our people being placed under outside control in that way. Another drawback to the agreement is that nothing is done towards arranging either amongst the States themselves, or conjointly with the Commonwealth, to provide works for conservation or distribution during the five years, so that at the end of that time the agreement might be put upon one side, with satisfaction to the States concerned. In the agreement there is no recognition whatever, but rather an entire supersession of the powers of the Commonwealth in connexion with the navigation of the Murray. While undoubtedly the Commonwealth has power to construct locks on the Murray for the furtherance of navigation, it is doubtful if action in this direction will be taken. If we are to have locks on the Murray, then I say they should be locks which will be not only suitable for navigation, but auxiliaries for purposes of irrigation. They should be high enough to keep navigation going, and at the same time to

permit of the utilization, by gravitation, of the water stored. Any other policy in their construction will be foolish and shortsighted, no matter what the additional cost of the policy I suggest might be.

Mr. CONROY.—Such works would not pay interest on the cost of construction.

Mr. McCOLL.—Yes, they would pay interest all right. Another objection I have to the granting of this concession by Victoria to South Australia under the present agreement is that it will form a precedent for the future. If Victoria through her State Parliament ratifies this agreement it will be impossible for her in the future to retreat from the position defined by the agreement, and she cannot again be placed in the position which she occupies at the present time before the agreement is ratified. Another point of great importance is that the joint commission, when it is appointed, is to be the judge as to what is a reasonable use of the water supply for purposes of irrigation. But Victoria and New South Wales having under this agreement laid down an arbitrary quantity of water which they bind themselves to take, how will it be possible for the commission to ask in future that these quantities should be increased? If such an application were taken, for instance to the High Court, I think it is unlikely that the Court would be disposed to give the States more than under this agreement they agreed to take, and it would be rather disposed to give them less. The agreement proposes an interference with navigation rights of which the Federal Parliament is the only custodian, and it would prejudice the case of Victoria by permitting concessions to navigation of which the Federal Parliament has not approved, as required under the Constitution. In short, what this agreement means is this: What the States could alone have done, that is, provide joint works for irrigation purposes, it is not proposed that they shall do, or so far as appears from the agreement that they should even consider; but in connexion with what the Federal Parliament and Inter-State Commission may have to do, the States under this agreement will interpose prematurely and attempt to perform the work for themselves. They have succeeded in accomplishing nothing whatever except to prejudice to a great extent the interests of Victoria,

and to a lesser extent the interests of New South Wales. In 1888, New South Wales and Victoria came to an understanding with regard to the Murray, which it is a pity was not carried out. They then agreed to divide the upper waters between them; and I do not think that at the present time Victoria should consent to take anything like the position which, under this proposed agreement, she will be compelled to take. What reasons actuated the representatives of New South Wales and Victoria in consenting to such an agreement I do not know. I understand that it is strongly condemned in Sydney, and that there is not much chance that it will be ratified by the New South Wales Parliament. I am very glad to hear that, because I believe the non-ratification of such an agreement will result in the avoidance of trouble in the future. We are now told that if the agreement is not signed, South Australia may appeal to the Privy Council. That is a far cry, and it is a long and a difficult journey to take. I do not think the Privy Council would agree to interfere with the local distribution of water in autonomous States such as we have in Australia. It would be simply ridiculous to apply the English riparian law, which simply provides that waters must be passed down streams unpolluted and undiminished in quantity, to a country such as Australia, where our conditions render necessary the utilization of every drop of water for purposes of production. The application of such a law in Australia is opposed to all common sense and reason. I doubt very much whether the Privy Council, though wedded to English laws, would dream of applying such a law in this State. I have taken the liberty to deal with this matter at such length because, in my opinion, it is one which concerns us very much. If we as a new Parliament are going to win our way to the hearts of the people, we must not confine our work merely to the passing of machinery Bills. We must take up practical measures and give help to our producers, and find markets for their products, and we must take these questions up as early as we possibly can. In spite of all that has been said, I believe that the federal idea has grown, and is growing, amongst the people. Our new environment is strange, and we have not yet perhaps become accustomed to it, but the federal idea is growing, by and everywhere

we may hear people saying that the Commonwealth ought to take over the whole of the business of Australia, and that we should put the State Parliaments out of the way altogether. I am not now expressing an opinion as to whether that would or would not be a wise thing to do. The opinion is, perhaps, scarcely articulate now, but it may be a cry before long, and it will not long be a cry before it will become a policy upon which elections will be fought and won. If we desire to show ourselves worthy to assume the position which we are expected to take, we shall have to work cautiously and economically, studying not the interest of any State separately, but the interests of all. I hope we shall do nothing to check the growth of the federal idea. I hope that the session which has opened now will be marked by steady application to work, and by the passing of good measures which will commend the Commonwealth Parliament generally to the people, and honorable members individually to the constituents before whom they must go for election at the end of this year. Referring to the elections, I trust that they will take place this year, and that we shall not be compelled to put them off by reason of any delay in having the electoral boundaries adjusted. It would not be a fair thing that the country should undergo the expense of two elections where one should suffice. I have no doubt that we have only to act carefully this session, to be told when the election takes place, "Well done, good and faithful servants; return to your work for the Commonwealth."

Mr. FOWLER (Perth).—Upon those subjects, which we shall have an opportunity later of discussing in detail, I have not a word to say to-day. There are really only one or two matters to which I wish to refer, and that very briefly. The first is one which has not, I think, been dealt with by any previous speaker, and which, though apparently insignificant, embodies, to my mind, a rather important principle. On the occasion of the opening of Parliament, I was very much surprised to find that when Mr. Speaker, together with other members of this House, were called to another place, at the instance of His Excellency the Governor-General, we occupied there what appeared to me to be a somewhat humiliating position. I was very much grieved to see that the Speaker of this House had to remain in a passage, outside

of the Senate chamber proper, and that honorable members had to be accommodated also outside of that chamber, in seats allotted usually to the general public.

Mr. HENRY WILLIS.—In many cases honorable members were without seats at all.

Mr. FOWLER.—Quite so. I am aware that, according to the rules of procedure established in the British Parliament, the position appointed for the Speaker, together with other members of this House, on such an occasion, is at the Bar of another place. The term "Bar" is an elastic one, and I think that upon occasions such as the opening and prorogation of Parliament the Bar might be placed sufficiently far forward in the Senate chamber to prevent such a position of affairs as we were treated to last Tuesday—a position entirely out of keeping with the provisions of the Constitution and the relations of the two Houses. I do not wish to make a suggestion as to what ought to be done in the matter, but I enter a protest against what was done, and I hope that better arrangements will be made in the future. The practice followed by the Imperial Parliament is retained in Great Britain largely because of its antiquity, but such a practice is entirely out of place in Australia, and if some alteration is not made sooner, I shall move, when the standing orders are under survey, that some other arrangements be made which will prevent any difficulty arising in the future. The other subject to which I wish to draw attention has been frequently alluded to in this chamber, though it has not always received the favorable consideration to which I think it is entitled. I refer to the subject dearest to all representatives of Western Australia, because it is dearest to the people of that State, the transcontinental railway scheme.

Mr. WINTER COOKE.—It will be a very dear scheme to the rest of Australia, too.

Mr. FOWLER.—I believe that it can be carried out without becoming a "dear" one in the sense in which the honorable member uses the word, and that ultimately the line will prove of exceeding advantage to the whole Commonwealth. Part XIII., section 51, of the Constitution vests a power in this Parliament which enables us to carry out a scheme of this kind without entailing a penny of expense upon the people of Australia. The subject is one to which I have given some little consideration, and, if, no one else moves in the

matter, I intend to place a motion upon the notice-paper shortly which will give an opportunity for what I believe will be a very interesting and important discussion upon it. I compliment Ministers upon having referred to this matter in the Governor-General's speech as a question of national importance. Any one who carefully considers the situation of Western Australia in relation to the other States must recognise that the construction of the trans-continental railway, if not in so many words part of the federal compact, is a moral obligation upon the people of Australia. I have no fear but that that obligation will be recognised when the time necessary for a scheme of this magnitude to mature has been given. I do not wish to force the matter forward any faster than it should be pushed, nor do the people of Western Australia wish it to be dealt with except after the fullest investigation. We have no desire to compel the other States to recognise our claim until every opportunity has been given to them to become fully acquainted with the nature of the project. I therefore urge the Government to follow up the work which they have done by appointing a survey party to go over the proposed route, in order to obtain the fullest information in regard to it. That work is very necessary, because there are still a number of people in the eastern States, and a few members in this House, who are under the impression that the line would run through entirely worthless country. I wish to say, speaking partly from personal knowledge, and also upon reliable information, that such is not the case. When in Perth lately, I met a gentleman who had been prospecting the country east of Coolgardie, and who reached a point within 50 miles of the South Australian border. He assured me that all along the route he had taken he had discovered excellent auriferous indications. I have also the authority of an agricultural expert for saying that a considerable area of the land which the line would traverse is suitable for pastoral occupation, and that part of it could with advantage be cultivated. That territory is today in the position which was occupied years ago by other parts of Australia which now are regarded as excellent country. Fifty years ago Riverina was considered a desert, and I have in my possession the report of a trip made by one of the old prospecting squatters through a large part of Victoria

and New South Wales, in which it is amusing to read the condemnation, by a man presumably expert in pastoral matters, of country which has since been proved excellent for both pastoral and agricultural purposes. I was somewhat amused to hear the honorable member for South Australia, Mr. V. L. Solomon, insist on behalf of the people of his State upon the performance of a certain condition before permission could be given by them for the construction of the proposed line through their territory. That condition requires nothing less than the construction in Western Australia of a railway which the honorable member thinks would be of considerable advantage to South Australia. I hesitate in accepting the statement of the honorable gentleman that the people of South Australia insist upon that condition. I have not heard it specifically mentioned before, and, until I have further evidence, I respectfully decline to accept the honorable gentleman's statement on the subject as final. Is he prepared, moreover, to pledge the people of South Australia to give their consent to the construction of the proposed line if a railway is made to Esperance? Unless he can do that, I fail to see why he has dragged the matter into this discussion. The construction of the Esperance line is purely a matter for the State concerned, and, so far from being of special advantage to South Australia, would possibly be of no more advantage to that State than to the other States. It would be of equal advantage to all the States, whereas the construction of the proposed transcontinental line would benefit, first, South Australia, then Victoria, and then the other States on the eastern sea-board. It would be of special advantage to South Australia, inasmuch as it would assist that State in developing the Tarcoola gold-fields.

Mr. HENRY WILLIS.—Are they not away from the route of the proposed line?

Mr. FOWLER.—No; the line might traverse that district. I do not wish, however, to discuss the details of the scheme on this occasion. All I ask is that honorable members shall preserve an open mind in regard to it, and pay careful attention to the evidence submitted to them, and that the Government shall place before Parliament and the people the fullest information obtainable. There is no doubt that the people of Western Australia regard the

construction of the line as a necessary corollary to federation. Previous to the acceptance of federation by Western Australia, many of the leading statesmen of the eastern States promised that that line should be constructed by the Commonwealth, and, though I do not say that those promises legally bind the Commonwealth, I have no hesitation in declaring that they impose a very strong moral obligation upon it, inasmuch as, because of them, the objection of many people in Western Australia to federation was overcome. I have yet to learn that the people of the eastern States wish to repudiate the obligation. At the time these promises were made they were tacitly acquiesced in by the people of the eastern States, and they should not at this late stage be repudiated because of the temporary craze for an improvident species of economy. As a final word, I would urge upon the Government the necessity for a survey of the route for the railway, so as to dispel the ignorance and prejudice which prevail with regard to the proposal. We hear a great deal about economy. At the time that the visit of members of the Federal Parliament to Western Australia was projected there was a great outcry on the part of those newspapers which originated the demand for economy, but it now appears that the total expense incurred was £172 10s. I venture to say that not one honorable member who took part in that visit to Western Australia, and thus placed himself in a position to judge for himself as to the conditions obtaining in that State, will fail to justify its claim for the construction of the proposed railway. I think honorable members will agree, also, that the money spent upon the visit was well laid out. I am sorry that more honorable members did not take advantage of the facilities then offered, and I extend to those who have not yet been to Western Australia a hearty invitation to go there. On behalf of the Premier of that State, I can assure them that they will receive as much kindness as was extended to those who made the visit during the recess.

Mr. CRUICKSHANK (Gwydir).—After all the criticisms which have been passed on the Government during the recess, I cannot allow the present occasion to pass without offering a few remarks. In view of the complaints made against the Government by members of the Opposition during recess, and all the disastrous consequences which

have been attributed to their administration, I scarcely expected that the debate upon the Governor-General's speech would have been allowed to pass without a much more vigorous onslaught upon Ministers. Some honorable members have directed attention to what they regard as the utter disregard by the Government of their financial responsibilities and of their want of appreciation of the obligations imposed upon them in connexion with the administration of the various Acts passed last session. But the principal charges have centred around the fodder duties and the difficulties experienced in introducing six hatters into the Commonwealth. In New South Wales for a long time we heard of nothing but the fodder duties. In the district which I represent they formed the subject of very considerable discussion, and I endeavoured to obtain information with regard to the extent of the tax they imposed upon the people. In the *Sydney Morning Herald* of 18th December, 1902, the following statement appeared:—

A few days ago Mr. Reymond, M.L.A., asked the Premier to supply Parliament with some information relative to the importation of fodder and its carriage by the Railway department. Last night the information was laid on the table of the Legislative Assembly. The Customs department supplied the following table, showing the duty received on fodder imported into New South Wales from 1st March to 31st August, 1902:—Hay and chaff, £249 15s. 10d.; maize, £9,065 10s. 4d.; oats, £4,561 9s. 5d.; barley, £2,544 7s. 10d.; pollard, £50; tares, £8 18s. 2d.; n.e.i., £16 10s. 10d.; bran, £314 15s. 9d.; wheat, £393 1s. 5d.; total, £17,203 8s. 9d.

The Railway Commissioners received in the same period for the carriage of fodder, £29,257 2s. 4d. Had no concessions been made on the fodder they carried they would have received £89,737 19s. 3d., so that their concessions aggregated £60,480 16s. 11d.

The period referred to represented the worst six months of the drought, because during that period we lost more stock than ever before in Australia.

Mr. BROWN.—The amount then paid in fodder duties was nothing compared to that collected since.

Mr. CRUICKSHANK.—That period was by far the worst in the district which I represent, because the rain set in in August and caused a growth of grass which rendered graziers independent of further outside fodder supplies. The figures which I have quoted show the absurdity of many of the statements made by members of the Opposition. Those honorable members who have so much

to say about the administration of the Prime Minister, in connexion with the episode of the six hatters, should recollect that they shared the responsibility for the provisions of the Immigration Restriction Act. The honorable member for Gippsland astonished me by the statement that the intention of the Act was to prevent outside labour from being introduced into the Commonwealth under agreement during times of strike. If we admit that to be correct, we might as well confess at once that we know nothing about the Bills for which we vote. We should express exactly what we wish on the face of a measure. In the case under notice, I do not see how the Prime Minister could have acted in any other way than that which has caused such a storm to break about him. I desire to refer to the responsibility of the Government in connexion with the expenditure of moneys voted by this House for specific purposes. I was very much astonished to learn that the Premier of Queensland, when speaking at Cairns a few days ago, stated that the Federal Government was shirking all its responsibilities with regard to the finances. He said, further, that the honorable member for Bland ruled Parliament. If that be true, I wish to know where is the leader of the Opposition, and where is the Prime Minister?

MR. JOSEPH COOK.—The leader of the Opposition does not command the support of numbers to the extent that Mr. Watson does.

MR. CRUICKSHANK. — Surely Mr. Watson is not stronger than the Prime Minister and the leader of the Opposition combined. At all events, what I wish to know is, who is the "bigger" man of the three? I am reminded in this connexion of a story regarding a family named Biggar. Mrs. Biggar had a son, and when asked who was the bigger, herself or her son, said—"My son, because he is a little Biggar." She was then asked—"But how about Mr. Biggar; which is the bigger of the three?" She replied—"Mr. Biggar, because he is Father (far the) Biggar." The point is, which of the party leaders is to rule the House? When we find a number of appropriations made and voted upon the Estimates we have a right to expect that the money will be spent. The Government proposal to float a loan for the purpose of carrying out public works in connexion

with transferred departments was defeated through the instrumentality of the labour party, and ultimately the necessary provision was made on the Estimates. Time has gone on, however, and we still have complaints from the country that the facilities which were intended to be supplied by the expenditure of these votes have not yet been provided. Unless some haste is now made, the votes will lapse, and the intentions expressed by the Government when the Estimates were passed will not be carried out. We were told that many buildings were not worth repairing, because new ones would have to be erected. I wish to know whether these votes are to be regarded as involving current obligations or outstanding liabilities. Whether any succeeding Government will carry out these public works can only be conjectured, but it appears to me that at the present time a number of items are included in the Estimates merely for the purpose of inflating them, because it is utterly impossible to pay for the construction of these works out of revenue. Personally, I should have liked to see the Government announce their intention of taking action to amend that abortion of an Act which prevents people in outlying districts from sharing in the benefits conferred by telephonic communication. I know of large areas in which it is simply impossible for the settlers who need telephone communication to furnish the cash guarantee required by the Government.

MR. JOSEPH COOK.—It is a scandalous thing.

MR. CRUICKSHANK.—The policy adopted in this connexion has positively prevented any extension of telephonic facilities throughout the whole of the 68,000 square miles of country which I represent.

MR. FOWLER.—I have received frequent complaints about the same matter from the residents in my district. The people refuse to put the money up.

MR. CRUICKSHANK.—It is indeed a scandalous state of affairs.

MR. SYDNEY SMITH.—Yet the honorable member supports the present Administration.

MR. CRUICKSHANK.—Yes; because I cannot determine who is the greatest man of the three—the Prime Minister, the leader of the Opposition, or the honorable member for Bland. The leader of the Opposition voted for that measure, and when

other important Bills are brought forward he does not give the House the benefit of his assistance in fashioning them into good measures. But the moment he thinks he has a chance of ousting the Government he joins forces with the honorable member for Bland. I repeat that residents in outlying districts would have been saved an expenditure of thousands of pounds had it not been for the enactment of legislation which prevents them from participating in the benefits conferred by telephonic extension. I cannot resume my seat without expressing surprise that greater attention has not been bestowed upon the part played by the Prime Minister when in England in regard to future legislation.

Mr. WILKS.—How did he shape? The honorable member was there.

Mr. CRUICKSHANK.—He shaped remarkably well. I was informed by gentlemen with whom I conversed that he spoke well, and that he did not commit the Commonwealth to anything. He made it perfectly clear that every arrangement into which he entered was subject to ratification by this Parliament. The Governor-General's speech also contains a brief reference to the subject of preferential trade. Personally, I am in favour of the establishment of preferential trade relations with England and Canada.

Mr. WILKS.—Would the honorable member vote for absolute free-trade between Australia and England?

Mr. CRUICKSHANK.—I think that I should even be prepared to go that far. Regarding the naval agreement, about which so much has been said, I cannot help thinking that the financial condition of the Commonwealth makes it imperative that the Government shall proceed cautiously. The Defence Bill has yet to be introduced, and we do not know what expenditure will be necessary under its operation. Our present contribution towards the British navy is about 7d. or 7½d. per head, but under the new scheme it will represent about 1s. per head. In my judgment any action on the part of the Government must be in the direction of rendering further assistance to the Imperial Navy. At the same time, I do not think there is any necessity for violent haste in connexion with the ratification of the proposed agreement, especially as the Defence Bill has yet to be considered. I did not like this important occasion to pass without making

these few remarks. I congratulate the Government upon their legislative performance last session, and upon the futility of the attempts which were made to discredit them in the eyes of the country during the recess. That such attempts were futile is evidenced by the fact that Parliament is now in session, and that the address in reply to the Governor-General's speech is likely to pass without opposition.

Mr. KIRWAN (Kalgoorlie).—In my remarks I do not intend to discuss every subject that was considered during the last session of Parliament, or that is likely to be dealt with in future sessions. I merely desire to offer a few observations upon questions that the House may not have an opportunity of considering at a later stage. I wish to address myself more particularly to one or two Bills that, if the reports in the newspapers are reliable, may not be brought before the House this session, and to offer a few reasons why they should be submitted for our consideration. Before doing so, however, I desire to say that I agree with the remark of the honorable member for Gwydir, that sufficient attention has not been given during the course of this debate to what was done by the Prime Minister upon his recent visit to England and Canada. To me the report of the proceedings of the conference held between representatives of the colonies and the Secretary of State is full of interest. At the same time, I cannot help feeling that, in representing Australia, the Prime Minister was scarcely placed in a fair position. He went home without knowing the views of this Parliament upon the questions which were to be discussed by the conference, and the result was that he could say nothing of any consequence. We all admit that the right honorable gentleman, wherever he might go, would do credit to Australia and to this Parliament. But when he left our shores for the old country he did so under a pledge that he was not to commit this Parliament to anything whatever. I learn from the Blue-book, which has now been issued, that towards the end of January last year the Prime Minister received a telegram from the Secretary of State for the Colonies, in which the latter intimated that this conference would be held, notified the questions that would be discussed, and asked for suggestions as to subjects other

than those mentioned, which the Commonwealth Government might deem worthy of consideration. But I have no recollection of Parliament ever having been informed of the receipt of such a message. At that time it was well known that the subject of the renewal or otherwise of the naval subsidy would be considered at the conference, notwithstanding which this Parliament was denied an opportunity of expressing any opinion upon the matter. Consequently, the Prime Minister, when he journeyed to England, could only make an arrangement which might or might not be ratified by this House. It would not look too well, from his point of view, if that agreement were not ratified. It would have been far more satisfactory if the opinion of the House had been ascertained on the question, and the Prime Minister would then have been able when visiting England to say something definite. But, in the position which he occupied, he seemed to be almost gagged upon this, as upon other matters. Of course we all know that he has a wonderful faculty for making speeches which express nothing. Whilst in England and Canada he showed himself an adept in that accomplishment, but it was rather an unsatisfactory position from his point of view and that of the old country, besides being unfair to Australia. That there was no excuse on the ground of want of knowledge, or want of time, is shown in the very first page of the Blue-book, where it is stated that a telegram was sent on the 23rd January, by the Secretary of State for the Colonies, intimating the desire of His Majesty's Government to take advantage of the presence in London of the Premiers, in connexion with His Majesty's coronation, to discuss various important questions of general interest. The subjects indicated in the telegram were the political and commercial relations of the Empire and its naval and military defences. The various Colonial Governments were also invited to furnish a statement of any subjects which they thought might be discussed, and, with the view to facilitate and give a definite direction to the discussions, to furnish the text of any motions they desired to submit. Something ought to have been done by the Commonwealth Government to ascertain, through this Parliament, the opinion of Australia on the various questions that were to be discussed, more especially on

the question of the naval subsidy. It might be that Parliament would have decided to give a very much larger contribution, or, on the other hand, to say that we were not prepared to make any contribution; but, at any rate, the Prime Minister, in going Home without any exact knowledge of the feeling of Australia, was placed in an invidious and awkward position. Further, the Prime Minister, according to what appears on page 17 of the Blue-book, was forced to make an offer to the Imperial Government of what Australia would be likely to contribute. In the Blue-book it is stated that the Board of Admiralty received offers of assistance towards the naval expenses from the Empire, and that the Commonwealth of Australia offered £200,000 per annum, in order to improve the Australian squadron and to establish a branch of the Royal Naval Reserve.

Sir EDMUND BARTON.—That statement in the Blue-book puts the matter a little too broadly, and makes it appear that the representatives of the Commonwealth made the offer irrespective of all conditions, and as if they were pledging the Parliament of the Commonwealth. Nothing of the kind was ever done; and if what occurred was so understood, it was misunderstood.

Mr. KIRWAN.—In connexion with the correction made by the Prime Minister, it seems to me that this Blue-book has been compiled in a way hardly fair to the colonies. The speeches delivered by the representatives of the Imperial Government are reported fully, but there is no reference whatever to the position taken up by the colonial representatives.

Sir EDMUND BARTON.—That is not quite the fault of the Imperial Government. Mr. Chamberlain was ready to publish all the speeches if no objection were taken, but it was agreed that the objection of one of the representatives of a self-governing colony should make that impossible, and there was one objection.

Mr. KIRWAN.—I gather from the report that there was no objection on the part of the Imperial Government, and it seems rather extraordinary that one colonial representative should have the power to prevent other representatives having their views published in the Blue-book so as to enable an opinion to be formed in the colonies on what their representatives laid

before the Imperial authorities. The representative of a liberal community like Australia should have felt it his duty, notwithstanding the action of other representatives, to court publicity and ask that the speeches might be reported, or, at any rate, a clear idea given of the exact position.

Sir EDMUND BARTON.—No clear idea could be obtained unless the speeches were published, and I endeavoured to see that they were published, but it could not be done under the conditions that were arrived at.

Mr. KIRWAN.—That is to be exceedingly regretted. The only idea as to the attitude of the Australian representatives is contained in a memo. from the Minister for Defence concerning his personal views of what ought to be done in the matter of the naval and military defences. While I quite agree with a certain portion of that memo., there are other portions which are not quite in accord with the sentiment of Australia—at any rate there is an inference in the memo. which is, I feel sure, quite foreign to that sentiment. In the particular paragraph to which I refer, the Minister for Defence says—

Great Britain spends annually on her army and navy about £50,000,000 (not including the South African war), or about £1 5s. per head of her population. If the Australian Commonwealth contributed in the same proportion, it would amount to something like £5,000,000 a year, whereas our entire military and naval defence vote does not exceed £800,000 a year, or only about 4s. per head of our population.

That seems to imply that Australia ought to contribute £5,000,000 per annum, or that, at any rate, the Imperial Government would be justified in asking for the contribution of that large amount.

Sir JOHN FORREST.—I think not, because further on there is a paragraph which shows that that was not intended.

Mr. KIRWAN. — Further on it is stated—

It may, of course, be said that in building up another Britain in the Southern Hemisphere, thus providing another home for our countrymen, and by extending British influence and trade, we have been doing a greater work for the Empire than by contributing towards Imperial naval defence; but I think the time has gone by for us to use such arguments, as both duty and stern necessity require that we shall stand shoulder to shoulder with the motherland in the determination to maintain inviolate the integrity of the Empire. That this is the sentiment deep-rooted in the hearts of the Australian people has, I am proud to say, been shown during the South African war, which we have made our own,

proving unmistakably to the world that our interests in war, as well as in peace, are indissolubly bound up with the country from which our fathers came, and to which we are all proud to belong.

Sir JOHN FORREST.—That is not the paragraph to which I referred.

Mr. KIRWAN.—Paragraph 19 is, perhaps, that which is meant by the Minister for Defence, and it is as follows:—

If a proposal were adopted that the Empire should have one fleet maintained by the whole nation, every part contributing to its support on some plan to be mutually arranged, probably on that of the comparative trade of each country, and not necessarily on an uniform basis of contribution, what a splendid idea would be consummated, and what a bulwark for peace throughout the world would be established! Besides which we would be doing our duty to the mother country, which has been so generous to us during all our early years.

Sir JOHN FORREST.—That is the paragraph.

Mr. KIRWAN.—I quote these paragraphs in order that the Minister for Defence may have the case he wished to lay before the Imperial authorities properly represented to this House. Whilst I am in thorough accord with the Minister in his desire to promote a friendly feeling between the motherland and Australia, I am of opinion that the mere making of the statement that the Australian contribution on the population basis would be something like £5,000,000 per annum, implies that the colonies ought to contribute that amount. A statement of the kind might very well have been left to the Imperial representatives to put forward. I am sure, however, that the representatives of the Empire do not favour anything like a contribution on the basis of population, or even a contribution on the basis of trade. They quite recognise that the colonies are a source of strength to the motherland, and it would, to say the least, be extremely injudicious to ask for such a tremendous contribution as that suggested.

Sir JOHN FORREST.—I do not think I meant that.

Mr. KIRWAN.—I merely say that a report of that kind, submitted by a representative of the Commonwealth, might lead to the belief that it represented the opinion of Australia.

Sir EDMUND BARTON. — That memorandum by the Minister was not written for the conference. It was written some time before, and its existence having become known, we were asked if there was any objection to its being laid before the conference.

To that the Australian representatives naturally replied that there was no objection—not that it was ever intended that the memorandum was to bind the Commonwealth Government without any further discussion.

Mr. KIRWAN.—At any rate, the memorandum was before the conference, and must have had some influence. I merely refer to the memorandum as an instance of what is given in the Blue-book as to the opinions expressed by the representatives of Australia, and, in doing so, I comment on the absence of any report of the speeches of those gentlemen. One resolution passed at the conference is of a very important character. It affirms that conferences of a similar nature should be held every four years, if not at shorter intervals; and that seems to contain the germ of an idea for a better understanding between the motherland and the colonies generally. I trust that whoever may be sent to represent Australia at future conferences they will not be placed in the position in which the Prime Minister found himself, but that they will have ascertained the view of Australia, at any rate, on these matters, and will have a fixed programme which they can advocate. They should also have a fair idea of the discretionary powers allowed to them. The attention of this Parliament ought to be in some way or other, preferably by the Government, directed to a speech of the kind delivered by Mr. Chamberlain. In his speech he referred to the weighty responsibilities of the Empire—

The weary Titan staggers under the too vast orb of its fate. We have borne the burden for many years. We think it is time that our children should assist us to support it, and whenever you make the request to us, be very sure that we shall hasten gladly to call you to our councils.

He went on to quote from a notable speech in which Sir Wilfred Laurier said concerning the mother country—"If you want our aid call us to your councils." In the address to the conference, Mr. Chamberlain practically called the representatives of the colonies to the councils of the Empire, and he made two suggestions. One suggestion was that if the colonies thought that they should be represented in either House of the Imperial Parliament, it was quite possible that it could be done. Then he went on to say that, in his opinion, a better idea than that was that some council should be formed on the

lines of the Federal Council of Australia, the council to be merely an advisory body without executive powers. Generally he seemed to think that something ought to be done to establish a representative Imperial body, while, of course, he laid stress upon the fact that any direct proposal of that nature ought to come from the colonies. If we are going to contribute to the maintenance of the defence forces of the Empire, certainly we ought to be allowed some voice in the expenditure. But even supposing that we do not contribute anything towards the maintenance of the navy, supposing that we do not contribute one farthing towards the Imperial expenditure, still the position will remain that Australia, so long as it is part of the Empire, will necessarily be involved in any quarrel of the Empire. We are bound to be responsible for anything that may be done by the Imperial Government which would involve hostilities between Great Britain and other Powers. The position now is that while Australia may be brought into a quarrel—in fact, she cannot keep out of a quarrel in which Great Britain may be engaged—she has absolutely no voice in the councils which may bring about that dispute. The position is almost an intolerable one to a country such as Australia, that believes in the representation of the people. If we are going to send contingents away—and, in any case, we are always open to attacks from the enemies of Great Britain—then it will be for us to consider whether we should not endeavour to have a voice, either by the suggested advisory council or by some other means, in the making or prevention of those quarrels. There is another point in connexion with this report which I should like to have cleared up. Canada, which was represented at this conference, is a part of the Empire, but it is not prepared to contribute one penny towards its own naval defence. It spends, on local defence, about a third of the amount per head of population that Australia does. It does not contribute 1d. towards its naval defence, although it seems to me to be more in need of naval defence than is Australia. Australia is an island far removed from European powers, whereas Canada adjoins a power which, although it may be regarded as friendly, is still foreign, and it is also nearer to the great nations of Europe, and is much more ~~than~~ ^{open to} attack

than is Australia. It would be interesting to know the exact motives which have influenced Canada to refrain from making any contribution to its naval defence, while every other portion of the British Empire contributes something or other to its naval defence. I think that two of the promised Bills ought to have occupied a more prominent position than they do in the Governor-General's speech. Judging by the references to these Bills in the speech, they do not seem to occupy a foremost position in the programme of the Government, although, to my mind, the Industrial Conciliation and Arbitration Bill and the Inter-State Commission Bill are of the greatest importance. I refer to the former measure because of the experience of Western Australia in that regard. For some time we have had an Industrial Conciliation and Arbitration Act, and the result is that strikes are virtually things of the past. The Act is generally admitted to be far from perfect, and the decisions of the courts are very often questioned. It is sometimes said that arbitration courts in their decisions are unfair to the employers or to the men. It must be remembered that that argument may be applied to all courts. Courts are merely human institutions, and it is but human to err. When any one says that an arbitration court may err at times he is only saying that which may be said of a Supreme Court, the Privy Council, or the highest court in the realm. The Inter-State Commission Bill does not seem to have as many friends as the Arbitration Bill. A few evenings ago the honorable and learned member for Northern Melbourne said he failed to see any reason why it should be introduced; that he did not know of any case where preference was shown by railways to such an extent as would justify the formation of an Inter-State Commission. I believe that when certain facts are stated to the House, there is not an honorable member who will not agree that something ought to be done to prevent the preferences which are given in favour of the commodities of one State as against the commodities of other States. I shall quote railway rates in Western Australia to show that local produce is carried at a considerably lower rate than imported produce. Instances might be given to show that imported produce is carried at a rate three or four times higher than

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that charged for local produce. I have taken from the railway rate book some figures which I am sure will astonish honorable members. Let us take the case of timber which is produced locally to a very considerable extent. From Fremantle to Kalgoorlie, a distance of 387 miles, Western Australian timber is carried on the railways for £1 5s. 9d. per ton, while imported timber is charged £5 0s. 10d. per ton—very nearly four times as much as the local article. That is a direct infringement of the principle of Inter-State free-trade; it means virtually a second Customs house. As a Western Australian, I am sorry to have to bring this question before the House. I am sorry that our Premier, who fought so well to bring Western Australia into the union, did not see that these rates, which are a direct infringement of the spirit if not the letter of the Constitution, were abolished. However, there seems to be no prospect of the rates being abolished. Over and over again representatives of various public bodies and representatives of the people have waited upon the Premier and his colleagues and asked for the abolition of the rates, but no replies of a satisfactory nature have been received, and consequently it remains for this Parliament to endeavour to have them removed.

Sir EDMUND BARTON.—There are equally as bad things being done nearer home in the way of wharfage rates.

Mr. KIRWAN.—I am sorry indeed to hear that. I shall now quote the railway rates for some other commodities. Let us take the case of Newcastle coal as compared with coal locally produced at Collie, in Western Australia. The local coal is carried 387 miles at the rate of 17s. 2d. per ton, whilst the imported coal is carried at the rate of £1 14s. 3d.—that is, almost exactly twice as much. I can give numbers of other instances in which the difference is almost equally great.

Mr. KENNEDY.—That system is common to the whole of the railways of the federated States to-day.

Mr. KIRWAN.—I am exceedingly sorry that such is the case. I certainly never realized that anything so bad as this existed in the other States. If such be the case, it is a strong argument for the necessity for bringing forward the Inter-State Commission Bill as soon as possible. The other articles to

which I shall refer are fruit and vegetables, sauces, and lard. All those commodities are carried, when locally produced, at £2 5s. 7d., but when imported at £5 0s. 10d. Locally-produced dairy produce is carried at £2 8s. 7d., whilst imported dairy produce is carried at £5 10s. 11d. It seems to me that if this kind of thing is allowed to exist upon the railways of Australia, there is no real Inter-State free-trade. It is simply a second Custom-house system, and should be prevented without delay. I do not say that an Inter-State Commission, founded upon the lines of the last Bill, ought to be established. There are a great many honorable members who are strongly opposed to the establishment of an Inter-State Commission on the expensive lines that were outlined in the Bill presented to Parliament last year. But I appeal to honorable members to see that, at any rate, something is done in order to put a stop to the preferences I have mentioned. They are a direct infringement of the spirit of the Constitution. When the Minister for Home Affairs was in Western Australia, representatives of various public bodies waited upon him and laid the facts concerning railway rates before him. He said that the preferential rates were distinctly unconstitutional, and far worse than anything he had heard of as existing in the other States. I can promise that if the Minister brings forward the Inter-State Commission Bill, I, as a member of the Opposition, will give to him every support that lies in my power. The visit of the federal members to Western Australia during the recess was very much appreciated by the people of that State. When that matter was first referred to in this House—it was I who brought it forward in the first instance—I can well remember that the press described it as a proposal to expend more money than was warranted. An outcry was raised in the press that led people to suppose that it meant an expenditure of tens of thousands of pounds. The actual cost, as shown by the reply given to a question of mine in this House, was something like £170.

Sir EDMUND BARTON.—£172 10s.

Mr. WILKS.—How many members went?

Mr. KIRWAN.—I think that every State in the Union was represented; and I am perfectly satisfied that the visit will do a great deal to promote a friendly feeling throughout Australia. It showed the people of Western Australia that members of the

Federal Parliament were very much interested in the affairs of the State that is furthest out of the track of Australian traffic. I said at the time, when the proposal was first mooted, that it would not cost more than £200. The newspapers ridiculed the idea, and spoke of the visit as though it would be one wild picnic from beginning to end. They stated that it would involve the Commonwealth in a very heavy expenditure. I am exceedingly pleased to find that the results have justified the low estimate which I made in the first instance. Before concluding, I wish to refer to the question of the construction of a railway to Western Australia, to which reference has been made by most of the speakers during this debate. I recognise that South Australia at present seems to hold the key to the position. If, as the Premier of South Australia and the leader of the Opposition in that State say, South Australia will not give permission for the transcontinental line to pass through its territory, this Parliament is powerless. I notice that the honorable member for South Australia, Mr. V. L. Solomon, in the course of his speech, said that South Australia would not give her assent to the construction of a transcontinental railway upon her territory until a railway were built from Esperance to the eastern gold-fields. I may mention that I have always thought that the Esperance Railway ought to be constructed. During the last session, when the honorable member for Coolgardie brought forward a motion concerning that line, I seconded it, and gave at length reasons why I thought it ought to be built. I hope that the State Parliament and Government of Western Australia will see their way to the construction of the Esperance Railway, so that there will be no necessity to bring the matter again before the Commonwealth Parliament, whilst they will, by so doing, at the same time remove an impediment which, according to the honorable member for South Australia, Mr. V. L. Solomon, exists to the construction of the transcontinental railway. There is nothing antagonistic between the Esperance Railway and the transcontinental line. Every effort ought to be made not only in Western Australia but by members of this Parliament, from a broad and statesmanlike view of their duties, to see that all the railway systems of Australia are united. It has been said that no compact was made in connexion

with the transcontinental line. Certainly no written compact was made. There was no actual pledge for its construction. Unfortunately provision for it was not included in the Constitution. But most of the representative men of Australia at the time of the referendum expressed themselves strongly in favour of the construction of the line, and there was not a single representative public man who expressed any doubt whatever that the railway would be one of the first great works to be undertaken by the Commonwealth Parliament. I have nothing further to say, Mr. Speaker, except to refer to the speech made by the honorable member for Gwydir, who in the course of his remarks seemed to imply that because the leader of the Opposition had not seen fit to move a motion of want of confidence, honorable members on this side were wavering in their criticism of the policy and administration of the Ministry. I am sure that that is not the interpretation that will be placed upon the actions of those on this side of the Chamber by any impartial observer. The members of the Opposition fully recognise that this is the last session of the Parliament. They have over and over again stated that during this session the fiscal issue would not be raised, and the leader of the Opposition has announced that he would not place any bar to proceeding with necessary work that is largely of a non-party nature. He has said that he is prepared to act with the Government to get that work done, thus showing his desire to proceed with the essential business of the Commonwealth. I think that it is somewhat unfair that that action should be construed as it has been by the honorable member for Gwydir, and I am sure that it would not be so construed by any fair-minded man either in this House or outside of it. When the fiscal issue comes to be decided—it is not to be decided during this session, as has been often said—at the next general election, no one who is aware of the feeling of the country can have any doubt as to the result.

Mr. SPENCE (Darling).—I think, comparing the experience of other Federations of modern times with ours, now that the people have had time to look round, to review the work of the first session of the Federal Parliament, and to judge what has been done by their representatives, we may congratulate each other on the success which has attended our efforts, and upon the

satisfaction with which our work has been generally received. We have not heard a whisper of secession, except in Queensland from a gentleman who represents the plural voters of that State, and not the people. I attribute the successful issue to the fact that the people had a voice in the framing of the Constitution, and are consequently loyal to it. I have listened with a great degree of interest to the criticisms upon the Governor-General's speech, and the criticisms upon the administration of the Government. These criticisms, boiled down, appear to resolve themselves into censure upon the alarming activity of the Minister for Trade and Customs, and the fact that the Prime Minister did not break the law in admitting six hatters before he was asked to do so. As a matter of fact, the affair of the six hatters ought to be referred to as that of the twelve hatters, because they were twelve in number. The critics of the Ministry take up an extraordinary position when they complain that Ministers have not broken the law, but that they have obeyed the Act which this Parliament made. It is possible, I will admit, that any law may be administered in such a way as to create more friction than is needed; but I, for one, am going to express my appreciation of the activity of the Minister for Trade and Customs, and the measure of success that he has attained. I can quite understand the complaints of persons against whom he has had to set the law in motion, but I am not going to give credence to *ex parte* statements which come from sources that have proved to be tainted. The head of a large firm which was afterwards prosecuted was prominent amongst those who complained of the harsh way in which the department was being administered. I certainly expected to hear a great deal from the leader of the Opposition. Judging from the statements in the press, the right honorable gentleman seems to have a very big correspondence, and I thought he would have been able to cite cases by the hundred. Instead of that he mentioned only one, the case of a quartermaster who was run in, it was said, for going ashore with a bible and a piece of silk. I consider the Government ought to be proud that so little could be brought against it. I do not intend to go into details in regard to the six hatters, about whom so much has been said. As a matter of fact twelve hatters were admitted, and I do not

know why the people insist upon referring to "the six hatters." According to the press the action of the Government in regard to these men is causing the British Empire to totter to its ruin; but I do not believe there were 1,000 people in England who discussed the matter. The press cabled something to England which was not true. The English newspapers published that cable and commented on the untruth, and then the press representatives at Home wired back to us that public opinion in England was so and so. But it was only public opinion based upon false information. The only complaint I have to make is that a great degree of unfairness has been shown in dealing with the attitude taken up by the Prime Minister. I like to defend any one who is unjustly attacked and even if a man is our greatest enemy we should always endeavour to see that he gets justice. A charge has been made against the Prime Minister that is not true—I refer to the assertion that the hatters were refused admission. Indeed, some ungenerously unfair statements have been made in this House. The honorable member for Robertson certainly made a grossly unfair statement—

Mr. SPEAKER.—Order! The honorable member must not say that another honorable member has made a grossly unfair statement. He must withdraw that remark.

Mr. SPENCE.—I withdraw it. I was going to say that I was surprised to hear the honorable member for Robertson make such statements, because it is unusual for him to do so. It was not fair of him to charge the labour party with having influenced the Government in dealing with the case of the hatters. The labour party took no action.

Mr. HENRY WILLIS.—Then who is "Mr. Tudor"?

Mr. SPENCE.—The honorable member for Yarra is a member of the labour party, but if the honorable member for Robertson took certain action it would not be fair to say that the Opposition was responsible for that action. I was one of those who waited on the Prime Minister and asked him to refuse to admit the second batch of six hatters, and I consider that, instead of being blameworthy for having endeavoured to shut out these men, the Prime Minister really strained the law in admitting them. If

the people will only rid themselves of that unconscious bias, caused, no doubt, by reading the statements in the daily press, and will consider the true facts in a philosophical way they will readily see that the Prime Minister really strained the law in order to admit the men. I am not complaining that he did so, but I do say that it is unfair to charge the labour party with having influenced the Prime Minister. In all the circumstances I am by no means afraid that this provision in the Immigration Restriction Act will not be allowed to stand. When we get away from the little bit of party feeling that at present exists the same evidence which caused this House to vote for that section will lead it to retain it in its integrity.

Mr. HENRY WILLIS.—But the administration in the case of the hatters was wrong.

Mr. SPENCE.—No. The case was dealt with in the only way in which it could have been dealt with. Inquiries had necessarily to be made. An attempt has been made to suggest that our credit has been injured in England by the way in which the hatters were treated. But shiploads of passengers come here and are quarantined for weeks and we never hear that the Empire is likely to be ruined in consequence of that action. Passengers are kept in quarantine until they get a clean bill of health, and these hatters were kept out until they could secure a clean bill of health. I always like to place myself in a position to get at the true facts, and I never swallow the statements of a newspaper. I have had a good deal of experience in these matters, and I have never known of a case in which a man engaged in circumstances similar to those under which these men came out, was not deceived. We were told to-day by the honorable member for Robertson that one of these men had cleared out. This is the kind of man honorable members of the Opposition are championing, and who, they tell us, should be freely admitted into Australia. My experience is that that sort of thing will invariably happen. I do not know of one instance in which men were not deceived when engaged under contract in this way. The way in which the free-trade party have departed from their principles in this case has caused me some astonishment. I do not say that every honorable member of the Opposition goes in for unrestricted competition, but they will see that

if men are bound down to work under agreement there can be no fair competition.

Mr. HENRY WILLIS.—In this case the men voluntarily entered into the contract.

Mr. SPENCE.—A man sometimes voluntarily enters upon a work in which he loses his life. Sometimes a man voluntarily kills himself, and if the law catches him in the act of trying to commit suicide, it punishes him for doing so. In speaking of a workman, the expression is always used that he is free to do this and that, that the courts are open to him, and that he can readily secure justice. But what is the good of telling a man who is living from hand to mouth that the Privy Council is open to him, that he can go there and obtain justice? He cannot do anything of the kind. He has to do all manner of things to obtain his bread and butter. If a man lands here under agreement, it cannot be said that he is free. He has to work in accordance with his contract, and he is only free when the conditions are such as to give him absolute freedom. I am not afraid of any alteration in the Act, and I do not think that the Empire was saved when these men were admitted. I wonder that some people have not complained of the failure of the Government to catch the man who went away. The whole thing is nothing more than a party move on the part of the press, and is in keeping with the wave—of which we all know—that is spreading over Australia to-day. The detention of the men for a few days exactly suited this party move. It enabled the press to cable Home that representative British citizens had been refused admission to Australia, and I doubt whether the people at Home have yet been informed that these men were really not refused admission.

Mr. HENRY WILLIS.—Would the Government do the same thing again?

Mr. SPENCE.—I think the incident will stop men from coming here again in that way. I contend that, according to the strict reading of the law, the Prime Minister could have refused the men admission, and I am not ashamed that I was one of the deputation which requested him to refuse to admit them into the Commonwealth.

Mr. McDONALD.—The mistake made was in allowing them to enter.

Mr. SPENCE.—I am inclined to think so. My own opinion is that a certain party is disappointed because the Prime Minister did not keep them out. If he

had only done so they would have had a stronger case, but as it is they are obliged to keep on saying that these men were shut out, although they were not. I desire now to join with the honorable member for Parramatta in complaining to some extent of the administration of the Postal department. As a representative of country districts, I must say that the system adopted in the Post-office in some instances causes great hardship. There are two matters about which I complain. One is the way in which people are compelled to subsidize mail contracts. They cannot get a mail in a great many districts unless they contribute the greater part of the cost of carriage. I object to that system. They should either be refused a mail or the Government should be prepared, if necessary, to carry it at a loss, having regard to the fact that that loss is made up in other places. Letters are carried at a uniform rate, because sufficient revenue is obtained in the thickly populated districts to make up any loss occasioned in carrying mails in more sparsely settled places. I have been travelling in country districts and have been endeavouring to obtain a record of what is paid by way of subsidies for mail contracts. The departmental officials were unable to tell me how much they receive in this way. The practice adopted is to send out an inspector, who makes inquiries and says—“We estimate the revenue to be obtained from the carriage of mails here at so much, and we will contribute so much towards making good the loss that will be incurred. If you can get any one to make up the balance we will run a mail to this place.” In this way many selectors and farmers who are hard up have been compelled to subsidize mail contracts. I will give an illustration showing how much depends on one man. In one case I had great difficulty in securing a certain office. An inspector was sent up to the place, and reported that the estimated revenue for the year would be £10. The first year's work resulted in a revenue of £42, but unless an estimate is made in this way facilities of this kind cannot be obtained. I come now to the question of telephonic and telegraphic communication, and I shall mention only two cases by way of illustration of my complaint. I know that there are many cases, particularly in Queensland, to which other honorable members can refer. There is a certain mining settlement, having a population of

600 people, situate 4 miles from a railway line, and the residents of that place find it impossible to obtain telephonic communication unless they plank down £600 in cash. How can a body of miners—working men—be expected to subscribe £600? The settlement in question is evidently going to be permanent. The principal mine is a very rich one, and there are others adjoining. Altogether, it is a go-ahead place, but the local post-office is what is known as an unofficial one. A postmistress is in charge, and receives £28 a year. For that remuneration she does all the work of the post-office, and practically all the money-order and savings bank business. I know of a somewhat similar district, although the population is not so large, which is in exactly the same position. It seems to me that as soon as there is a reasonable prospect of permanent settlement, the Government should erect a telegraph wire. No very great loss would be occasioned.

Mr. KENNEDY.—The department is working under regulations.

Mr. SPENCE.—Regulations can be altered, and I am pointing out how they should be altered. In the progress of a settlement a stage is eventually reached at which the department determines to erect a wire at its own cost, and it provides telephonic communication, although it may not establish an official office. What I complain of is that the department is too slow in determining to carry out that work. No effort is made to use the Post-office to assist the people in the country; on the contrary, the people are submitted to all sorts of disadvantages. The department will not take a guarantee of any kind in regard to these works. I know that the guarantees of men whose names would be accepted by any merchant have been refused. The department must have cash down, but I am at a loss to understand why private persons should be asked to advance money in that way. I should not complain if it were a case of half-a-dozen people applying for telephone or telegraphic communication at the expense of the country. I would oppose such a thing myself. But here is a permanent settlement, or one that has every appearance of permanency, a place with thoroughly developed and rich mines and with others going ahead, and I say that the department has shown itself to be too slow in supplying the means of communication which such a settlement is entitled to have. The

people are put to great expense and loss, the mining companies have to keep a horse and an attendant constantly ready, and messages have to be carried for miles because there is no telephone or telegraphic communication provided. Another matter to which I desire to direct the special attention of the Minister for Home Affairs is one in which every honorable member is interested. I refer to the preparation of the electoral rolls. It is quite evident from the returns we have from New South Wales, and the estimate of Mr. Coghlan, that there must be some 80,000 persons in that State who are not on the rolls. That is a very serious matter. From a comparison of the populations of Victoria and New South Wales, it is clear either that in Victoria names have been duplicated on the rolls, which is very unlikely and which it is perhaps unfair to assume, or that in New South Wales those appointed for the purpose have failed to collect the names of persons entitled to be on the rolls. In my recent trip to my electorate I met a very great many who are not on any roll at all. They do not know whether they are on the federal roll or not, and it is important to consider how they are to get the information. I have a suggestion to make to overcome the difficulty. It will be some little time yet before the plan of the electoral divisions is submitted to us, and there will then be a period of 30 days within which objections may be lodged against the divisions proposed. After that any alteration which may be deemed necessary will have to be made, and all this must be done before the rolls can be finally prepared. I suggest that in the meantime it is possible for the Government to have the temporary rolls, as at present compiled, printed and supplied to the various post-offices of the different districts. People will then be able to examine them, and if they find that their names are not included they can formally apply to have them placed on the rolls. I believe that a supplementary roll provided for in this way would be ready by the time we had dealt with the electoral divisions. Unless some such course is adopted, people will have to write to head-quarters on the subject, and I ask honorable members to imagine 80,000 electors in New South Wales communicating simultaneously with Mr. Lewis. What a nice little contract that gentleman would have in discovering whether the names of those persons are, or

ought to be, on the rolls. The matter is one which, I think, should be dealt with at once, that the difficulty may be overcome in time for the senatorial elections, apart altogether from the elections for the House of Representatives.

AN HONORABLE MEMBER.—How were the names left off? Did not the police go round?

MR. SPENCE.—It is true that the police went round as they did in connexion with the compilation of the rolls for the previous elections, when thousands of names were left off. I know that in my own electorate before the last election took place we managed to get the names of no less than 170 men put on the rolls. Those names had been struck off, though most of the men had been living in the district for years. In one town, Warren, the names of all the clergymen were struck off, for what reason no one could say. I am not speaking of the case of new electors, but of men who had previously been on the rolls. One man whose name was struck off was continually under the eyes of the constable, who could not go out of his door any day without seeing him. I say that the data supplied for the purpose of revising the rolls has been incorrect, and country districts have suffered more than metropolitan districts in this respect. Owing to the drought there has been a temporary concentration of people within the metropolis, who, since the rain has fallen are going back to the country districts which they left. During the time of the drought the country districts of course had a minimum population, whilst the population of Sydney was at the maximum. That will probably account very largely for the preponderance of women voters in the metropolis as the wives, daughters and servants of managers of stations being in Sydney temporarily would of course be placed upon the Sydney rolls. The Government might consider the suggestion I make and see whether it is not possible to issue copies of the temporary rolls to enable persons whose names are not included to take steps to get them upon the roll.

MR. CONROY.—What is the last day upon which they can be put upon the rolls?

MR. SPENCE.—Revision courts will have beheld after the rolls have been compiled, and there will not be time for all that requires to be done unless some such suggestion as

that which I have made is acted upon. I shall not now say very much about the proposed Conciliation and Arbitration Bill. It goes without saying that I am heartily in favour of that measure. It has always been a proposal of the labour party. Labour has always been prepared for arbitration, while it has been the other side that has been against it, and it is the other side that will be found against it now. I shall reserve more lengthy remarks upon the matter until the measure is before the House, but I should like now to urge its importance, and to suggest that it should be one of the first measures considered. I do not agree with the honorable member for North Sydney that it is not urgently needed. I know of cases now waiting in which complications are likely to arise unless a court of conciliation and arbitration is established. I refer, of course, to cases affecting Inter-State matters. I quite recognise that the question of jurisdiction will be one which there will be some difficulty in deciding. It will not be easy to draw the line between Inter-State and purely State matters. But there are some cases which are certainly Inter-State waiting to come before the court as soon as it is established. I do not anticipate that the court will have a great deal of work to do, and while on that account it need not be very costly, I venture to think that it will be the means of saving the people of Australia a very large sum indeed. Even if its establishment involves considerable expense, I know of no court whose work would be of more value to the people of the Commonwealth. I agree with the leader of our party that, as trades unionists, we may have to make sacrifices in some things of value to us, but we shall be prepared to do that for the sake of industrial peace, and in order that good relations between employers and employes may not be disturbed. On the subject of the proposed High Court of Judicature, I feel that we still require a great deal of information, which I hope we shall get when the measure for its establishment is introduced. As the proposal is to give the court original jurisdiction, it is probable that upon its establishment it will be able to take over the consideration of a great many cases which now come before State courts that have been given federal jurisdiction. This will probably affect the question of the cost of its establishment,

because if there is a good deal of work to be done by the court, and we are called upon to pay high salaries to the Judges, they will probably be earning their money. I point out that in the way I have suggested the work done by the proposed High Court may lessen the work which, under existing circumstances, must be done by the States judiciaries, and on that account some savings may be effected by the States. I know that there have been complaints in New South Wales recently that the Judges there are overworked, and are unable to overtake the work they are required to perform. I think that the Judges of the Federal High Court will become specialists, will acquire special knowledge for the performance of their functions, and in that way will have an advantage over the Judges of the various States who temporarily exercise federal jurisdiction. I agree that if a High Court is to be established, we should try to keep down its cost as much as possible. The Federation should go slowly and steadily in the setting up of these great institutions, and certainly if it can be shown that a High Court can be dispensed with for a time without involving injustice, I should favour delay. I have heard nothing so far to induce me to believe that very much will be gained by the people of the Commonwealth as a whole by postponing the establishment of the High Court. I am not greatly in love with the proposals for naval defence. My idea is that if we give our people practice in the use of the best rifle, and supply them with rifles and ammunition, through rifle clubs and such bodies, they will take care of Australia. In conversation with authorities on the subject of defence, I found that the popular idea of a vessel appearing outside Sydney Heads and shelling the city was ridiculed. It was pointed out that war vessels carried a limited quantity of ammunition for the purposes of sea fighting, and they would not be likely to waste it in shelling a place like Sydney, where there is so much space taken up by water, gardens, and streets. It has been suggested before now that one of the best defences which Sydney could have would be an effective fire brigade system, so that fires which might be lighted by shells thrown into the city could be promptly extinguished. But I have been told that it is not likely that a war vessel would do any such thing as fire shells into the city. I was assured by a good authority,

a professional military man, that an iron-clad might get into Sydney Harbor, but it was not reckoned that it could get out. It was not supposed that its entry could be prevented either by the fixed guns or by submarine mines, because we know what may be done by counter mines. It seems to me that we require a good deal more information upon the subject than we have at present. We cannot contemplate the formation of a big navy able to fight the number of ships likely to come here. I recognise that a gunboat might be able to defend us from the operations of an ordinary cruiser or privateer, but if it were the intention of an enemy to do anything in the way of taking away loot, the number of ships required for the purpose would be sent, and we should require a considerable navy to fight them. It seems to me that there is a great deal of waste about the defence business altogether, and I am not in favour of the idea of even forming the nucleus of an Australian navy at present. There have been so many developments recently in connexion with the business of defence that I hope the fullest information will be given on the subject when the measure referred to in the speech is brought before us, and that the whole question will be very carefully considered. Perhaps the proposal which has been suggested is the best that we can accept. It is possible that it would be better to have ships which would be under our own control if we are to have them at all, and small fast cruisers to run round the coast would be useful for the purpose of supplying information. The authorities of Great Britain must, of course, protect their commerce, and I have no doubt they will do so. I would rather see Great Britain and the other leading nations of the world join together to set up an arbitration court, and compel all countries to bring their disputes before it. Of course there would always have to be the ultimate resort to force, but such an arrangement would be a better way of settling difficulties than that which now obtains and which necessitates the constant building up and equipping of huge armaments. A great deal of money has been wasted in the past in military preparations, and while I do not wish it to be forgotten that Australia is part of an Empire to which her people are proud to belong, and whom we do not wish to treat meanly, I am of opinion that we cannot afford to spend much money on defence. I wish

now to refer to the finance problem. In the first place I congratulate the Ministry, and especially the Treasurer, upon the attitude which they have taken in regard to the proposals of the six Australian statesmen who met in Sydney to sketch out how, in their opinion, the Commonwealth should be run. Those financial geniuses evolved a splendid plan. They proposed that the people of Australia should borrow a large amount of money to buy back from themselves buildings which they had already paid for with borrowed money. I do not know what a private person would think if an arrangement of that kind were suggested to him in regard to his own business. Those gentlemen forgot that we are all one people, and that the Commonwealth and the various State Governments and Parliaments are so many committees appointed by the public to manage their business. I am very glad that the Ministry have indicated that they will not be parties to such a scheme for sneaking in a £10,000,000 or £12,000,000 loan. In this connexion, I should like to refer to a phase of the matter which I have not yet heard mentioned, and to make a suggestion which I hope will commend itself to honorable members. The pooling of the public debts of the States and their conversion into a Commonwealth debt is a matter which has been very much discussed of late, and an arrangement to which I am favorable. But I do not think that the time is quite ripe for bringing about such a conversion, and I was not surprised to find no reference in the Governor-General's speech to the subject. Before anything can be done, some understanding must be arrived at between the Commonwealth and the States as to future borrowing. It is very clear that if the public debts of the States are converted into a Commonwealth debt, we shall have the unpleasant task of collecting taxation to repay what has been borrowed, whilst the Governments of the States will have the pleasant task of spending whatever money may be borrowed in future. The Commonwealth, however, could not be put into the position of determining for what purposes the States should, or should not, float loans, because that would be an interference with the powers of the Governments of the States; but before anything can be done in the way of conversion there must be some definite understanding on the subject of borrowing. It is manifestly clear that future borrowing

must be done through the Commonwealth Government. In 31 years the Australian people have paid no less a sum than £103,000,000 to the British money holder without in any way lessening their indebtedness to him. Therefore I say that it has become necessary to establish a sinking fund to provide for the reduction of our indebtedness.

Mr. FOWLER.—Western Australia has established sinking funds in connexion with all her loans.

Mr. SPENCE.—Yes; but there should be a sinking fund to provide for the reduction and extinction of the whole of the debts of the Commonwealth. I would also suggest that an understanding should be arrived at with the States as to the purposes for which money should be borrowed. In my opinion, the Commonwealth should insist that the States Governments shall expend loan money only upon two subjects, the making of rail ways and the conservation of water. I mention those two objects because such works would be reproductive, and are absolutely necessary in a country like Australia. But I do not agree with the suggestion of the honorable member for Bourke that the borrowing powers of the States should be in proportion to their population. On the contrary, I claim that a sparsely populated State like Queensland, which has a big territory to develop, is much more justified in borrowing for the purposes I have named than a State having a smaller area and a larger population. If the objects upon which loan money were expended could be limited, that would be a check upon the extravagance of the States Governments, and would prevent them from yielding to the pressure which is now brought to bear upon them. In both New South Wales and Victoria proposals for large public works are inquired into by parliamentary committees before being laid before Parliament, and this relieves some of the pressure, but a check such as I speak of is still absolutely necessary to prevent the foolish expenditure of loan money. The members of the Opposition seem to consider that the Government are settled in their seats on the Treasury benches, and if that is so they will have plenty of time to go fully into these matters with the Governments of the States before any proposal is made. I hope that negotiations will be opened up with the Governments of the States, and that a reasonable

understanding will be arrived at, so that the matter may be dealt with by next Parliament. I have taken from *Coghlan* a few figures which will show very clearly how great are the financial burdens which the people of Australia have now to bear. According to *Coghlan*, our public debt amounts to £55 17s. 1d. per head of population; which does not seem an enormous sum. But it must also be remembered that 10 per cent. of the property of the Commonwealth is owned by persons living outside its borders, and that 20 per cent. of the property of New South Wales is owned by people living outside the borders of that State. In view of these facts I wonder that the States which find themselves short of money are not imposing absentee taxation. In the figures I am about to give the dividends drawn by absentees are included. The indebtedness of the Commonwealth incurred by the Governments and local governing bodies is, according to the latest figures, £192,341,000, and our indebtedness under private investment, including money drawn by absentees, £127,951,000, a grand total of £320,292,000, or £83 11s. 4d. per inhabitant. Those figures do not include mining investments. According to the statistics for 1901, the people of the Commonwealth pay annually to the British money lender £13,039,000 in interest. To ascertain what this means to the population taken individually, I have calculated its incidence upon the breadwinners of the Commonwealth. There are in the Commonwealth 1,269,000 male and 339,000 female breadwinners. Of these, 1,214,057, or 61 per cent. of our population, are male breadwinners between the ages of 15 and 65 years, and their contribution amounts to £10 5s., or about 4s. per week each. Those figures should bring it closely home to us that this matter of borrowing should be carefully looked into. It behoves us to see whether we are not nearing the time when, if we should not put a stop to public borrowing altogether, we should borrow as little as possible. I am not contending that it is not often profitable to borrow, but borrowing is profitable only when the money borrowed is expended upon the development of natural resources which we could not so rapidly develop out of revenue. In a country like Australia, whose rivers are mostly chains of water-holes in the summer time, we must have railways to open up the land, and where such railways develop our mining, agricultural, and pastoral industries

it is profitable to make them even if we have to borrow money to do so. But we cannot continue the present system of borrowing, and the figures which I have given show what a load of debt it has already placed upon us. According to *Coghlan* the British money lender has received from Australia £56,000,000 more than he has advanced. I wish now to say a word or two to ridicule the talk which we have heard about that personage not being willing to lend us more money. As a matter of fact he has got in Australia the best field for investments that he ever discovered. We pay our interest directly it is due, and we have repaid him £56,000,000 more than we have borrowed, without reducing our indebtedness. To show how ridiculous some of the statements which have been made by the press are, I will quote a few figures. The newspapers are always ready, to serve party interests, to write of the country as if it were going to ruin. I find, however, that it is really the richest country in the world. The country which produces least wealth per inhabitant is Russia, whose production is less than £5, while that of Germany is about £8; of England, £7 18s. 6d.; of Sweden and Denmark, £10; of France, £11 11s. 6d.; of America, £14 14s.; of Canada, £16 5s. 6d.; and of Australia, more than twice as much as that of the United States, namely, £29 12s. 7d. Those figures were compiled upon the returns for the year 1901, when our yield of wool was much lower than in years previous. Every one person in six in Australia owns property over £100 in value. Whilst the condition of many of our people is very hard, our exports and our savings show that in the aggregate we are very well off. Nothing, therefore, can be more absurd than the cry that John Bull and Company will refuse to lend money to Australia. But it is our business to study our own interests rather than his, and for that reason I hope that in future our public borrowing will be much less than it has been in the past. I was glad that this House determined last session that the Commonwealth should not borrow to provide for public works which could very well be paid for out of revenue. I do not think there is any likelihood of all the measures in the Governor-General's speech being dealt with this session, but I certainly think in regard to the proposed establishment of an Inter-State Commission

that, if the Federation is likely to take over the railways—and the idea that it should may grow in the minds of the people—we shall not want such a body. We should consider whether it would not be better for us to adopt the easiest and cheapest method of regulating these matters, without entering upon any elaborate arrangements, until the question of taking over the control of the railways can receive further attention. Possibly it would be much better for all concerned if the railways were placed under federal authority.

Mr. FOWLER.—The work of the Interstate Commission might lead up to the federalization of the railways.

Mr. SPENCE.—Perhaps so, but a simple and inexpensive tribunal might effect that purpose quite as readily as the body proposed to be erected under the elaborate scheme suggested by the remarks of some honorable members. I hope that no time will be lost in obtaining the report of the commission appointed to inquire into the suitability of the sites suggested for the federal capital. I have taken every opportunity of denying the absurd rumour which has been in circulation to the effect that it is proposed to spend £5,000,000 in the establishment of the capital. There is no foundation for any such idea. The site for the federal capital should be selected as early as possible, because it is manifestly unfair to New South Wales to incur any unnecessary delay. After the site has been fixed upon, the area will have to be mapped out, and under the most favorable circumstances the capital cannot be established before some considerable time has elapsed.

Mr. FISHER.—We might start with tents instead of permanent buildings.

Mr. SPENCE.—I should have no very strong objection to adopting even that course, but I hope to see the whole question settled as speedily as possible.

Mr. FULLER (Illawarra).—The long programme submitted by the Government affords an opportunity for very wide discussion, but I do not propose to deal with the subjects mentioned in the Governor-General's speech except in a general way. I shall defer any remarks I may have to make until the measures foreshadowed are brought before us. I welcome the proposed High Court Bill. I listened with very great attention to the eloquent speech delivered by the Attorney-General in connexion with the measure introduced last

session. I have always advocated the appointment of a High Court, and, after hearing the Minister's speech, I was more than ever convinced that in the interests of the Commonwealth it was absolutely necessary that a High Court should be created. I have been astonished at some of the suggestions made regarding the vast amount of expense which will be entailed by the establishment of the proposed tribunal, and this is one of the matters on which I shall require the fullest information before I cast my vote. I am not prepared to approve of any undue expenditure. I hope that in regard to the High Court Bill and other measures which are to be brought in the Government will not advance them to the second reading stage and then allow them to drift along in a haphazard way as was the case with a number of Bills last session. I trust that the Government will not resort to their previous practice of counting heads in order to ascertain the feeling of the House, but that they will act with that independence and resolution which should always characterize a dignified Administration. I desire to direct attention to one or two matters affecting the constituency which I represent. We have there one of the largest industrial centres in Australia, with fifteen or sixteen coal mines, numerous coke works, large harbor works, brick works, and other important industrial undertakings. I interested myself in attempting to secure telephonic communication between that district, which is 50 or 60 miles from Sydney, and the metropolis. Estimates were drawn up and other preparations made, and just when everything seemed complete I was asked to provide £700 cash for five years as a guarantee to cover the working expenses of the line. So far as the Illawarra district is concerned, no doubt the money could be found, but why should the people be asked to furnish a guarantee for a public facility which should be provided for the benefit of the whole district? My contention is that in the case of a great industrial centre with a settled population—not a moving population such as might be temporarily located on a gold-field—the Postmaster-General should deal with an application for telephone communication as a matter of general policy, and should, if the circumstances appear to him to warrant it, carry out the work independently of any guarantee on the part of

the people. In another case it was proposed to connect the Camden hospital with the residence of its medical officers, but in that instance also a guarantee had to be provided before the work was carried out. Surely, of all institutions, those which are provided by the people for the relief of human distress should receive the greatest consideration at the hands of the authorities. The principle upon which these and similar applications are dealt with at present appears to me to be absolutely wrong, and the sooner the present regulations are repealed the better it will be for all concerned. I have also to complain of the unaccountable delay in the expenditure of money voted in June last for carrying out work in connexion with the Postal department in my district. In one case money was voted to provide a postal service for an important centre at which there are large smelting works employing upwards of 600 hands, but although twelve months have elapsed the plans and specifications for the work are not yet ready. In another instance £67 was voted for painting and repairs at a post-office, and although the premises are in a disgraceful condition, the plans and specifications for this work also are still incomplete. Judging from my own experience and from the criticisms passed by a number of honorable members, the administration of the Postal department is not being carried on with any approach to satisfaction. I do not wish to say anything of a personal character against the Postmaster-General or his under-secretary, Mr. Scott, but so far as I have been able to observe the magnificent postal facilities to which we have been accustomed in New South Wales are gradually being brought down to the level of the conveniences provided for the public of Queensland. The object should be not to level down in this way, but to improve in the highest possible degree the means provided for ministering to the public convenience. I desire to touch upon one matter in regard to which I put some questions to the Minister for Trade and Customs yesterday. I allude to the proposed enactment of uniform patents laws, to which reference was made in the Governor-General's speech. Those who have had anything to do with the registration of patents in the various patents offices throughout the States, must be aware of the great difficulties under which inventors

labour at the present time. In New South Wales it is notorious that the office is in a state of confusion and chaos, as a result of which the public are called upon to submit to great inconvenience. I am personally acquainted with many investors, who are anxiously awaiting the enactment of a federal patents law, so that, instead of having to register their patents in each of the States, they may take out one patent for the whole of the Commonwealth. The answer which the Minister for Trade and Customs—in whose department this matter is—gave to me yesterday, was that he had no power to interfere until a statute dealing with it had been passed. No doubt his statement is perfectly correct; but my idea is that, in the interim, a convention composed of men possessed of technical skill and knowledge should meet, with a view to placing the State patents offices in order. We all know that at the present time the transfer of patents from one person to another is a very expensive process. It resembles the style of the old land transfers to which the people of New South Wales were accustomed before the adoption of the Torrens title simplified the procedure necessary in such cases. Under existing circumstances, no layman can obtain a transfer of a patent without consulting the legal fraternity, against whom there is such a strong antipathy in this House. After all, it should be remembered that the majority of the inventors who take out patents belong to the poor or middle classes of the community, and I think that the Minister for Trade and Customs would do well to consider the suggestion which I have made, in order that the process of transfer may be rendered as inexpensive as possible. The honorable member for Echuca, speaking as a representative of the farmers, objected to any large expenditure in connexion with the Federation. Amongst other matters, he declared that we should be careful not to incur any expenditure in connexion with the establishment of the federal capital. But I would point out that in selecting the capital site we shall be merely carrying out the compact under which New South Wales was induced to join the union. That in itself is a reason why the work should be undertaken at the earliest possible moment. Last session, in common with the honorable member for North Sydney and the honorable member for Parramatta, I was anxious to

ascertain something regarding the duties which the board of experts that has since been appointed to deal with the matter would be called upon to perform. At that time the report of Mr. Oliver was available, together with all the evidence taken by him, and I felt satisfied that no additional information of any value connected with the questions into which he inquired could be furnished by any commission. What has been the result? The members of the commission have travelled all over the country, collected a large amount of evidence upon the same lines as that submitted to Mr. Oliver, have ascertained the price of tomatoes in Albury, and acquired voluminous information of a similar character. I was sorry to hear from the Minister for Home Affairs yesterday, that the report of the commission would not be available till next month, although it was promised for the middle of April. These are some of the matters which tend to delay the carrying out of the compact made with New South Wales. The remarks of the honorable member for Echuca were only a repetition of what has been said for months past by the daily newspapers of Melbourne. They object to the establishment of a federal capital on the ground of expense, and suggest that we should have a peripatetic capital alternating between Melbourne and Sydney. These suggestions are put forward only for the purpose of securing delay in the selection of the site.

Sir EDMUND BARTON.—They will not delay it.

Mr. FULLER.—At any rate we cannot deal with the report of the commission until it has been received. That means a further delay of a couple of months. I should like, also, to refer to one matter connected with the Defence department. I understand that the general officer commanding the forces of the Commonwealth proposes to dispense with the band which is connected with the regiment of lancers in New South Wales. That regiment is a most important part of the State military forces. It is a body the members of which have shown their loyalty to the British Empire perhaps more than any other force in Australia. They were the first colonial troops to land in South Africa, and to be sent to the front during the Boer war. Upon different occasions they have journeyed to England at their own expense to compete at military tournaments, and

they also took part in the celebrations connected with the Queen's Jubilee. The members of the band connected with the regiment are trained soldiers who go through an annual course of musketry. In other words, they are well qualified for active service. Although the head-quarters of the regiment are in Sydney, branches of it exist in a great many towns in New South Wales. There is one in the constituency of the honorable member for Parramatta, another in the electorate of the Prime Minister, and three in the district which I have the honour to represent. I understand that the officer commanding the regiment has called a public meeting in connexion with this matter, and that a petition has been sent to the Prime Minister with a view to securing provision upon the Estimates to prevent the services of this band from being dispensed with.

Sir JOHN FORREST.—We are providing £150 a year.

Mr. FULLER.—I was not aware of that. I understood from the report of the public meeting which was held that no allowance had been made.

Sir JOHN FORREST.—The amount is not so large as it was.

Mr. FULLER.—Colonel Burns, the officer commanding the regiment, as well as some of its members, have spent a considerable amount of money out of their own pockets in connexion with its maintenance, and therefore I think that they are entitled to considerate treatment. Knowing how strong are the Imperial instincts of the Minister, I feel sure that after their services in South Africa, he will grant them every consideration. We have heard a good deal from various speakers throughout the Commonwealth, and notably the Prime Minister, as to the necessity of having what is called a "Tariff rest." The honorable member for Echuca was very strong on that point to-day, holding that in the interests of the country we ought to be satisfied with the Tariff as it now stands, and that there ought to be a cessation of fiscal discussion. The honorable member also expressed the opinion that if the leader of the Opposition re-opened the Tariff question, his chance of reaching the Treasury bench would be hopeless. I do not know whether the Treasury bench constitutes the great aim of the right honorable gentleman, but as for myself, I am fighting as, I believe, my leader is

fighting, for a revenue Tariff in the best interests of Australia. The Prime Minister, speaking at Dungog, said that if the Tariff were swept away, and another substituted, the second would be more of a botch than the first, thus acknowledging that the present Tariff is a botch.

Sir EDMUND BARTON.—Perhaps the honorable and learned member was not present last night when I denied having called the present Tariff a botch. I did say something about the Opposition endeavouring to make it a botch, but nothing to the effect that it was a botch.

Mr. FULLER.—I was present in the chamber last night, but did not hear the explanation. My authority, however, is the report of the speech in the *Sydney Morning Herald*.

Sir EDMUND BARTON.—I do not blame the newspapers for an error like that; there are many errors which we cannot contradict.

Mr. FULLER.—The Prime Minister also said that it would be iniquitous to bring about a period of unrest, and he appealed to the people to give the Tariff an opportunity of settling down. On the same occasion the Prime Minister asked why we should go through a period of unrest "to suit the people on the other side." But this is not altogether a matter of "suing the people on the other side." The question ought to be settled in the interests of the people of Australia. It is in those interests, and not merely for the advancement of personal aims, that honorable members on this side are fighting. At Maitland, on 27th April, the Prime Minister said—

But whether Mr. Reid failed or succeeded to reopen this question it would be an act of perfidy to the Commonwealth, because it would mean that for the sake of fads and theories and the desires of office they would get rid of that which ought to be tried under normal conditions.

It appears to me that the remark about "fads and theories" applies equally to the Ministerial side, seeing that they insist on maintaining the present Tariff in order to carry out their fad or theory of protection. After the Maitland manifesto of the Prime Minister, the people of New South Wales had no idea that such a Tariff as that laid before the House last session would be presented, and there is not the slightest doubt that as introduced the Tariff was a partisan measure.

Mr. BAMFORD.—New South Wales is not the whole Commonwealth.

Mr. FULLER.—That is so, but I have no doubt that the people of New South Wales will make their voice heard at the next election. Ministerial members, and the newspapers which support them, charge the Opposition with the responsibility of delaying much needed legislation by the prolonging discussion on the Tariff proposals.

Mr. KENNEDY.—We do not blame the Opposition.

Mr. FULLER.—The honorable may not, but most Ministerial supporters do blame us. The same charge has been made against us by the Prime Minister.

Mr. THOMSON.—The discussion on the Tariff occupied time equal to only 58 sitting days.

Mr. AUSTIN CHAPMAN.—The blame laid on the Opposition is severe, but it is merited.

Mr. FULLER.—That may be the honorable member's opinion, but I do not know whether he will consider that the present Ministerial supporters will merit the result of the next election. The Prime Minister asked—

Whether under the struggle and strife they have had, they should again be subject to similar strife and struggle for the mad purpose of pulling up the plant before they knew whether the roots had struck.

That is the very reason why we want the question fought out at the earliest possible moment. If the roots of protection do get struck in Australia, we shall hear the same old miserable cries about vested interests—the same cries which were heard in the lobbies throughout the Tariff discussion—and it is in order to avoid such a result that we want the matter decided by the people at the earliest possible moment. The honorable member for Eden-Monaro smiles, but I ask him whether there are no people in the Commonwealth deserving consideration except those interested in manufactures? Has no regard to be paid to the miners, farmers, and others throughout the country districts, who are engaged in the great industries which have been the backbone of Australia from the very beginning? Are these people not entitled to some consideration in connexion with a Tariff for all Australia? The honorable member for Gwydir, this afternoon, said that the agricultural duties produced only £17,000 at the port of Sydney during the six months prior to last December. But the people of New South Wales and Queensland know what

they have to pay in consequence of the present Tariff. It is not merely a question of the £17,000 paid at Sydney on the foreign produce imported; we have to consider the enhanced price which, as a result of the Tariff, the people of New South Wales and Queensland have to pay for the produce received from Victoria, Tasmania, and South Australia.

Mr. BAMFORD.—It must be remembered that those duties always existed in Queensland.

Mr. FULLER.—But the New South Wales people have been accustomed to live in an air of freedom, and they desire to see the people of Australia breathing the same healthy atmosphere. It is no new thing for the Prime Minister to urge a Tariff rest, because as far back as 1894 the right honorable gentleman was engaged in talking in exactly the same way in relation to the Dibbs Tariff in New South Wales. In defence of that Tariff, the Prime Minister then said—

A drastic alteration would unsettle every commercial and industrial interest, would unhinge all the operations which had begun under different arrangements, and in a time like this, where we are crossing the stream, we should not be asked to swap horses.

But the New South Wales people insisted on "swapping horses" when "crossing the stream." There was a general election which resulted in the Dibbs Tariff being swept away, and in the establishment of free-trade — or comparative free-trade at any rate—in the mother State, which then entered on a period of prosperity never enjoyed under protection.

Sir EDMUND BARTON.—It would have been better if the people of New South Wales had taken my advice.

Mr. FULLER.—I believe that at the Commonwealth election the people will refuse to accept the Tariff rest which the Prime Minister offers. I feel satisfied that we shall have a revulsion of feeling from one end of the Commonwealth to the other, with the result that the people will again be able to breathe that air of freedom to which they had been accustomed. In regard to the naval agreement, I am one of those who desire to keep Australia for white people. The prominent way in which we have brought ourselves before the world in recent years, and the class of legislation which we have been passing, imposes upon us the necessity of doing something to preserve our shores

against attack. We have always lived under the flag of Old England. It has been our protection in the past, and I trust that it will always be so. The proposition made by the Prime Minister meets with my hearty approval. If we desire to keep Australia for white people; if we wish to be in a position to enforce our legislation, then we must place ourselves in as strong a position as possible to defend our shores. I entirely agree with that part of the Governor-General's speech, and I sincerely trust that those measures which are in the interests of the people of Australia will be proceeded with as expeditiously as possible in this House.

Debate (on motion by Mr. WILKS) adjourned.

SPECIAL ADJOURNMENT.

Resolved (on motion by Sir EDMUND BARTON)—

That the House, at its rising, adjourn until Tuesday next, at half-past two o'clock.

ADJOURNMENT.

ELECTORAL ROLLS : DRAYTON GRANGE INQUIRY.

Motion (by Sir EDMUND BARTON) proposed—

That the House do now adjourn.

Mr. WILKS (Dalley). — I desire to bring under the notice of the Government, particularly the Minister for Home Affairs, a matter of some importance to the electors of New South Wales. From a paragraph in the press to-day it appears that the Minister for Home Affairs has discovered a discrepancy between the census returns and the electoral rolls of New South Wales; that that discrepancy represents 80,000 voters, and that he is placed in a much perplexed position. It has also placed the electors of New South Wales in a much perplexed position, and the discovery of this discrepancy requires some explanation. Of course the census returns and the electoral rolls were in the possession of the officers appointed to redistribute the electorates, and they should have been aware of this discrepancy before they plotted out the districts. The districts have been plotted out, and suddenly the Minister states that he is in great trouble and perplexity by reason of the discovery of this discrepancy. If it is not explained, and explained early, it will throw some suspicion on the motives

of the Minister. I do not think that he can be accused of gerrymandering. I understand that he has applied to Sir John See for further information in regard to electoral matters. Why was not such information asked for before the plotting took place? If this matter is allowed to pass without an explanation he cannot be surprised at the public thinking that the Ministry are scheming to undo what has been done. I do not think that that is the case. I should like the Prime Minister if he can to make an explanation, and if he is not in a position to explain I trust that the Minister for Home Affairs will be able to give a full and clear explanation to the House next week.

Sir JOHN FORREST (Swan—Minister for Defence).—In compliance with the request of the honorable member for Maranoa, I have obtained all the correspondence relating to the *Drayton Grange* inquiry. I propose to leave the papers on the table for the inspection of honorable members, as I do not wish the department to have the work of copying them unless it is specially desired. I hope that when they are done with by honorable members in a month or two, I may be permitted to return them to the department.

Sir EDMUND BARTON (Hunter—Minister for External Affairs).—With reference to the inquiry which the honorable member for Dalley has made, the Minister for Home Affairs, who has gone away during the last few minutes, has a larger knowledge of this matter, departmentally, than I have. All that appears, so far as I know, is that in comparing the population of New South Wales and other States, now that we have adult suffrage, it is estimated that the numbers returned on the rolls in New South Wales are 80,000 short of what they should be, taking the population as the basis.

Mr. WILKS.—According to their own census returns.

Sir EDMUND BARTON.—It may be in accordance with the census returns, but that I am not aware of. My honorable colleague is making inquiries, with a view of finding out how it is that the rolls show such a discrepancy. If it appears that it is a discrepancy that is inevitable the matter will go no further. But if it appears that an obvious injustice is being done to New South Wales with respect to the return of the rolls, then it will be for

the Minister to consider whether he will bring any, and what proposal before the House.

Mr. WILKS.—The officials were armed with the information before they plotted out the districts.

Sir EDMUND BARTON.—Possibly, and that may be some evidence that the rolls were properly collected. It all depends upon the results of the investigation.

Question resolved in the affirmative.

House adjourned at 4.8 p.m.

House of Representatives.

Tuesday, 2 June, 1903.

Mr. SPEAKER took the chair at 2.30 p.m., and read prayers.

INTER-STATE DUTIES.

Mr. THOMSON.—I wish to know from the Minister for Trade and Customs what is the date of the decision of the Attorney-General that Inter-State adjustments were necessary for transfers of goods under the State Tariffs?

Mr. KINGSTON.—There have been several opinions, the first of which was given in, I think, September, 1901. I am expecting full particulars, however, and I hope to be able to give the honorable member all the dates later in the afternoon.

IMPERIAL SERVICE ORDER.

Mr. CROUCH.—I wish to know from the Prime Minister if the recent appointments in the Commonwealth to the Imperial Service Order were made with the knowledge or concurrence or at the suggestion of the Ministry?

Sir EDMUND BARTON.—The distinctions, which have been conferred upon officers of the public service of the Commonwealth were so given.

PAPER.

Sir GEORGE TURNER laid upon the table—

Audit Act, two returns as to transfers, financial years 1901-2 and 1902-3.

GENERAL ELECTIONS.

Mr. POYNTON asked the Prime Minister, *upon notice*—

Whether it is the intention of the Government to hold the next general elections of the House of Representatives on the same date as the elections for the Senate?

Sir EDMUND BARTON.—It is not usual to state publicly by way of anticipation any advice that it is proposed to tender to the Crown, but with the promised co-operation of honorable members in the passage of much necessary legislation, the Government look forward with great satisfaction to the possibility of such an arrangement.

DEFENCE OF FREMANTLE.

Mr. E. SOLOMON asked the Minister for Defence, *upon notice*—

1. Whether the Defence department is taking into consideration the advisability of erecting fortifications at Fremantle?

2. Whether the department will appoint experts to report on the matter?

Sir JOHN FORREST.—The answers to the honorable member's questions are as follow :—

1. Yes.

2. The matter has been gone into by the expert officers of the department, and the General Officer Commanding has submitted certain recommendations.

OPENING OF POST-OFFICES.

Mr. McCOLL asked the Minister representing the Postmaster-General, *upon notice*—

1. Whether the Postmaster-General is aware that the late hour at which post and telegraph offices open is not convenient for the public?

2. Whether the Postmaster-General will take steps to have the offices opened at an earlier hour?

Sir PHILIP FYSH.—The answers to the honorable member's questions are as follow :—

1. The Postmaster-General is aware that complaints have been made that the hour at which the post and telegraph offices open is not convenient in Victoria.

2. Inquiry is being made in order to ascertain the hours for keeping those offices open which would be most convenient to the public in Victoria.

PERMANENT ARTILLERY
RETIREMENTS.

Mr. McDONALD (for Mr. HUGHES) asked the Minister for Defence, *upon notice*—

1. Whether it is a fact that six members of the New South Wales Permanent Artillery are to be compulsorily retired at the end of June next?

2. If so, for what reason?

3. Is any provision to be made for compensation to these men?

Sir JOHN FORREST.—The answers to the honorable member's questions are as follow :—

1. Yes.

2. On reduction of establishment.

3. Yes.

GOVERNOR-GENERAL'S SPEECH :
ADDRESS IN REPLY.

Debate resumed from 29th May (*vide* page 329), on motion by Mr. L. E. GROOM—

That the following address in reply to the Governor-General's opening speech be now adopted :—

MAY IT PLEASE YOUR EXCELLENCY—

We, the House of Representatives of the Parliament of the Commonwealth of Australia in Parliament assembled, beg to express our loyalty to our Most Gracious Sovereign, and to thank Your Excellency for the speech which you have been pleased to address to Parliament.

Mr. WILKS (Dalley).—Since you have had the proud privilege of presiding over our deliberations, Mr. Speaker, you have not heard more suave explanations than those you listened to last week, not only from the Prime Minister, but from other members who spoke on that side of the House, in reference to the policy outlined in the speech of the Governor-General. The Prime Minister took two hours of valuable time to tell us that the leader of the Opposition had said nothing to which he could reply. If such a speech had been made by an honorable member on this side of the Chamber he would have been charged with obstruction. The right honorable gentleman, however, brightened his address by a reference to a work on political science called "The Pirates of Penzance," and quoted from a chapter which deals with policemen. We should indeed be thankful to the laughter-makers of the Empire for the aid they sometimes lend us in that direction, and, with apologies to

Messrs. Gilbert and Sullivan, I will quote from the same source, slightly paraphrasing my quotation, and say that—

Taking one consideration with another—with another—

The Prime Minister's life is not a happy one
—Tarantara !

Not only did the Prime Minister occupy our time at great length in telling us that he had nothing to reply to, but other honorable members on his side followed on very similar lines. The leader of the labour party, the political Warwick of the Commonwealth, told us, however, that, while he was well satisfied with the Government, he trusted that this session the Prime Minister and his colleagues would take command of their own business. Fancy the effect of such a remark from one in his position in any of the Parliaments of the States ! Such a remark is in itself a motion of censure. The honorable member virtually charged the Prime Minister with having had no control over Government business last session. Members of the Opposition made that charge last session, and now we have it repeated by an honorable member who speaks, not for himself alone, but as the mouth-piece of a number of others whom he has been elected to lead. I hope that the Prime Minister will take the honorable member's advice, and that the Ministry as a whole will recognise their responsibility for the measures submitted to this House. If that happens, we shall not have the waste of time which is said to have occurred last session. There is, however, one matter upon which the House may well expect an explanation. The honorable member for North Sydney, who is always heard with attention, and whose remarks are always valued, because he is moderate in his opinions, and never overstates a case, has stated in the presence of the Minister for Trade and Customs that revenue to the extent of £27,000 has escaped through the meshes of the Customs drag-net. The Minister has not yet deemed it worth while to answer that statement, but the members of this House and the people outside will want to know why this hitherto frigid, rigid, and exacting administrator has allowed so much revenue to escape his net. If the Minister does not think that the House and the country are entitled to an explanation, he should make one for the sake of his own reputation. Indeed, the charge was of so serious a nature

that the House might well have adjourned until the Minister was in a position to make a detailed reply to it. The honorable member for North Sydney informed the House that the Colonial Sugar Refining Company of Sydney presented a petition to the Senate seven or eight months ago, setting forth that excise duty amounting to £27,000 had not been paid on 9,000 tons of sugar which was dutiable ; that they had received no reply to that petition, and only scant attention to their representations at other times ; and that, later on, they petitioned the Governor-General in Council—the last resort which an aggrieved person has—and the only reply received was that there had been no discrimination. What they did they did as honest citizens acting in the interests of the Commonwealth, and they now reiterate their charge in a petition which has been presented to this House. Contrary to his usual custom, when an attack is made upon his administration, the Minister for Trade and Customs remained absolutely dumb after that charge was made. During the recess he was so careful of the revenue that clerks were even put on to count the grains of shot which fell out of a cartridge, so that duty might be imposed upon them, but when a sum as large as £27,000 is at stake he takes no action to recover it. Honorable members on this side of the House are as anxious to protect the public revenue as is the Minister or any other section of the House, and we require an explanation in regard to this matter. As to what has been said about the want of anything to answer in the speeches of members of the Opposition upon the address in reply, I would point out that one reason why the Government have not been strongly attacked is that during the last six months there has been a great outburst of indignation throughout the Commonwealth at their administration, and the public men who have voiced it are not willing to repeat here what they have stated at length outside. But Ministers need not think that because no amendment has been moved upon the address in reply they have no responsibility in regard to the promises made in the Governor-General's speech. In my opinion it would be a wise thing for the leader of the Opposition always to move an amendment upon the address in reply, in order to make Ministers toe the mark, because the discussion on such an amendment directs

the attention of honorable members, and focuses public attention upon the lapses of the Ministry during the recess. Ministers are congratulating themselves upon the fact that the public have no substantial grievances against them, but when the next elections are over they will know that the indignation against them is deep-seated in the hearts of the people. The Minister for Trade and Customs claims that he has been doing equal justice to all classes of persons directly affected by the administration of his department; that he has been dealing as fairly by the humblest individual as by the richest merchant. We believe that all classes should be treated upon an equal footing, and we raise our voices only when we find that some are allowed to escape the payment of that which is clearly due from them. It is not when merchants are deservedly attacked that we find fault with the action of the Minister, but if, on the other hand, members of the trading community are subjected to unnecessary irritation and annoyance we are ready to defend them. We affirm that the standard of equal justice for the merchant and all others, which the Minister claims to have raised, is made to fly side by side with the banner of fiscal tyranny. The oversight on the part of the Customs in regard to the collection of the sugar excise duty is not only unfair to the Colonial Sugar Company, but monstrously unjust to the whole of the people of the Commonwealth. The Government have strained themselves in order to make shot contained in cartridges pay duty, but they have allowed the public to swallow 9,000 tons of sugar upon which the excise duty has not been paid. I feel that I should be justified in moving the adjournment of the House in order that this matter may be probed to the bottom. Although the Minister may be exact to a fault in his administration, what right has he to scout the statements of the honorable member for North Sydney with regard to the excise duty on sugar which has been lost to the revenue.

Mr. KINGSTON.—Who scouted the statements of the honorable member for North Sydney?

Mr. WILKS.—The Minister has not denied the statements, and I may remind him that "scouting" is not a matter of words only, but a matter of action.

He has scouted the whole of the statements which have been made, by refusing any explanation, and by declining to take the House into his confidence. The charge against the Customs department involves something far more serious than tyranny or irritation, although the policy of the Minister, which has resulted in the most serious delays, has caused great trouble and loss to merchants. I believe that the morality of merchants and importers is no better and no worse than that of the manufacturers. The merchant who is beset by keen competitors has to take all the advantage he can in carrying on his business, and the manufacturer is in the same position. The Minister evidently regards all men as scoundrels until they prove themselves otherwise. I prefer to regard them as honest until they are found to be the reverse. Prior to taking over the administration of the Customs the Minister had moved in a comparatively small sphere. The experience he gained in Adelaide could scarcely have qualified him to arrive at a complete understanding of the conditions prevailing in such large centres as Melbourne and Sydney, and consequently his course of action has been entirely unsuited to the circumstances. In those cases in which he has punished persons guilty of serious frauds, or taken measures to prevent their recurrence, his administration is worthy of admiration, and personally I can applaud many of his actions. If he had been as careful in regard to the collection of the sugar excise as he has been in punishing merchants for trivial mistakes, surely the £27,000 to which reference has been made would not have been allowed to remain unpaid. Are we to find in the Minister, the straightforward, adamant Minister, another shattered idol? I could have staked my reputation on the ability of the Minister to collect every possible penny of revenue. But now we find that the Commonwealth has lost £27,000 through some neglect on the part of its administration. I do not suppose the Minister for Trade and Customs values my opinion or support, but I hope that for his own sake, and for the benefit of the Commonwealth, he will explain what has become of the sum mentioned. The Governor-General's speech contains a good deal of padding, and refers to a number of measures which the Government cannot expect to pass into law during this session. Some of the remarks contained in the first paragraph of the

speech are not only critical but insulting. We are told that—

It was impossible, by reason of the exhaustive discussion of the Federal Tariff, to deal with any but the most urgent of the proposals then brought before you, and renewed demands must now be made on your industry and patriotism before the Commonwealth machinery can be deemed complete.

That statement, read in conjunction with the remarks made by the Prime Minister during the recess, conveys a distinct insult. Perhaps the Minister will tell us that he was misreported, because when any attempt is made to pin him down, that is the excuse behind which he takes refuge.

Sir EDMUND BARTON.—I never say that I have been misreported when I have been truthfully reported.

Mr. WILKS. — We shall see what the Prime Minister has to say to the press report which represents him as complaining that the obstructive tactics of the Opposition had prevented him from carrying out certain necessary measures. We are informed in the Governor-General's speech that "the exhaustive discussion of the Federal Tariff," renders it necessary to make renewed demands upon honorable members before the Commonwealth machinery can be deemed complete. That is only a quiet and insinuating way of conveying the same complaint as was made by the Prime Minister from the platform. I now propose to subject these statements to the test of comparison. Fifty-eight, or to be exact, 57 and two-eighths sitting days were occupied in the discussion of the Tariff. Machinery measures, such as the Excise and Customs Bills, occupied 75 sitting days. Fifty-eight days were occupied in moulding a Tariff which was to replace six separate Tariffs and six separate systems. As against this the Victorian Parliament occupied over six months in discussing an amended Tariff, which did not involve any radical alteration of the fiscal policy of that State. Moreover, that discussion took place after a Commission had reported upon the whole question. In New South Wales the Dibbs-Jennings Ministry introduced a Tariff, at a time when the Prime Minister was Speaker of the Assembly in that State, and five and a half months were occupied in the discussion of the slight changes proposed. The Prime Minister could scarcely have recalled his own personal experience when he committed himself to the statement that

the obstructive tactics of the Opposition had rendered it impossible to deal with any but the most urgent proposals last session. Now, let us consider the measures which are put forward as urgent, and which it was found impossible to pass last session. The most notable of these are the Inter-State Commission Bill, the Judiciary Bill, and the Defence Bill. The Inter-State Commission Bill was introduced in June, 1901, and in November of the same year the debate upon it was adjourned on the motion of a Government supporter. Nothing further was heard of it until the Governor-General's speech was read to us. The Judiciary Bill was read a first time in June, 1901, and the second reading was moved by the Attorney-General in March, 1902. The Attorney-General occupied twelve months in procuring the data necessary for that admirable speech of his, in which he explained the provisions of the measure. After this the Bill was absolutely stifled by the Government.

Mr. DEAKIN.—That is absolutely incorrect.

Mr. WILKS.—The Attorney-General will not deny that I have correctly described what took place, and that after he moved the second reading in March, 1902, nothing further was heard of the Bill. Still we are told that the delay in dealing with these measures was due to the obstructive tactics of the Opposition. The story of the Defence Bill is still more pitiable—if that be possible. It was read a first time in July, 1901, and five or six weeks were occupied, principally by Government supporters, in debating its provisions, after which the Bill was suddenly dropped. It was complained that the measure was badly drafted, and its conscription clauses were strongly objected to. We were afterwards informed through inspired press paragraphs that the conscription clauses were to be dropped. In view of all these facts I contend that the charge which the Government have directed against the Opposition more properly lies at their own door. Although, as I have pointed out, the debate upon the Tariff was not lengthened to an inordinate extent, it might have been very much shortened but for the action of the Minister for Trade and Customs. The right honorable gentleman defended the composite duties even in the last ditch. The Government proposals were defeated again and again, but the

Minister refused to take the decisions of the Committee as final, and caused an unnecessary prolongation of the debate by his persistency. Now we find the leader of the labour party expressing the hope that the Prime Minister will keep a much tighter rein over the business of the House than he did last session. The honorable member for Bland has placed his hand upon a weak spot, because the Prime Minister had no control over the House during last session. The Prime Minister, in answer to the leader of the Opposition, declares that the public require fiscal peace. But fiscal peace can be purchased only at the expense of the masses and primary producers of Australia, who have been called upon to bear a heavy burden in the form of taxation of their food supplies and apparel. Such a policy may suit the protectionists, but it does not conform to the ideas which are entertained by the free-traders. The latter cannot agree to call a fiscal truce, but must insist that within a few months the public of Australia shall have an opportunity of showing whether or not they approve of the Tariff which is at present operating. The only way in which this question can be conclusively settled is by making it the test issue at the forthcoming general election. If any attempt be made to obscure the issue by ambiguous Ministerial cries of equal justice to the miner and merchant, it will be impossible to obtain at the ballot-box the real opinion of the electors. However politicians may squirm, I am satisfied that the people of New South Wales will compel the Tariff to be made the issue at the next election, and the protectionists of Victoria, if they are true to their principles, must necessarily adopt a similar course. To my mind, the position is unavoidable. In his memorable Maitland manifesto the Prime Minister declared that he strongly favoured a system of moderate protection, and that his policy would be one which was designed to obtain revenue without involving the destruction of industries. But when the Minister for Trade and Customs submitted the original proposals of the Government, he boldly affirmed upon the floor of this House that he had a protectionist majority at his back, and that he intended, as far as possible, to impart to the Tariff a protective incidence. Will the free-traders be caught napping again? Not likely! In contradistinction to the utterances of the Prime Minister, I would direct attention to

the statement made by the Attorney-General when addressing his constituents at Ballarat during the recess. He said—

A basis of a Tariff had been laid, and a further measure of protection would have to be given.

That is a very definite utterance. On the one hand, the Prime Minister cries for fiscal peace, and on the other, the Attorney-General, who has probably the leadership of the Government in reversion, says something of a diametrically opposite character. Is it likely that free-traders can subscribe to a fiscal truce under such circumstances? I would further point out that the Treasurer estimated that a sum of £1,200,000 would be collected under the operation of this Tariff in excess of that formerly derived under the States Tariffs. To-day, however, he finds that the excess represents £1,500,000, notwithstanding the alleged obstructive tactics of the Opposition, both in the House of Representatives and the Senate, which resulted in the remission of taxation aggregating another £1,500,000. I am thoroughly convinced that the electors of Australia would have been pleased indeed to witness much more obstruction of the same character had there been any probability of it proving productive of equally beneficent results. The honorable member for Echuca urges that the fiscal question ought to be laid to rest peacefully, and in so doing he is merely echoing the statements of the protectionist journal of Victoria, the *Melbourne Age*. Let me inform that honorable member, however—and my knowledge upon this matter is gleaned neither from free-trade nor protectionist newspapers, but comes as the result of personal observation—that in my own district, which boasts the largest industrial concerns in the Commonwealth—in Balmain, and the district of Dalley generally, there are more iron-workers unemployed to-day than there ever were before. How do these well-established industries—for which the Prime Minister pleaded in the first Governor-General's speech—stand to-day? They employ hundreds of men less now than were engaged in them ten years ago. Under such circumstances will the people allow the fiscal issue to be burked? What is applicable to those industries is equally applicable to industries throughout the Commonwealth. The electors are not going to be chloroformed, however much the Prime Minister may endeavour to chloroform honorable members

in that way, by declaring, when it suits his purpose to do so, that he has been misreported. As the electors have an opportunity only once in three years of making their will known through the medium of the ballot-box, they will avail themselves of it to the full. There is one matter in connexion with Customs administration to which I desire to refer. When the Tariff was under discussion, the Minister for Trade and Customs was asked by myself and other honorable members to make provision for granting drawback upon paints used upon ships in Australian waters. More recently still, the honorable member for Newcastle directed attention to this matter, which has been under the consideration of the Minister for the past nine months. The right honorable gentleman was invited to make inquiries with a view of ascertaining whether any undue advantage would be conferred upon any particular firm by the adoption of the course suggested. He is still considering the matter, but has been unable to arrive at any decision, notwithstanding the fact that hundreds of men in the districts of Dalley and Newcastle are suffering in consequence. Had he decided to grant drawback upon the paints so used he would have conferred employment upon a class of labour which sadly requires it. Why is it that he cannot give a decision upon the simple matter referred to? With regard to the establishment of the High Court, I have yet to hear an answer given to the speeches delivered by the honorable and learned member for Northern Melbourne and the honorable and learned member for South Australia, Mr. Glynn, both of whom are trained lawyers, and oppose the Bill. They are not aspirants to the High Court Bench, and they deliberately declare that if such a tribunal were created its members would have little to do save to draw their salaries. Their statements have not been contradicted, either by the Prime Minister or the Attorney-General, and the only reasonable inference which can be drawn from that fact is that they are true. It was pointed out by those honorable and learned members that in America when the High Court was established only six constitutional questions were decided by it in twelve years. In the face of such testimony, if the Government desire economical administration, they will postpone the creation of this tribunal. To my mind, all that is necessary for us to do at the present stage

is to vest the States courts with the power of original jurisdiction. It has been wisely suggested that the Chief Justices of the States could be constituted a board to deal with disputed constitutional questions. In my judgment, the establishment of the High Court could well be deferred for fourteen years. The honorable and learned member for Northern Melbourne, and the honorable and learned member for South Australia, Mr. Glynn, unhesitatingly affirm that its creation at the present stage in our national history is premature.

Sir WILLIAM LYNE.—Does not the honorable member know that in New South Wales the Judges cannot perform all the work that is now required of them?

Mr. WILKS.—I am satisfied that the Parliament of that State has never practised parsimony to such an extent as to decline to sanction the appointment of another Judge if his services were really required. Outside of the United States, and including about fifteen portions of the British dominions, the salaries paid to the Judges do not represent anything like the sum which it is proposed to pay to the occupants of the High Court Bench. A salary of £3,500 is mentioned as the emolument of the Chief Justice, and a sum of £3,000 for each of the Puisne Judges. To my mind, these amounts represent a bill which the Commonwealth cannot afford to pay. Seeing that the United States, with their 80,000,000 of people, pay their Chief Justice only £2,100 a year, surely, in view of the existence of our States courts, we ought not to pay a higher salary to the Chief Justice of the Commonwealth. The admirable speech made by the Attorney-General upon this question last session dealt only with the principles of abstract justice. That in itself is a splendid thing for discussion, but I do not propose to deal with it. I wish to confine my remarks to the expenditure which will be involved in the passage of the proposed Bill. Unless very strong reasons are advanced I am afraid that I cannot see my way to support the measure. I shall not occupy time in discussing the naval subsidy. We are now asked to pay £94,000 per annum more than we previously paid, and all we have to ask is whether the service is worth the extra expenditure. That may not be a poetic way of looking at the matter, but it is certainly a practical way. Sentiment is all very well in time of distress or trouble,

but the Empire is not held together by steel hawsers or by the exchange of cannon shot. As the Prime Minister remarked on one memorable occasion, the Empire is held together by silken bonds ; and those silken hawsers show no sign of wear. I can see, of course, that Australia is not in a position to establish a navy of her own, and I do not agree with the honorable member for Bland, who is the leader of the labour party, in his contention that we should confine ourselves to coastal defence. At the present time our coastal defence costs some £57,000 per annum ; and that I regard as too small a sum.

Mr. WATKINS.—Was the vote for coastal defence not cut down ?

Mr. WILKS.—The defence vote was cut down in a most reprehensible manner ; but that is a matter with which I shall deal later. The honorable member for Bland expressed the opinion that forces on land would prove quite sufficient for the defence of the Commonwealth. Of course all these are matters of speculation, and I do not pose as a naval or military expert ; but I cannot find myself in agreement with the honorable member for Bland until a resolution has been carried that in future all naval engagements shall be fought on the Yarra. Until a determination to that effect has been arrived at, Australia must be prepared to take a part in her own defence. Our great difficulty is want of cash, and we are now asked to pay an increased subsidy. The extra £94,000 is not much, but, as I said before, the question is whether the service will be worth the expenditure. Are we prepared to establish a navy of our own ; and, if so, is there a possibility of that establishment being effective within a reasonable time ? The Prime Minister has informed us that the dreadful Braddon section in the Constitution prevents our taking up the duty of defenders of this portion of the Empire, and this means that we must fall back on the motherland. If that be the true position, then all we can do is to pay this extra £94,000. Of course, we might establish a navy like that of some of the South American Republics, and have one modern gunboat ; but I am afraid that the whole of the time of that boat would be engaged in running around Australia in the effort to guard our shores. This question of naval defence reminds one of the scare which was raised years ago in order to frighten Australia into federation. We

were then told to be aware of the Chinaman, and subsequently to be aware of the Jap, and warned that our only means of protection was federation ; but, as we know, two years afterwards little Japan conquered great China. My own opinion is that our greatest protection lies, first of all, in our isolation, and, secondly, in open ports. There is not the slightest doubt that open ports would prove far more effective as a means of security than any expenditure on naval defence can be for many years to come. Of course, if the Prime Minister supports a policy of expansion, and assumes responsibilities in the Southern seas, there is no doubt that Australia must share those responsibilities. Great Britain is the mistress of the Southern seas, and it is our duty to assist in maintaining the Empire. There is a naval base in Sydney, and the amount we are asked to contribute to the naval subsidy is a flea-bite compared with the cost to which the motherland is put in maintaining the fleet in Port Jackson. The amount of £94,000 as compared with £35,000,000 expended on Imperial defence is ridiculous ; and that we should be asked to make such a contribution may be taken as more of a compliment than anything else. As to preferential trade, recent occurrences have shown us that it does not do to go too far ahead in the march. The Empire is marching very strongly just now, and during the South African war Australia did her share, as I am sure she would do again under similar circumstances. Mr. Chamberlain has found during the last two or three days that it does not do to get too much in the van. That Minister is a practical statesman, but he has his poetic flights, and the Australian people, while regarding him with great respect, will, like the English people, refuse to dance as puppets at his court. We recognise the work which Mr. Chamberlain has done in the consolidation of the Empire. But, at the same time, it is to be doubted whether the people will take the great jump which that gentleman now invites them to take. I notice that the Prime Minister has put preferential trade in the back part of his programme, although, when he left England and when he arrived here, that question received great attention at his hands at public meetings and in newspaper interviews. Mr. Chamberlain has found that the people of Great Britain are not prepared to pay any extra tax on

their food supplies ; and certainly the masses of Australia are by no means willing to carry any further burdens. The Australian people, in cases of necessity, will carry their share of the load ; but they refuse to take a step of the kind now apparently contemplated, simply to be the toy of a statesman, however high the position he occupies. To me it appears that Mr. Chamberlain has held out preferential trade as a bogey to foreign nations ; at any rate, it is difficult to ascertain whether he really intends or wishes such a scheme to be carried into effect, or whether he merely threw out the suggestion as a feeler. In any case, over 100 conservative members of the Imperial Parliament, who are supporters of Mr. Chamberlain, are not taking the high responsibility usually assumed by them, but are acting, as Australian Members of Parliament would act in reference to smaller matters, and are carefully feeling the pulse of the electorates. All this tends to show that Mr. Chamberlain has gone too far ahead of the regiment. We are now marching in time to Imperial music. The Empire is not held together by mere conservative sentiments, but rather by a statesmanlike recognition of the characteristics of our own race. Personally, I do not suppose that we shall hear any more of preferential trade, which is a mere device of the protectionists. Free-traders know that an open port cultivates no desire of invasion amongst foreign powers ; although that may well be the result of the erection of Tariff walls. The settlement of the federal capital site depends on the Government. The Prime Minister says that he is tired of a local and commercial atmosphere, and desires a federal atmosphere ; and if that be the feeling, I trust that the compact with New South Wales will be observed this session. Certainly, if the Government are in earnest that compact will be carried out, but if they are not in earnest, nothing that the Opposition can do will tend to an immediate settlement of the question. I am glad to see that the Prime Minister gives this matter a foremost place in the speech of His Excellency, and I trust that it may find a foremost place in legislation. In the matter of the Defence Bill, I see that some of the obnoxious provisions which were before us last year are being dropped. What blame there is in reference to this measure lies at the door of the Government, who, in the treatment

of the Defence Estimates by the House, received a rebuff of which even the Prime Minister must feel ashamed. On two occasions were the Defence Estimates taken out of the hands of responsible Ministers and mutilated at the sweet will of honorable members. This is a department of great influence and importance, and yet the Estimates were thrown on to the table without explanation or defence. If the Minister had said that after close inquiry and careful consideration they were of opinion that the Estimates should be passed as submitted, there is not much doubt that the House would have voted accordingly.

Sir WILLIAM McMILLAN.—The Government did take up that position on the second occasion, but still they accepted the adverse vote.

Mr. WILKS.—On two occasions Estimates were thrown on the table without explanation or defence. Some one then suggested that £130,000 had better be knocked off, and this was agreed to, the Minister merely saying "Not a bad idea." If the Estimates were overloaded in the first instance the Government ought to be ashamed, and if they were not overloaded they ought to have been defended. As a fact, however, there was an absolute surrender of the principles of responsible government, and that is one of the charges made by the Opposition. From the very first the Government have shown a tendency to allow others to take control of business, and to absolutely surrender all the principles of responsible government. We have already had the Defence department worked on the butt-gang principle, one year by the Minister for Defence, and the second year by the Minister for Home Affairs.

Sir JOHN FORREST.—It was the House which decided on the reduction of the Estimates.

Mr. WILKS.—But the Minister for Defence did not defend his Estimates. If there be any Estimates on which a Government should stake its existence they are the Defence Estimates, which deal with most important items of expenditure. Personally, I thought the Estimates too large, seeing we had been told that under federation certain economies would be achieved, notably in military administration. When the Minister for Home Affairs was in charge of the Defence Estimates a reduction of, I believe, £65,000 was effected, and yet there has been no economy in the

quarters where it is most needed. The rank and file have suffered, and with them the efficiency of the defence forces throughout the Commonwealth. About £200,000 was saved on the Defence Estimates, but that was not on the initiative of the Ministry, and was due to the obstructive tactics of the Opposition, assisted by the labour members. At present we find that the forces are suffering from the want of a strong controlling power, although it was hoped that, at any rate, the Defence department would not be worse administered than under the State Governments. It is to be hoped that the Government will in the future control the business of the House and rise to the demands of responsible government. I hope that Ministers will defend the Estimates when they are laid on the table, and will not allow reductions of any kind.

Sir EDMUND BARTON.—I cannot promise that.

Mr. JOSEPH COOK.—Notice should be given of an awkward question like that.

Mr. WILKS.—I do not regard it as an awkward question, and I ask the Minister for Defence, who is noted for his candour, to give a reply now. Will he defend the Estimates when he lays them on the table, so that we may know whether or not we have real responsible government? I do not know what has been the experience of Victorian Members of Parliament, but in New South Wales a Ministry that would treat a department in such a cavalier manner as that in which this department has been treated would have been thrown out of office. I do not know, either, how honorable members from other States have fared at the opening of a Parliament. While I am not very fond of ceremonials, at the same time I believe in a due recognition of the powers of the two Houses of Parliament. I was very much annoyed, sir, to see the position which you had to take the other day in the Senate chamber. In New South Wales the Speaker of the Legislative Assembly occupies a seat at the foot of the throne, and he asks for a copy of the Governor's speech. That is not so in the case of the Commonwealth Parliament. You, sir, the custodian of our rights and privileges, were practically compelled to stand in a gangway in the other chamber. I cannot understand, sir, how, when no Legislative Council of a State would dare to take up a similar position, the Senate of this Commonwealth,

elected, like ourselves, on a popular basis, had the audacity to place you in that improper position. In South Australia, if my memory serves me correctly, there was once a Speaker whom they tried to insult in a similar manner, and who demanded, not out of regard for his personal aggrandizement, but on behalf of the House which he represented, his admission into the body of the chamber of the Legislative Council, and the presentation of a copy of the opening speech by the Governor in an official manner. On the contrary, sir, you had to receive a copy of the Governor-General's speech from the hands of an official. Not only were you in your official position placed in a very ignoble position, but the members of this House were similarly treated. I am sorry that the Prime Minister did not draw attention to the incident, and resent the position in which you were placed upon that occasion. The difficulty in the way of accommodating members of this House in the Senate chamber could have been easily overcome. In New South Wales the table is removed from the Legislative Council chamber, and the members of the popular House are accommodated with seats in the body of that chamber. The only thing I care about is the opportunity to offer a few remarks upon the opening speech. Whether it is heard by me in the other Chamber or not is a matter of indifference to me, and I believe to most honorable members. As a rule they do not care about ceremonials, but they dislike any ceremonial which strikes at the root of the powers and privileges of the House to which they belong. I believe—whether it was intentional or not I do not know—that an insult was offered to this House, and I trust that it will not be repeated. In this building an admirable arrangement could be made. The Queen's Hall could be used as a neutral ground, where neither the Speaker nor the President would be placed in an invidious position, and where the members of each House could come from their chamber and hear the delivery of the opening speech. The slightest consideration would have overcome the difficulty which was experienced in accommodating the members of this House. I believe that upon one occasion in South Australia—I cannot recall the date of the incident—the Speaker of the House of Assembly made a very strong

protest against a similar insult which was offered to him in his official capacity. I do not suggest that in this instance the insult was offered intentionally to you, sir, who no doubt can remember the incident to which I have just referred. In New South Wales, when the Prime Minister held the high position of Speaker of the Legislative Assembly, he always sat in the body of the Legislative Council chamber, near the foot of the throne, and received from the Governor an official copy of his speech. What can be done in the case of a State Parliament to uphold the rights of the popular House must be done in the case of the Commonwealth Parliament. The insult is not offered to a party in this House, but to honorable members generally. It is an attempt to introduce the thin end of the wedge; and if you, sir, permit this treatment to be repeated, your privileges may gradually be taken away from you. The opening speech contains a reference to a Navigation and Shipping Bill. I know that there is no chance of the measure being brought in this session, but it is certainly one which is very much required in the Commonwealth. Probably it has been framed on the lines of the Merchant Shipping Act, which is, I suppose, the finest Act in the British dominions. Whether it will conflict with that Act or not I do not know, but still it is one which will have to receive the greatest attention in the House. I can understand the wisdom of postponing its consideration until next session. The measure is almost large enough to occupy the attention of the House for one session. The Merchant Shipping Act contains provisions which, if not altered by federal legislation, will operate very injuriously in one State. In Victoria a vessel which is registered locally can run for twelve months with an exemption certificate, but in New South Wales a locally-registered vessel is allowed to run only six months.

Mr. MAUGER.—Quite long enough.

Mr. WILKS.—It may be quite long enough, but let the legislation be made uniform. That is one reason from the commercial side of the question. Now, from the trade side, I will advance a reason why the Bill should be passed early. I regret that it was not introduced last session, and apparently we shall not be able to deal with it during the present session. I would point out to the Prime Minister how the

differential system of exemptions operates. Most vessels register in Port Melbourne, and the result of such registration is that a ship has to undergo an overhaul only every twelve months, while in New South Wales a locally-registered ship has to be overhauled every six months. The work is drifting from Sydney to Melbourne. We hear talk about an Inter-State Commission being required to prevent the destruction of the intent of free-trade. This differentiation of exemptions is destroying the intent of free-trade. Until we get a uniform Navigation and Shipping Act, this and many other matters cannot be rectified. I hope that the few measures which the Government intend to introduce will be conducted through the House with that sense of responsibility which so far has been absent from their procedure. I trust that the Government will stand by their measures. I do not wish to rake up old sores, but another instance of the absence of responsible government was witnessed when a sum of money was required to be voted to the late Governor-General. The Government allowed their measure to be mutilated. I believe it approached very near the confines of being out of order. It was my opinion at the time that the scope of the measure had exceeded the order of leave, but the matter was not canvassed by any honorable member. A Ministerial supporter took absolute control of this important measure, and the Government allowed it to be mutilated and destroyed, affording a terrible evidence of their weakness. Still they tell us, both on public platforms and in this House, that they are prepared to go to the country on the measures which they have carried, and acquaint us with their intention to carry the measures which the Opposition opposed. There has at no time been any obstruction by the Opposition. Except in regard to fiscalism, where there was bound to be a difference of opinion, every effort of the Opposition has been in the direction of improving the measures thrown at the House, and if any House ever proceeded to its work with patriotism and energy this House did so last session. On all sides honorable members gave their support to the Government as far as they were able to do so, and did not act in a factious manner. No advantage was taken of the absence of the Prime Minister in England. But even if in his absence matters relating

to the Empire had been introduced, the Opposition would have been found quite loyal to their position, not willing to obstruct or to offer factious opposition, while quite prepared at all times to fight to the death for the principles by which they stand. I take it that the cry of fiscal peace will not answer for either free-traders or protectionists. Not only has the Attorney-General denied the Prime Minister, but the Minister for Home Affairs has denied the Prime Minister within the last two months in his own constituency. He told his constituents that the Tariff is not one with which he is satisfied; that it will not suit a protectionist. If it will not suit a protectionist, why does he not fight to get one which will do so?

MR. MAUGER.—Because he will choose his own time.

MR. WILKS.—There is the answer to my question. We are to be blindfolded on this side, and led like bullocks to the shambles, merely to suit their time. It is not a question of suiting the time of the Government or the time of the Opposition. It is a question of suiting the convenience of the people. Now the people who are paying taxes on food supplies, wearing apparel, and other items of that character which they had never to pay before, will fix the time, and that will be at the next election, the first opportunity which they will have had to record their votes. I am satisfied that the Prime Minister will find then that although—to my regret—the address in reply has been allowed to go without an amendment being moved—

MR. MAUGER.—Move an amendment now.

MR. WILKS.—I shall not move an amendment. My honorable friend might have to support the amendment if I did, and that would be a very awkward position for him to be placed in; it might bring about a free-trade-protectionist Administration, which we are not going to have. The focussing of public attention is not what my honorable friend requires at the present time. But what we do require, and what the Opposition are determined to secure, is that the mind of the people shall be focussed at the right time. The Prime Minister thinks that when the people have become accustomed to the Tariff they will not be so keen to show their resentment or indignation as they would have been six months previously. He may also be trusting to the revival of good seasons.

I do not wish to be too suspicious, but I should like to know how it is that the discrepancy between the census returns and the electoral rolls in New South Wales has only been discovered since the electoral districts have been plotted out? I am not referring to the protectionist seats. The distribution of the seats should be quite above party warfare. It is always prudent for a Minister to give any instructions in writing. If the Minister for Home Affairs gave any instruction to the commissioner in charge of the redistribution of electoral seats in New South Wales it should have been given in writing, and I hope that there has been no personal interview with the officer. It does seem remarkable—and I trust an explanation will be made during this debate—that the commissioner and the officers in the electoral department did not discover this discrepancy until the State had been plotted out into districts. After that work was completed they suddenly discovered that there is a discrepancy of 80,000 persons, which may require further attention on their part. I wish to know whether that further attention means an alteration of the divisions, or a prolongation of the session, or an adjournment until the time comes for the general elections to be held. If the date of the general election is not affected by the discovery of that discrepancy all the trouble is over. The Prime Minister can easily say whether he will allow that discrepancy to penalize the people of New South Wales, or whether he will punish those who are responsible for its existence. Either the Minister for Home Affairs or his officers are responsible. It must have occurred either through the fault of the commissioner and his officers, or through the fault of the Minister, because the census returns and the electoral rolls, were placed in their hands before the plotting out was begun. I should like some explanation of this matter to be made. I trust that all honorable members are satisfied with the redistribution. We do not care to lose a portion of our constituency, just as no one cares to lose an old friend. I suppose that every honorable member will say that he is quite satisfied with the redistribution of the seats, but that is not the point at issue. It is not the politicians, but the people, who have to be considered. The redistribution of the seats should be beyond the influence of the

politician. After the work is completed a discrepancy of 80,000 persons is found.

Mr. JOSEPH COOK.—Does the honorable member expect a tory Ministry like this to consider the people?

Mr. WILKS.—In this matter the public should be considered by the Ministry whether it is tory, radical, or liberal. Nothing should be purer than the preparation of the electoral rolls; the administration of the electoral laws should be beyond the influence of any party and any Government. I think it is always wise for a Minister to instruct an officer in writing. When the Prime Minister rose the other night he said he had to reply to the leader of the Opposition, but that he did not know what he had to reply to. He will find that there are many grievances felt by the Opposition, and not the least of them are the absence of control of the business of the House, and the surrender of responsible government.

Sir LANGDON BONYTHON (South Australia).—In rising to take part in this debate it is not my intention to weary the House with a lengthy address. I feel that the charge which has been made, that this discussion is to a large extent a waste of time, is not without some foundation in fact. Of course, the case would be entirely different if the leader of the Opposition had tabled an adverse amendment, but he has done nothing of the kind; on the contrary, he has disclaimed any hostile intention, and in the absence of the fighting spirit the debate has not been characterized by that animation and those personalities which tend to make political speeches, if not always specially edifying, certainly very interesting. The members of the Ministry must feel most kindly disposed towards the leader of the Opposition for his present attitude in relation to them. He has little to say in condemnation of their doings in the past—in fact, he has not been so outspoken in his criticism as some of their own supporters; and as to the chief proposals in the address of the Governor-General he is either silent or expresses agreement. Of course, the leader of the Opposition stands where he always has stood in relation to the Tariff, and although he does not approve of the administration of the Customs department, he says he entertains the highest opinion as to the ability of the Minister for Trade and Customs, and is quite sure he has been actuated by the best

motives. As coming from the leader of the Opposition, the Minister must warmly appreciate such sentiments; while I, as a Ministerial supporter, cannot do very much more than indorse the generous sentiments of the right honorable gentleman. No one who knows the Minister for Trade and Customs will say that he is the embodiment of amiability, but those who know him best will unhesitatingly assert that as a public man he has set before himself high ideals, and that when he believes he has discovered the line of duty he follows it at all hazards, with absolute integrity and without the least respect for persons. He knows nothing about the line of least resistance, which, to the politician, is so often the path of peace and of popularity. I regret that the Minister has not more of the diplomacy and grace of manner of the Attorney-General, who has the faculty of being able to say and even do unpleasant things in such a way that they produce little irritation. But we must take the Minister for Trade and Customs as we find him, and I am satisfied that when the soreness which exists in certain quarters—soreness, I am afraid, not always without justification—passes away, the conviction will prevail throughout the Commonwealth that the Prime Minister did the right thing when he placed in Mr. Kingston's hands the portfolio for Trade and Customs. Speaking in this Chamber last session, the honorable member for Wentworth said it was absolutely essential that the atmosphere in the Customs departments throughout the States should be rendered wholesome, and that position and wealth should not exercise undue influence. I think I may say that the wishes of the honorable member in these particulars have been realized. If the Minister's methods have been rough, they have been very effective, and if the honest merchant has felt at times more than a little hurt at what has seemed to him harsh treatment, it must not be forgotten that the dishonest trader has been making substantial contributions to the revenue which in the past he seems to have often been successful in evading.

Mr. CONROY.—Then all previous Ministers for Trade and Customs have been dishonest?

Sir LANGDON BONYTHON.—Certainly not. But I think the general feeling throughout Australia is in accord with the opinion I am expressing.

Mr. THOMSON.—What are the cases in which large contributions have been obtained from dishonest traders?

Sir LANGDON BONYTHON.—It is quite impossible to give specific cases, but the opinion I have expressed is prevalent throughout Australia, and I think there is a general admission on the point, so far as merchants are concerned.

Sir WILLIAM McMILLAN.—In most cases the amount involved has been under £2.

Mr. MAUGER.—But those small cases involved in the aggregate a large sum.

Sir LANGDON BONYTHON.—There will be general agreement that the man who would at the present time, and with the present administration, attempt to cheat the Customs department, would be a very courageous individual.

Mr. THOMSON.—No doubt it is going on every day.

Sir LANGDON BONYTHON.—The same results, perhaps, might have been achieved by gentler methods. I am not at all sure as to that—but this we know, that the drastic methods adopted by the Minister for Trade and Customs have been entirely successful. This fact will not be forgotten, and on account of it much will be forgiven if forgiveness be needed. The leader of the Opposition, in dealing with the Tariff, referred to the removal of the duty on tea. I have no intention of going into that matter. I refer to it only to say that I supported the duty, and that I regret it was not passed for a special reason. I am not at all sure, in spite of tea being on the free list, that a considerable part of the £300,000 which the duty represented has not been drawn from the pockets of the consumers. I think it would really have been wiser if the whole sum had been collected for the benefit of the Commonwealth. As to the Tariff itself, I think it will be a mistake if the leader of the Opposition raises the fiscal issue at the approaching elections. The people have had enough of the Tariff for some time to come. I see the position in which the right honorable member finds himself, but there are many who believe that he will be studying his own interests and the interests of Australia by leaving things as they are for the present. I must frankly confess that in regard to the High Court Bill I have been a waverer. I have felt a good deal of sympathy with the views expressed by my honorable and

learned colleague from South Australia, Mr. Glynn, but before this session opened I had made up my mind to support the establishment of an independent tribunal. Possibly if I had not done so I might have been carried away by the enthusiasm and eloquence of my friend, the honorable member for Gippsland. I agree with him, however, that to spend something like £30,000 on a High Court seems an appalling expenditure.

Mr. DEAKIN.—Unless equal economies can be shown in consequence of the creation of the High Court.

Sir LANGDON BONYTHON.—Would it be possible to do so?

Mr. DEAKIN.—Yes; I propose to do so.

Sir LANGDON BONYTHON.—Although I shall support the Government in this matter, it is my intention to reduce as far as possible the expenditure that will be involved in the establishment of the court. I suppose there can be no doubt that an independent tribunal is necessary, and that reasonable expenditure can be justified. The Government say so, and their opinion is backed up by that of the leader of the Opposition, who states that without the High Court the Commonwealth is without a Constitution at all. It must be admitted that with no High Court the Constitution is not complete. I agree with the leader of the Opposition that the selection of the Federal Court Judges will test the ability and patriotism of Ministers, but I believe they will rise to the occasion and appoint men who will do them credit and be an honour to Australia.

Mr. CONROY.—They rose to the occasion when they selected their own friends for billets.

Sir LANGDON BONYTHON.—There is further heavy expense connected with the Inter-State Commission. If the work with which this Inter-State Commission is intended to deal can be done without the costly appointments contemplated by the Bill, and there are those who say such is the fact, economy should unquestionably be studied. But the work must be done. There is an undoubted tendency by means of fresh establishments to pile up expenditure, and if we are not very careful federation will become extremely unpopular as the result of the extra taxation which it must necessitate. Having said this much, it is only fair to add that the right honorable member for Bulacaya is a Treasurer who has been no party to extravagance. It would

be gross extravagance for this Parliament to allow two independent elections to take place within the next twelve months—one for the Senate, and the other for the House of Representatives. These elections must be held simultaneously, even if that course means shortening the term of this House by several months, and I am sure honorable members generally will approve of that arrangement. In the Governor-General's speech allusion is made to the projected railway across Australia from west to east. No doubt some day such a line will exist, and there will also be a railway crossing the continent from north to south. The people of South Australia are most concerned about the latter, and I really believe that it is the more important railway to the Commonwealth as a whole. It is my opinion that the mails from England will never be landed at Perth and carried east by rail. Long before anything of that kind is possible the mails will reach Australia by way of Europe and Asia, and will come overland from Port Darwin. Already the British Government are making inquiries as to whether the mails for India cannot be sent out by rail. It is well that information should be gathered with respect to the cost and prospects of the railway in which the people of Western Australia are so keenly interested, but I am disposed to think they will have to wait awhile for the realization of their hopes.

Mr. FOWLER.—Why?

Sir LANGDON BONYTHON.—Because of the great expense.

Mr. FOWLER.—Why did not honorable members for South Australia speak of the matter when federation was being discussed?

Sir LANGDON BONYTHON.—The people of Western Australia will have to wait some time for the realization of their wishes, not only because of the expense which the construction of the line would involve, but because I believe a railway running across Australia from north to south will be considered to be much more in the interests of the Commonwealth as a whole.

Sir JOHN FORREST.—Surely the honorable member would not break faith with the people of Western Australia?

Mr. JOSEPH COOK.—What faith is that?

Sir JOHN FORREST.—The pledged faith of South Australia.

Sir LANGDON BONYTHON.—There is one omission from the speech of the Governor-General which will be regretted by all South Australians. They would like to have seen a reference to the river question, and a reference which would have been favorable to their State. The case for South Australia was well and temperately put by the honorable and learned member, Mr. Glynn, who has been for years an authority on the subject. Does some one ask what the present position is? It can be stated in a few words. The recent Royal commission recommended an apportionment of the waters which would leave South Australia a discharge inadequate for navigation, and much less than the flow the State has hitherto enjoyed. The Premiers' Conference suggested that South Australia's apportioned discharge, or share, should be increased in the months from July to January from 170,000 cubic feet per minute to a navigable depth at Morgan, and in the months from February to June from 70,000 cubic feet per minute to 150,000 cubic feet per minute. The allowance would in the months from February to June still be considerably under the average natural flow, and below the navigable depth. If South Australia is to agree to such an apportionment the River Murray must be locked to make the diminishing flow effective. This work is recommended as a federal undertaking by the late commission so far as the stretch from Blanchetown to Wentworth is concerned. Without the locking of the river South Australia gives up with no compensation a portion of the natural discharge that helps to keep the Murray navigable to Wentworth for nine months of the year.

Mr. FOWLER.—What will be about the expense of that scheme; and how will the honorable gentleman justify it?

Sir LANGDON BONYTHON.—The scheme would be justified because it would be of advantage to the whole of Australia.

Mr. L. E. GROOM.—The expense would be borne only by the States concerned.

Sir LANGDON BONYTHON.—I was going to say that the position taken up by South Australia is, in my opinion, a reasonable one. She is only asking for justice, and I am sure honorable members of this House are quite as anxious as are her own representatives that her fair claims should not be ignored. I now come to a matter which has received consideration and aroused

interest in Great Britain as well as in Australia. I refer to the obligation of the Commonwealth in regard to the defence of the Empire. I say at once I admit the obligation, but that admission does not necessarily carry with it agreement with some of our English critics as to the form in which the obligation should express itself. I am in favor of the creation of an Australian navy, manned by Australians, trained to naval defence in our own waters. To make an adequate beginning, I do not believe the expense would be nearly as much as represented, but I am forced to concede that little or nothing can be done in this direction at the present moment by reason of the financial circumstances of the Commonwealth. This does not mean the abandonment of the idea. It only means delay in giving effect to it. In the meantime I am prepared to support the Government in their action in regard to the increased subsidy, but I cannot shut my eyes to the fact that there is an element of danger connected with this subsidy. If it be continued it will without doubt be increased, and if constantly increased it may at any time become the cause of friction between the motherland and the Commonwealth. It should not be forgotten that if Australia ceased to exist England would not be able to reduce her fleet by a single ship. I am familiar with the arguments by which the fallacy of the position I am taking up is supposed to be proved to demonstration. We are told that the Empire is one, and that therefore her fleet should be one; that Australia's safety in time of war would depend not on the ability of the Commonwealth to defend itself, but on the supremacy of the British Navy. Lord Selborne put the position thus :—

There is no possibility of the localization of naval force, and the problem of the British Empire is in no sense one of local defence. The sea is all one, and the British Navy must therefore be all one; and its solitary task in war must be to seek out the ships of the enemy wherever they are to be found and destroy them.

The *London Times* indorsed this view, and expressed the opinion that the Australian notion as to the kind of danger to which Australia is peculiarly liable is all an illusion: in fact, that it is unthinkable that any hostile cruisers would descend upon our shipping or our ports unless the fleet from which they were detached had first defeated the British Navy and obtained command of the sea. That I am afraid is

mere assumption. Memory tells us that when some years ago there was the possibility of trouble between Great Britain and Russia the latter country made provision for attacking Australia, and that a Russian war vessel was actually fitted out with appliances for picking up and cutting the Port Darwin cable, and so destroying the connexion between this continent and England.

Mr. CONROY. — What monetary gain would be secured by cutting the cable?

Sir LANGDON BONYTHON. — No doubt if the mother country were engaged in war, and succeeded in defeating the enemy, the latter would have to make full reparation, supposing an attack had been made on Australia, but that would be poor satisfaction to Adelaide or Sydney if serious mischief had been done to either capital. A foe in its work of destruction risks the consequences which are inevitable in the event of defeat. To make provision to defend our ports and the floating trade in Australian waters is to follow the dictates of common sense. For the defence of England exclusive reliance is not placed on the services of the general navy. She has the Reserve Squadron and the port guardships, and at the present time further provision in the way of local defence is being made. Under all the circumstances, surely the attitude of Australia is very much what might be expected. If the Commonwealth possessed war vessels, it does not follow that they would always be retained in these waters. Australia may be relied on to come to England's assistance in a case of need. That would be the spontaneous act of a loyal people, and a repetition of what occurred in 1900, when, with no obligation, the vessels belonging to the Australian Squadron were released for service in Chinese waters, where they were joined by the gunboat *Protector* from South Australia. The mother country will gain more by trusting to the loyalty of Australians than by endeavouring to secure rights under any agreement which may not commend itself to the majority of the people in the Commonwealth. There is another matter having reference to the Empire with regard to which I wish to say a few words. But, before doing so, I would like to remark that I think the Prime Minister is entitled to the thanks of the people of the Commonwealth for the manner in which he represented Australia in England last year. He had

intrusted to him a difficult task, which he carried out with dignity and distinguished ability. He delivered many eloquent addresses, but he was careful to make it quite clear that he had no power to bind the Commonwealth, and he was skilful enough not to let this most necessary declaration detract too much from the importance attaching to his speeches. I suppose I shall do no harm if I quote from a private letter written by a well-known Australian now resident in London—

MR. CONROY.—I hope it is nobody who is expecting the office of High Commissioner.

SIR LANGDON BONYTHON.—No; the honorable and learned member is quite right upon that point. The writer says that Sir Edmund Barton towered above the other colonial representatives present at the Coronation. A scholar and a gentleman, he proved himself an ambassador of whom Australia might well be proud. And in this connexion I would like to pay a tribute to the eloquence and excellence of the closing portion of the address, delivered in this House last week, by the leader of the Opposition. I did not agree with all he said, but with much of it I agreed most cordially. and his entire reference to the Empire I thought fully worthy of the position which the right honorable gentleman occupies in this Parliament, and worthy, too, of a broad-minded man, capable of looking at matters not from the restricted stand-point of one State, or even of the Commonwealth, but as a citizen of a great Empire. I think the right honorable and learned member for East Sydney was quite right in speaking of Mr. Chamberlain as one of the foremost statesmen in England. His past, and especially his immediate past, puts the matter beyond question. Then why need the right honorable gentleman have any fear as to possible want of full consideration of the effects which a policy of preferential duties within the Empire would have on Great Britain. The idea is not a new one as far as Mr. Chamberlain is concerned. It has been in his mind for years. Possibly at one time the policy included free-trade within the Empire, as Mr. Balfour evidently still thinks it should do; but that is clearly out of the question. Any scheme of the kind must be based on the Tariffs of the various colonies. Personally, I am strongly in favour of preferential duties. Australia has nothing to fear. There

are decided objections to the one-sided arrangement which now exists with Canada. But there is every reason why we should give the mother country special consideration in return for special consideration shown to us. As to the possibility of retaliation on the part of foreign countries, it should be remembered that our exports for the most part consist of food products, and raw materials needed for manufacturing purposes, and foreign countries will think twice before putting heavy taxes on imports which will mean handicapping their own manufacturers in the markets of the world. Against the injury which conceivably might be inflicted on colonial trade must be set the enormous advantage of a preferential market in Great Britain. Of the wool imported at the present time 64 per cent. is sent from Australia and New Zealand. The rest comes from Argentina, Austria, Saxony, Russia, and other countries. With a slight Tariff advantage the whole of the wool received in Great Britain could be drawn from within the Empire. The aim of Mr. Chamberlain, to use his own words, is to create a self-contained and self-sufficing Empire, and I think it is the duty of this Parliament to help in the realization of so splendid an object.

MR. CONROY (Werriwa).—In reviewing the conduct of Ministers, I think we are bound to consider their actions, not only since they came before us last Parliament, but from the time the Ministry was formed, and I therefore desire to remind honorable members what happened upon the formation of the Ministry. Ministers took office on the 1st January, 1901, but they did not meet Parliament until the following May. Now, we have heard from the Prime Minister a great many noble statements. He has gone so far as to say that he is a man to be trusted. A great many people throughout Australia accepted his declaration that he was an honorable man, whose word could be taken, and trusted him accordingly. But what was the result? We all know what he said in regard to the Tariff, and the statements he made when in New South Wales. If, in private life, a man is jockeyed or swindled out of, say 20s., by false statements or misrepresentations, he has a remedy in the police court. But the thousands of voters who were misled by the false statements and misrepresentations of the Prime Minister have no remedy whatever.

Mr. SPEAKER.—The honorable and learned member must withdraw the words "false statements and misrepresentations."

Mr. CONROY.—If you rule them to be unparliamentary, I do so, though outside I have not hesitated to use the word "swindle" in connexion with the right honorable member's actions. To my own knowledge, hundreds of electors—and, no doubt, other honorable members know many other cases of the kind—were misled by the utterances of the Prime Minister.

Mr. L. E. GROOM.—Was the honorable and learned member misled?

Mr. CONROY.—I had been misled on former occasions, but on the occasion to which I am alluding I profited by my previous experience, and was not misled. One would have thought that the Prime Minister, in his desire to set himself right with the people of Australia, and to win a name for statesmanship, or at least to earn a reputation for being a man of his word, would have tried to keep as closely as possible to his promises. But what do we find? The chairman of his committee, who listened to his Maitland speech, said, after the introduction of the Tariff, that that measure had been introduced in defiance of the Prime Minister's promise, and that he considered that the right honorable gentleman had misled him, and that he was induced to support him by promises which had not been kept. Then three representatives of Victoria repeated practically the same charge. They were men who could form an impartial judgment, and whose only interest was to serve the truth. The right honorable gentleman has by his action made the words of politicians of no account in the ears of the people of Australia. I hold that the word of a Prime Minister should be sacred; that he should set a high standard of public morality, and as far as possible keep his word. It is no defence of his action for him to try to place an entirely different meaning upon his statements from that which was naturally placed upon them by those who heard and read them. At the present time, however, almost the whole of the electors are agreed that the Prime Minister did not put the issue before them properly, and that they were deliberately misled in regard to the probable nature of the Tariff.

Mr. SPEAKER.—The honorable member must not say "deliberately misled."

Mr. CONROY.—I withdraw the word "deliberately" as unparliamentary, although I have not hesitated to use it outside. This man not only made statements and representations which outside would be characterized only in one way, but he went further. Directly he became Prime Minister and two great offices in the public service of the Commonwealth were created, he looked upon them, not as places to be filled by the best men obtainable, but as billets to reward his political friends, and he deliberately made use of his position to appoint two of his friends to them.

Mr. SPEAKER.—I wish to draw the attention of the honorable and learned member to Standing Order 272, which says that—

No member shall use offensive words against either House of Parliament or any member thereof and all imputations of improper motives and all personal reflections on members shall be considered highly disorderly.

The honorable and learned member has imputed a motive which is decidedly improper, and therefore, in the words of the standing order, his action is "highly disorderly." I ask him to withdraw his statement, and not to repeat it.

Mr. CONROY.—Of course, I bow to your ruling, sir; but am I to understand that statements of fact are disallowed?

Mr. SPEAKER.—There must be no imputation of improper motives.

Mr. CONROY.—Then I will say that with the most honest motives, with the strongest desire for the good of the country, the Prime Minister appointed two of his friends to these offices. Furthermore, he made the salaries attaching to the positions so low—£800 a year—that he was able to inform Parliament that no applications for them had been received from men holding similar positions in the public services of the States—because men in such positions were receiving a larger remuneration. What a noble effort that was on his part to save the Commonwealth expense. But he did not stop at that. In one case, this man, who has such a keen desire to save the public revenue, did not resent the setting aside of his authority, and accepted what a good many people would regard as a snub, so that he might remain in office a little longer. Let us see what occurred in regard to the appointments made by the Government, and what control Ministers had over the House. Times out of number the appointments which the Prime Minister suggested were

set aside, and there was an entire abnegation of his parliamentary responsibility. But if we are to have such a thing as sound government, there must be Ministerial responsibility—a political principle which has been set at naught by the Prime Minister and his colleagues. We know what happened when the Governor-General's Allowance Bill was before the House. We know how the provisions of that measure were amended, and its original purpose quite changed. Whether that purpose was a good or a bad one is foreign to this discussion, but we know that the Government made certain pledges to the Governor-General, which they delayed for sixteen or seventeen months to bring before the House. Of course such an unworthy motive as fear is not to be ascribed to them in connexion with this delay. No unworthy motives are to be ascribed to them; they acted from the most honorable motives. The Prime Minister had nothing to gain by denying the existence of an agreement with the late Governor-General, though, no doubt he will be able, if taxed with it, to say that he was misreported. But was it right for this House to allow a Minister to continue in office after such an abnegation of responsibility? Until the day arrives when it is considered an abnegation of responsibility for a Minister to act in the way described, there can be no sound government in Australia. The Prime Minister has gone so far as to condemn honorable members for speaking in opposition to measures brought forward by him, and has then turned round and stated that the measures, as amended, were creations of his opponents, who were responsible for all their faults. This course of conduct is bringing our representative institutions into disrepute, and our whole system of administration must be entirely changed before they can be rehabilitated. When we find that a Minister's word is not regarded as sacred, even by Parliament itself, the position is very serious. We know that a number of persons, including the chairman of his election committee, entertained the view that the Prime Minister had departed from the promises made at Maitland during his electoral campaign, and we have had instances in this House in which honorable members have declined to take the word of the right honorable gentleman. When the Defence Estimates were under consideration the committee declined to accept the promise

of the Minister that the Estimates should be reduced by £131,000, and insisted upon a division. Honorable members will find the circumstances set out in *Hansard*, page 12212. By their action on that occasion honorable members showed that they did not place any reliance upon the utterances of the Minister. I was glad to see a spark of courage induce the Prime Minister to resent the insinuation of his want of truthfulness by indignantly asking—"Is not my word to be taken in a matter like this?" but the burst of laughter with which his question was greeted made the right honorable gentleman fall back into his former position. Probably a mental review of what he had said and done in the past brought confusion to his mind. I felt almost sorry for the Prime Minister in the humiliation to which he was subjected on that occasion, because it must have been deeply humiliating for any Minister not to have his word accepted, even by those sitting behind him in the House. What was the duty of a Minister who thought he was being treated unjustly and improperly in such a case? Why, to resign from the House which had shown so little faith in him. When honorable members found that the interests of special individuals or classes were receiving more consideration than were the interests of the community at the hands of the Prime Minister they were not disposed to accept any assurance from him. The action of the right honorable gentleman on that occasion must have come as a surprise to those who had known him many years before, but it caused no astonishment in the minds of those who had carefully watched his conduct for the past two or three years. One incident during the course of the Tariff debate filled me with shame. When the duty on broom millet was being discussed it was urged that as broom millet was largely used as raw material in connexion with industrial operations carried on in blind institutions, it should be admitted free of duty, but as against this we had presented to us a letter from a constituent of the Prime Minister stating that he intended to grow broom millet, and that therefore it was desirable to impose a duty. No doubt the duty on millet might secure a vote for the Prime Minister, but was it worthy of the right honorable gentleman to allow it even to be suggested that simply because one of his constituents desired to have a duty imposed, the interests of the

blind broom makers should be ignored? The Prime Minister has asserted that it was owing to the action of the Opposition that the tea duty was defeated. We cannot, however, help being struck by the fact that the tea duty was rejected by a majority of only two, and that only 66 honorable members out of 75 cast their votes. Exclusive of Mr. Speaker, who has never voted, and of the Chairman of Committees, who, except on one occasion, has not given any other than his casting vote, seven votes were unaccounted for. Under these circumstances, and in view of the fact that the Government regarded the tea duty as of the utmost importance to some of the States which were badly in need of revenue, it was reasonable to expect that the tea duty would be recommitted. No such action was, however, taken, while, strange to say, a recommitment was insisted on in the case of salt, although the original division accounted for every vote except one on the Opposition side. During the debates which took place upon the salt duty, one of the directors of the Castle Hill Salt Company was in Melbourne, and, no doubt, interviewed Ministers, and represented to them the necessity for a recommitment of the duty. However that may be, the salt duty was recommitted and increased. The Prime Minister recently told us that the effect of protective duties was to increase the prices of various commodities, and that the duties were imposed for that purpose. I am pleased to be able to agree with him, but I cannot understand why he allowed the Minister for Home Affairs and the honorable member for Eden-Monaro to travel the country pointing out that the effect of protective duties is to lower prices. If, as the Prime Minister points out, the wages of the workmen employed within the Commonwealth depend upon the prices obtained for the articles they produce, the effect of the duties, according to the Minister for Home Affairs and the honorable member for Eden-Monaro, must be to reduce wages. The Prime Minister has utterly given up all control of matters in this House, and has allowed himself to be swayed backwards and forwards. He has even allowed insults to be heaped upon him, and yet he has been content to retain his position as a Minister. Honorable members will not accept his word, as was exemplified upon the occasion to which I have referred.

Mr. Conroy.

Sir JOHN FORREST.—That was all explained afterwards. The action of the committee was not intended to indicate want of faith in the Prime Minister's word.

Mr. CONROY.—I shall show that my statement is absolutely correct, and in support of it I wish to direct the attention of honorable members to the following passage in *Hansard*, p. 12212:—

In Division.

Mr. BARTON. — I understood that the Government had undertaken to reduce the Estimates for next year by £130,000. They were willing to do that without any vote of the committee. I desire to know if this vote is proposed for the purpose of insuring the reduction, and if the undertaking of the Government is not to be accepted? The position ought to be clearly understood.

When the Prime Minister used those words I thought that some remnant of his former manliness had returned to him, yet the vote was carried against him, and he submitted to the insult in silence. Is that a position which any Minister of this House ought to occupy?

Sir JOHN FORREST.—It was explained afterwards.

Mr. CONROY.—Would the Minister for Defence have submitted to anything of that sort? I was even surprised that the right honorable gentleman was content to remain in a Government to which such an insult had been offered. Why should not the same standard of morality be observed in political life that prevails in private life? In private life the Prime Minister would not submit to such a snub—why then should he be a suppliant in political life? Now I wish to deal with the Minister for Trade and Customs, who, in the administration or want of administration of his department, has made himself very objectionable to traders. One of the first matters to which I would draw attention is the strictly personal way in which the Minister seems to treat all matters. Honorable members know that when a majority of this House agreed to reduce the duty upon salt, the right honorable gentleman was primarily responsible for securing a recommitment of that item. He could not, however, have tendered the Cabinet any similar advice with reference to the tea duty, the remission of which involved the Commonwealth in a loss of revenue of approximately £400,000.

Mr. CHAPMAN.—One was a protective duty and the other a revenue duty.

Mr. CONROY.—If the Minister took up the position that the revenue of the States ought not to be considered, but that a duty ought to be imposed upon a particular article, because some individual was thereby enabled to obtain a higher price for it, it was utterly unworthy of him. If he will not fight on behalf of the public interests, why does he fight on behalf of private interests? From the statement of the honorable member for Eden-Monaro, I assume that if a person owning a tea plantation had come forward and pointed out that his industry required the artificial aid of a protective duty the Minister for Trade and Customs would have been prepared to listen to him. I suppose one of the worst features in connexion with the right honorable gentleman's conduct is that which was referred to the other night by the honorable member for North Sydney. He pointed out that 9,000 tons of sugar had evaded the payment of an excise duty of £3 per ton. This sugar belonged to certain companies, all of which are known to the Minister, who, however, has denied all knowledge of the matter. In this connexion it is worthy of notice that as far back as the 22nd July last an answer was given in the other Chamber to this very question on behalf of the Minister for Trade and Customs. Upon no less than three occasions the matter has been brought under his notice. That a dozen letters have been written upon it can be conclusively proved, and yet he denies all knowledge of it. The names of the gentlemen in New South Wales who have attached their signatures to the statement that the right honorable gentleman did know of the matter are Dr. McLaurin, Dr. Mackellar, Mr. Neville Griffiths, Mr. Edward Knox, and Mr. Kater—men of known probity, who are anxious to have the matter inquired into by a court of law. If their allegations are untrue the Minister can recover £10,000 damages for libel from every one of them. Where is the £27,000 which ought to have been paid upon that sugar? These gentlemen desire an inquiry to be made, and are perfectly willing to pay the expenses connected therewith. All that they wish to know is why the Act was not administered, and why justice was not done. It is useless for the Minister to rise in his place, and declare that the statements of these gentlemen are untrue, because the proper tribunal to determine the matter is the courts of New South Wales. If by

reason of negligence the Minister has allowed 9,000 tons of sugar to escape the payment of excise duty, thereby involving the revenue in a loss of £27,000, what becomes of his vaunted sound administration? He is prone to tell us that the revenue is being defrauded of thousands of pounds, and, in effect, it is his habit to declare—"I am the only honest Minister of Customs that the people have ever had." Does the right honorable gentleman inwardly believe that his own colleague, in the person of Senator Playford, did not honestly administer the Customs department in South Australia? Does he suggest that the honorable member for Launceston did not honestly discharge his duties in a similar capacity in Victoria, or that Senator Best was also corrupt? Why, the latter even went so far as to prosecute a client of one of his Ministerial colleagues, because it will be remembered that the present Treasurer of this Parliament, when Premier of the State, appeared in court to defend a man who was charged with attempting to defraud the revenue.

Mr. WILKINSON.—The Commonwealth Minister has to administer a national department.

Mr. CONROY.—But the right honorable gentleman attempts to gain admiration by drawing attention to trifles, notwithstanding that in nine cases out of ten the attorneys prosecuting on behalf of the department confess that there has been no intention on the part of the accused to defraud the revenue. When we find day after day the same thing repeated, we begin to wonder why all those little prosecutions took place. Can this be described as administration? If the Minister says that he is bound to administer the law, he may be asked who was it that objected to this law being passed. When the measure was before the House I pointed out that it placed one of the most dangerous weapons in the hands of the Minister, seeing that it deprived the courts of the right to fix the amount of the fine.

Mr. WILKINSON.—But this being the law, what can the Minister do?

Mr. CONROY.—Let me give the honorable member one or two instances in which the Minister for Customs has not so strictly administered the law. By the Act 38 and 39 Vict. No. 13, every person in South Australia who shall wager sums of money on any game or pastime shall be guilty of a

misdeemeanour and liable to imprisonment. Does the Minister know that if he in South Australia made a bet of half-a-crown with a friend, he would be liable to imprisonment under this Act? Does the Minister not know that hundreds of people who like a game of cards, for, it may be, 1d. per dozen, are similarly liable?

Mr. WILKINSON.—Is that Commonwealth legislation?

Mr. CONROY.—It is legislation the administration of which was in the hands of the present Minister for Trade and Customs when he was Premier of South Australia. Did we ever hear of any summonses being issued in South Australia under that Act? If not, it may be taken that the Minister exercised some discretion, seeing hundreds of people must have been liable on account of wagers made on cricket or football matches. We can see, of course, that if such a law were carried out strictly it would be ridiculous; and that is exactly what we say of the administration of the Customs law. I am bound to say that the motive with which the Customs summonses are issued does not seem to be a right or proper one. The one object ought to be to administer justice to all, and justice cannot be obtained when men are sent to a court where, by reason of the legislation, penalties are imposed as we now find them. We know that even in a case involving 12s. 6d. the minimum fine of £5 has to be imposed. In one case certain goods, valued in all at 12s. 6d., had been brought in, and the strict letter of the law not complied with. The person to whom the goods belonged, together with a cabman and the cabin boy of the vessel, were prosecuted, and on each was imposed a fine of £5 and costs, three summonses thus being issued for what was one offence. If the person to whom the goods belonged had not been able to pay the fines, the cabman and the cabin boy must have gone to gaol. Surely that cannot be sound administration; and that the law is as we find it is the fault of the Minister. I find that on no fewer than 26 occasions I objected to these drastic powers; indeed, at the time I thought I had obtained from the Minister a promise that these provisions should be reconsidered, but, as a matter of fact, no further opportunity for discussion was afforded. I was new to the Ministry at the time, and I thought that in relation to a promise or undertaking of the kind they would act as

men act in private life. I did not know that there was such a difference between political virtue and private virtue. The Minister for Trade and Customs, when Premier of South Australia, did not administer the strict letter of the law, as I have shown; but to-day he says—"It is the law; I shall administer it." We almost think we hear Angelo, in *Measure for Measure*, protesting—"It is the law, and I must administer it"; and we all know the result in the case portrayed by the dramatist. I should like to cite another South Australian Act—33 Vict. No. 15—which was under the control of the present Minister for Trade and Customs, but which was not administered by him in the same way as we now find him administering the Customs Act. Under section 79 of the Act I have just mentioned, any person who, in a public street or thoroughfare in South Australia, rides on the shafts of any cart or other vehicle is liable to a fine of not more than £2. Is it not too ridiculous to suppose that the present Minister for Trade and Customs, when Premier of South Australia, ever put that law in force? Why should he not exercise a similar discretion in Customs cases in which, as his own attorneys tell him, no fraud is charged?

Mr. BATCHELOR.—The Premier of South Australia is not a policeman.

Mr. CONROY.—Does the Minister for Customs say that it was not his province, because he was not an officer, to set the law in motion? I should not express myself so bitterly against the Minister if I did not know that he had brought more sorrow and pain to men's hearts than he can ever compensate for during the rest of his life. How many honorable men have been brought up in police courts and charged as criminals? Would it be nothing to the Minister if such charges were levelled against him, it being at the same time admitted that no fraud appeared on his part. That is exactly what has happened to scores of merchants. If even in one case the Minister had exercised the prerogative of discretion I should have thought some of the other cases had escaped his notice; at any rate, it would not be for one case or a dozen cases that I should level the charge I am now making. But there have been dozens and dozens of cases in which men, honorable to the heart's core, have been brought up and charged without rhyme or reason.

The honorable member for North Sydney told us of a case in which a man, dealing with 441 sheets of paper containing figures, made a mistake against himself of 28s., and another mistake against the department of 12s. 6d.; and although there was a balance of error against himself, this man was prosecuted as a common criminal. Surely it cannot be contended that such a charge is not a serious matter to an honest man. If such charges are really a matter of indifference, then we could accuse the Minister for Trade and Customs of all the crimes in the *Newgate Calendar* and yet not outrage his sensibility. We have been told by the Minister that he receives conscience money, but I know at least a couple of cases in which money has been refunded anonymously as a means of avoiding petty prosecution. In one case a merchant had received goods and passed them on a perfectly honest statement of the fact. Subsequently he ascertained that other articles had by mistake been included in the consignment, and that more duty was due by him. That merchant consulted a solicitor as to what ought to be done, and that solicitor sought my advice. The merchant mentioned two friends, both of whom had been prosecuted after their admission of mistakes, and my advice was that he should return the money through his solicitor, in the way in which conscience money is usually paid. Is it not disgraceful that men, honest in their dealings, should have to resort to such means?

Sir WILLIAM McMILLAN.—There have been several cases of the kind—men have been so imbued with terror that they dare not admit mistakes at the Customs.

Mr. KINGSTON.—All I can say is that in the case of men who admit an error and call my attention to it, there is nothing to cause them to be afraid. No one dreams of doing anything to make such men afraid.

Mr. CONROY.—That statement of the Minister for Trade and Customs is not in accordance with facts, though I am not charging the honorable gentleman with always knowing that to be the case. Men are perpetually being prosecuted on charges such as I have described. Any morning in the newspapers we may see reported cases in which the solicitors on behalf of the Customs department inform the courts that no dishonest motive or desire to defraud is imputed to the defendants. But in all these cases a fine of £5 and costs, with the alternative of fourteen

days' imprisonment, is imposed. The labour party, who are always bragging about justice, have in this Bill helped to pass legislation which denies justice to the poor man. A fine of £5 and costs is a great deal to a working man; indeed, it may be more than a fine of £500 would be to a wealthier person. The poor man has to go to gaol, and surely that is not the justice which the labour party wish to see administered. When a man is animated by any desire other than that of administering justice impartially, his motives cannot be described as good; and by rigidly inflicting the penalty in these Customs cases we have inflicted injustice on hundreds of people, who very often offend quite unconsciously. The Minister tells us that he cannot discriminate. Is that always the case? I remember that when a member of the Senate brought over 10 lbs. of ginger, upon which the duty was 2s. 6d., he was not brought before a court. What became of the Minister's cry, "I must administer the law; I am incapable of making any difference." The senator happened to be a strong supporter of the Government, and after that incident he fought for their measures tooth and nail. If the Minister knows no difference between offenders, if common sense is not to be brought into the administration of the law, then what was the motive which influenced him to allow one man to go scot-free, and to prosecute another man who brought in 10 lbs. of candy, and to have him fined £15? What is the difference? In each case the revenue is defrauded. Is there to be no common sense in the administration of the Act? Are we not to fit the punishment to the crime? When we see the Minister continually allowing improper charges to be levelled against honorable men, what can we do but suggest motives for his conduct? If he thinks that other men do not care when they are so charged, then when charges of dishonesty are levelled against himself he is in the mighty position that he does not care. Is that a nice position to put us in? I think not. Yet that is what we are continually drifting to. I suppose that nothing is more clear or certain than that if this style of things is continued there will be levelled against the Minister a number of charges which it is to be hoped will cut even him to the quick, if that is possible. I do not say that men do not care when the charge

is a baseless one, although they have to be convicted. The Minister does not care if the charge is a baseless one, and he stands in exactly the same position as he was in before. His motive in doing all this advertising in connexion with little cases is not a good one. It is a way to make the mass of the people think that the administration is more sound now than it was before. The real fact is that the administration under such circumstances is less sound now than it was before. It makes my very blood boil when I think of the manner in which honest men are being treated. I wonder I am able to restrain myself and to resist the temptation to level charges against the Minister. Is it any wonder that a man has to go outside mere politics? In a mere political matter who wishes to quarrel with the Minister for Trade and Customs or any other man? But when a political office is administered so badly that the Minister tries to bring the taint of criminality into the homes of hundreds of men, where it has no right to rest, then what are we to do but to mete out justice to the Minister in a similar way? Do we not feel inclined to say—

Thou hypocrite, cast out first the beam out of thine own eye, and then shalt thou see clearly to cast out the mote out of thy brother's eye.

That is the sort of language which ought to be addressed to the Minister. The Bonus for Manufactures Bill was so framed that it was to take effect from a date prior to its being passed. It was so twisted and mangled in this House that it could not be recognised. It contained one set of conditions when it was introduced, and it was only read a second time on the casting vote of the Speaker. A clause was so altered that it did away entirely with any advantage that might accrue to a private company. The Minister for Trade and Customs fought very strongly for his measure. On recommitment the clause to hand over the bonus to a State was omitted, and the old clause granting the bonus to private enterprise was restored. He fought for the restoration of the old clause, as he certainly did not fight in the public interest for the retention of the tea duty. Only yesterday a witness before the Bonus Commission pointed out that the duty with the bonus is worth £200,000 to him. Supposing that I turned round to the Minister and said to him—"That is the reason why you opposed the labour party—that is the reason why you sacrificed

your own Government—that is the reason why you fought day after day with a great earnestness which you never exhibited in any other cause?" Supposing I said that he fought for the Bonus for Manufactures Bill solely because a private firm could be advantaged by its enactment? Of course we all knew when a prior date was fixed in the Bill that none but those who had arranged to start such works could possibly take advantage of its provisions. The Minister displayed an extraordinary interest in fighting for that Bill. Why should I not turn round and charge him with a dishonest motive in the same way as he has charged the merchants? If I did so I should only be meting out to him exactly the same treatment as he has meted out to others. He feels no sense of shame in making these accusations without rhyme or reason against individuals if they happen to be merchants, and I suppose that he would feel no sense of shame if similar accusations were levelled against himself. He will be judged in the same way as he has judged others. He has said that every year the revenue is defrauded of thousands and thousands of pounds. I am willing to accept his statement. But I desire to know how it is that the cases which come before the court are not big cases, but nearly always cases involving a sum that varies from £1 to £3. Except in five or six instances, there has been no case where the sum involved has exceeded £20. I am reminded that a Custom-house officer has said that the Minister does not see the cases of fraud in which action is taken. Yet the Minister declares that fraud is continually going on, that gigantic cases of fraud are coming before him. Where is there a record of these big cases in any court? I think that nearly every man will agree with me that it is not worth the while of a merchant, for the sake of saving £20 or £30, to commit a fraud. If, as the Minister says, cases of fraud involving large amounts do happen, why are they not fought out in the courts? Is a difference being made between a man who defrauds the Customs of a thousand pounds and a man who defrauds it of only a few shillings? The men who defraud the Customs of a few shillings each are continually being brought before the courts. If big cases of fraud have occurred we wish to see them punished; we do not desire the man who commits big frauds on

the revenue to escape scot-free. If big frauds on the revenue take place as the Minister says they do, undoubtedly it is his duty to bring the offenders before the courts. Why are not the offenders prosecuted? Is there to be one law for the rich and another for the poor? When a mere mistake is made in addition or subtraction the offender is brought before the court, but apparently where big frauds take place the offenders go down and interview the Minister, and of course the courts are silent. Is that a sound administration of justice?

Mr. TUDOR.—That was one rather large case as I understood from the newspapers.

Mr. CONROY.—That was a case involving between £16 and £17 worth of goods, and a fine of £50 was imposed. The lawyer who was prosecuting on behalf of the Minister got up and alleged that it was not a criminal prosecution, but merely one to determine the amount of the fines to be inflicted.

Mr. TUDOR.—The jury said it was a case of fraud.

Mr. CONROY.—I never went into the case. All I know is that the prosecutor said that it was not a case for a criminal prosecution, but merely a case to determine the amount of the fines to be imposed. We are bound by the statement of the prosecutor. One case of fraud does not make criminals of the merchants as a class any more than does one swallow make a summer. If a member of the House should depart from the strict path of duty and be shut out from decent society, would it follow that every other member ought to be shut out from decent society? I think every one will agree that it would not. What I object to is that the law is not being soundly administered. I cannot help thinking that a great many of the Minister for Trade and Customs' actions have been taken simply for advertising purposes—to lead the public to believe that the administration of the department was never so sound before. The honorable member for Leaneecoorie is present, and as a former Minister for Trade and Customs in the State of Victoria he may well be left to defend himself from the attacks of the Minister, who said that in the past there had been no sound administration of the Customs department in New South Wales, Victoria, or South Australia. It is true that when the Minister saw the effect of those words, and

the resentment with which they were received he fell back upon those whom he has called companions in crime—the reporters. These gentlemen, employed on the various newspapers, had again “misunderstood” the right honorable gentleman. He said that they had misreported him, and led us to believe that he was another unhappy victim of the press. The same plea has been so often put forward by the Prime Minister that when he advances it we take no notice of it. Whenever any quotation is used against the Prime Minister, we at once expect him to say—“I was misreported there.” Indeed, the other day he carried this defence so far as to say that he had been misreported even in the case of a paragraph read to him from the latest British Blue-book. Let us think for a moment what would be the result if any man were to make charges against the Minister for Trades and Customs in his administration of the department, and the same law were applied to the Minister that he insists upon applying in prosecutions against merchants. What is the law in the Customs Act in the case of a merchant charged with any offence? It is “that the averment of the prosecutor, or the complaint contained in the information or declaration or claim, shall be deemed to have been proved in the absence of proof to the contrary.” In the same way every averment or statement made against the Minister for Trade and Customs ought to be deemed to have been established in the absence of proof to the contrary. Surely what is just in the case of the one should be just in the case of the other. Have honorable members ever considered the way in which the Minister for Trade and Customs overrides an Act of Parliament when he thinks it stands in his way? When the duty on cartridges was before us, it was decided that the shot used in their manufacture should be dutiable, but that cartridges themselves should be free. The Minister for Trade and Customs now seeks to override that decision, which is contained in an Act of Parliament, by inserting the word “empty” before the word “cartridge.” When the matter was before Parliament, another place pointed out what would be the effect of making shot dutiable, while allowing cartridges to go free. The duty, indeed, was referred back to us by another place; but at the very last moment the Minister, together with his colleagues, insisted that the provision should

stand as it was. The desire of the Government then was that cartridges should be admitted free of duty. They refused to take any notice of the request made by another place, and they called to their assistance the force of their majority to prevent the rectification of the anomaly. Several honorable members in this House also pointed out the anomaly that had been created. I believe I suggested that as shot would be so much cheaper on account of the duty, the Minister, as a believer in that doctrine, declined to alter the provision. It appears that he has learnt a little since then, and now desires to override an Act of Parliament. But there is only one way in which an Act of Parliament can be overridden, and that is, as the Minister for Trade and Customs, as a lawyer, must know, by passing an Act of equal solemnity. An Act of Parliament is required to remove the anomaly, and the Minister has no right to interfere with the law in the way he has done. During the recess, the right honorable gentleman has been travelling in Queensland and elsewhere, and asserting that he is against black labour—that all his sympathies are in the direction of encouraging white labour. Acts, however, speak louder than words, and we must judge a man not by his statements, but by his deeds. And what do we find? We find that when the Minister is proposing a duty on sugar grown by black labour—and the bulk of the sugar imported from Sumatra and other foreign countries is grown by black labour—he fixes it at £6 per ton. We find that this so-called hater of black labour absolutely discriminates in favour of sugar grown by black as against white labour, and that whilst he fixes the duty on that grown by black labour at £6 per ton, he imposes a duty on sugar which is the product of white labour—namely, beet sugar—at £10 per ton. In matters of this kind we must consider not what a man says, but what he does, and that is the way in which I regard the Minister's declaration that he is seeking to bring about a sound administration of the Customs department, while at the same time he brings men before the courts in respect of cases which should not be treated in that manner. How can it be said that the right honorable gentleman is really administering this Act to the best of his knowledge and ability? I have shown the way in which at least two State Acts were administered by the Minister for Trade and

Customs as Premier of South Australia. He did not then hesitate to break the law, so to speak, in the exercise of his discretion; but I decline to say that it is a breach of the law to refuse to put in motion all the severe provisions of those measures. One of them contains a provision "that a certain class of persons found wandering in certain streets or highways, or being in any public thoroughfare, or place of public resort, shall be liable to imprisonment for a couple of months." But was that provision enforced against that large class of persons whom we know to be inevitable in all great cities? No. That law was asked for that justice should be administered; but the exercise of justice lies in the administration of the law, and we find that when the right honorable gentleman was Premier of South Australia, he did not insist upon the arrest of every woman found loitering in the streets. The Act requiring that they should be dealt with in the way I have mentioned, still stands, but the Minister exercised his discretion. I mention this matter only because of the Minister's assertion that he is bound by hard-and-fast rules, and that he must administer the law. It is difficult to know why he did not do so in times gone by. If he exercised a discretion in carrying out the South Australian law which I have mentioned, why is he not able to do so in the administration of the Customs department? That is a question to which we ought to have an answer, and the experience of merchants and others engaged in trading shows that no true answer has yet been returned to us. The right honorable gentleman should recollect that if the law were applied to him as it is applied by him in Customs cases, all charges made against him would be considered proved in the absence of proof to the contrary, and if that recollection will cause him to administer the Tariff with that discretion and due regard for justice which should cause the punishment to meet the offence, the complaints of honorable members on all sides of the House will not have been in vain. Several measures are promised during the present session. One of these is a Defence Bill. I need hardly point out that the action of the Government in regard to the Defence Bill introduced last session is another instance of neglect of duty on their part. If they were not guilty of neglect of duty, they at least showed a want of foresight that

deserved to be reprehended. They should have been able to estimate the work of the session, and if they were not prepared to proceed with the Bill they should have let it alone altogether. They should not have taken over the defence forces until they were ready to do so, and, having taken them over, they should have proceeded at once with the passing of a measure to place the whole of them upon a common basis. At the present time there is, and there can be, no sound administration of the Defence department, because there is no Act upon which to work. This brings me to the question of the naval subsidy, in regard to which I find myself in a difficult position. If any one had told me a few months ago that I should object to a naval subsidy, my answer would have been that we were not paying all the contributions that we could. But a considerable change has taken place since then, and although I have not yet absolutely determined how my vote shall be cast in the matter of the proposed subsidy, I do say that when we read the utterances of one party in the British Government—utterances which are calculated to plunge Great Britain into industrial war with other nations—it becomes us to seriously consider our position. We know that industrial war is nearly always followed by a war of bloodshed. We know that the greatest guarantee of the preservation of the doctrine of "On earth peace, good-will toward men" is that there shall be no such thing as industrial warfare. A political party in England at the present time assert that they are likely to ask a large section of the British people to join with them in carrying out a certain policy. If that policy be carried out, I have no hesitation in declaring that, from the very date of its inception, the dismemberment of the Empire must begin. It would not be possible for honorable members to vote for a naval subsidy without a much more serious consideration of the matter than has yet been given to it; because if a bloody war follows an industrial war in Great Britain, our position will be very serious. We shall be in a position in which we cannot by our voice or vote have a share in the councils of the Empire. Whatever she may do for the cause of the Empire itself, Australia cannot, and will not, be dragged at the heels of any party which is about to enter upon a serious industrial strife. While for the present I

may continue, as I undoubtedly should have done a few months ago, to give my support to the naval subsidy proposals of the Government, if, when the speeches of Ministers are delivered, they are found to bear in one way, and if we are to be absolutely committed to industrial war with other nations, I shall not be able to see my way to support the tie which holds us together. It cannot be either in the interests of the people of Great Britain or of ourselves. If in Great Britain the people of Australia are to be used as a lever to induce the great mass of the electors there to vote in the way suggested, we on this side cannot be induced by any Imperial representations to risk being plunged into wars of aggression. Our part will be sufficiently performed in wars of defence. I trust that the tie of sentiment arising from the possession of a common language, a common literature, and a common ancestry will never be broken. It is a sentiment against which reason itself would struggle in vain. Who can measure the sentiment of affection? But when we create political ties, however strong they may be, there can always be valid arguments used against them. The stronger these ties are made upon paper, the more we call in the aid of the lawyer to draw up the bond, the more likely are we to weaken the only real tie there can be—the tie of affection which exists at the present day.

Mr. WILKS.—The honorable and learned member is very rough on the lawyers.

Mr. CONROY.—Well, it is not by the wax and parchment of any lawyers that any country becomes great. It is not by merely scribbling upon paper that the minds of men are to be measured. I say it is most unfortunate that the opposite view should be taken by the Minister for Trade and Customs, because it is that which is landing us in so much trouble to-day—producing a feeling of unrest amongst the bulk of the trading community. Every merchant is anxious to punish the man who commits fraud, because when he pays his own duty he desires that those who evade the payment of duty shall be prevented from underselling him. But he does not desire to be brought into the police court without any real offence being committed. He asks that he shall be treated with exactly the same measure of justice which the Minister for Trade and Customs desires for himself, and that no

matter shall be brought into the court unless there is some proof of the commission of an offence. He does not ask that he should be treated as though the mere averment of the Customs authorities should be deemed to be proved until there is proof to the contrary.

MR. BRUCE SMITH.—The Act says so.

MR. CONROY.—But why does the Act say so? Is it not because the right honorable gentleman fought for it and insisted upon it, in spite of the fact that members on both sides of the House fought against it and argued that there should be room left for the exercise of discretion? One matter which is to be brought before the House will require a very great deal of consideration. I refer to the Arbitration and Conciliation Bill. Where is the man who is not anxious to see strikes put an end to?

MR. BRUCE SMITH.—We are all anxious for the millennium.

MR. CONROY.—Strikes are, in my opinion, as bad as civil war. There is this difference, that after a civil war the number of persons amongst whom the capital of a community is to be divided is found often to have been lessened, whilst I do not know that during a strike the number of children coming into the world is limited. We must all be desirous of trying whether something cannot be done in the direction suggested, but before we try it would be as well perhaps if we considered what has been done in the past. We know that there have been many statutes regulating these matters before, though they may not always have been similarly named. We know that they sometimes have been used as weapons against the poorer people, and sometimes solely on behalf of the various guilds which from time to time sprung up. I need hardly refer honorable members to the history of guilds throughout France and Germany, and even in England itself. Throughout France and Germany those guilds obtained enormous power. "Guilds" is, of course, only another name for unions, and the powers they were allowed to exercise, mostly from custom and partly by statute, were so great that when the French Revolution broke out, half the leaders of guilds were guillotined. We see inserted in the French Declaration of Rights a most famous clause, which might well be studied by men considering the cause of

labour and desiring its true advancement in the real interests of the people. The clause runs as follows :—

We hereby declare the inalienable right of every man to the property of his own labour, and that he be free to sell or dispose of it as seems best to him.

That was a famous declaration. It could not be objected that that legislation did not come from the mass of the people, nor could it be objected that they had had no experience of various Acts operating in the other way. They certainly had. I mention matters like these to show what tremendous injustice and oppression the mere regulation by statute of wages, and so on, may sometimes inflict. In my opinion such a declaration would probably have prevented the great advance in wages that has taken place during the last 30 or 40 years, but I decline to believe that, because some of us hold that view, and, therefore, do not hope for so much from Conciliation and Arbitration Acts as is hoped for by others, we should allow ourselves to be regarded as conservatives. We may be conservatives in the sense that we are striving to keep what is best of the old laws, and in that sense no man can object to being called a conservative. In my view the great mass of the people have less to hope for from legislation than from any other cause. What they have most hope from is the abolition of legislation which, in many cases, restricts and hampers their advancement in every possible way. Therefore, until I have seen the Arbitration and Conciliation Bill which is to be submitted to Parliament, I feel myself unable to say whether or not I shall give it my support. If it will soothe the feelings of the great mass of the people, and tend to make them believe and feel that justice may be more certainly administered than it otherwise would be, there will be a very great deal to be said for the passing of a law of that sort. If, on the other hand, it is found to be a law which may be brought into operation simply because a union in one State may become affiliated with a union in another, the case will be very different. It must be remembered that there are employers' unions as well as employees' unions, and if under the proposed Bill either of these unions may make a dispute a federal matter by simply calling upon some body in another State with which it is affiliated, to strike, I could not possibly

support such a measure. The aim of all thinking men will certainly be to lessen and not to extend the area of strikes. There is so much in this idea of restricting the area over which men may even produce, that some socialists recommend the cutting up of various countries in which particular occupations are carried on. I need only refer to Fourier and Owen as socialists who express themselves against any extension of the area over which a strike may occur. It would be well for men who regard themselves wholly and solely as socialists and who desire the advancement of the people from the point of view of socialism, to sometimes study more earnestly the works of socialist writers. There is one other matter to which I shall refer, and that is the High Court of Judicature, which the Ministry propose to deal with. The Judicature Bill has been before Parliament for a very long time. It is now two years since Parliament first met, and two years and a half since the Ministry was formed. When they first met the House they made the statement that it was absolutely necessary to pass a Judicature Bill, and I am inclined to think that had such a measure been brought forward at that time it would have been passed. I admit that personally I should not have supported it, even at that early stage, but to-day we are in a different position. Upon reading through the sections of the Constitution, which give us the power of creating a High Court, I was very much struck by the arguments advanced by Sir John Quick and Mr. Robert Garran, as set forth in their book on the Commonwealth Constitution. They give what appears to me to be very valid reasons why the expense involved in the creation of this court is to a large extent unnecessary, and they even go so far as to suggest that tentative proposals should be introduced under which the various State courts might be empowered to deal with all matters which might arise.

Mr. BRUCE SMITH.—State Judges would have to be paid to do the work.

Mr. CONROY.—The honorable and learned member is not correct.

Mr. BRUCE SMITH.—More Judges would be required in each State.

Mr. CONROY.—The appointment of one or two Judges would not be a matter of any importance. I would ask the honorable and learned member to remember the cases which would likely arise, and I remind him that

the Customs Act, the Post and Telegraph Act, and a Defence Act already apply in every State. What are we going to create a batch of Judges for? Is it to settle questions arising out of the Constitution?

Mr. BRUCE SMITH.—How about appeals?

Mr. CONROY.—Under our Constitution, as the honorable and learned member knows, appeals will nearly always go direct from our State Supreme Courts to the Privy Council. I am not arguing now as to whether it was or was not wise to make such a provision, but there it is, and does any one doubt that in the bulk of cases the appeals will go to the Privy Council? I think the honorable and learned member, when laying down a big principle or fighting on its behalf, recognises that the Privy Council is composed of some of the finest judicial brains in the wide world. Many of the decisions of the Council are absolute masterpieces, and may be read with a vast amount of pleasure by laymen and lawyers alike. Even before I became a member of the bar I derived pleasure and instruction from the reading of decisions given by these eminent men. They were invariably in accord with great principles, and I may say that it was the study of great principles in a copy of these judgments which led me to the study of the law upon which I entered as a member of an entirely different profession. The first thing we have to consider in regard to the establishment of a High Court is whether it is needed. Is it intended to give the administration of Federal Acts to the Federal Judiciary alone? Are the State courts not to take cognisance of Federal Acts? Is it intended to take all jurisdiction in federal matters from the Judges of the Supreme Courts, the district courts, the police courts, and the courts of petty sessions of the States? If so, we shall want for the federal bench not five Judges, as the Ministry propose, but at least 50. If we are to dispense justice, we must bring it as nearly as we can within the reach of all; and it will not be within the reach of all if none but expensive courts are available to suitors. If we abolished the magistrates' courts, fully one half of the people of Australia would be denied justice—not in so many words, because there would still be the district courts and the Supreme Courts for them to appeal to; but, inasmuch as they could not afford the expense of appealing to those courts, justice would actually be denied to them.

The great bulk of the people are satisfied with the decisions given in the minor courts, where impartial magistrates decide according to the equity of the cases which come before them. The amounts involved may be small, but the cases are very important ones to the people concerned in them. To bring justice in regard to federal matters within the reach of all, federal jurisdiction must either be given to these courts, or we must appoint federal magistrates, and set up similar courts throughout the States for the hearing of federal causes only. The same line of argument applies to the district courts. Are we going to take away federal jurisdiction from those courts, and set up federal courts to do the work? If so, we shall require 40 Judges for those courts alone, even if they travel round the various centres, and give the people there an opportunity to bring cases before them every three or four months. So again with the Supreme Court. Is it proposed that the Judges in the Supreme Courts of the States shall not have jurisdiction in federal matters? If so, we shall require, not five, but fifteen or twenty Supreme Court Judges to decide such cases.

Mr. SYDNEY SMITH.—What will it all cost?

Mr. CONROY.—The cost of providing for only five Judges will be very great. I think that it cannot be less than £40,000 a year after the first year, and that in a very short time it will reach £70,000 or £80,000 a year, because the Federal Court will endeavour to attract all the work it can, and a separate body of sheriffs and constables will be required to execute its decrees.

Sir WILLIAM McMILLAN. — Perhaps it would be better to cease for a time to make laws.

Mr. CONROY.—That would be much better for the whole community. It would be a wise thing to abolish many of our laws. What the people might very well ask is, "Where is this expense going to end?" and it behoves us as a Parliament to answer that question. I think that it would be sufficient to pass a short Act, conferring jurisdiction in federal matters upon the State courts. I am not in favour of the creation of a Federal Court which is to be only a Court of Appeal. The honorable and learned member for South Australia, Mr. Glynn, showed the other day, in a very masterly speech, that the number of appeals likely to be made to such a court will be

very few. His speech reflected great credit upon him, inasmuch as during the framing of the Constitution he was in favour of the abolition of the appeal to the Privy Council, and wanted a local appeal court. He says now, however, that the position is different. The Constitution gives a right of appeal to the Privy Council, and we must be guided in our deliberations on this matter by that. He pointed out that in Canada and in the United States the average number of constitutional questions arising in any one year was only two, and he asked whether we should go to the great expense of creating a Federal High Court to try the very few cases of appeal that would be brought before it. It is not to be forgotten that even if a Federal High Court be established, its members cannot hope to be altogether uninfluenced by the interests of the States as whose representatives they have been chosen, although they may earnestly strive to be impartial. But even if they act impartially, and a decision is given against a State, if the Judges from that State do not agree with the judgment, the people of the State will be ready to cry that justice was not done to them, because the court was not impartial. With an appeal to the Privy Council things would be very different. It could not be said that that tribunal is other than impartial. Suppose, however, that the Federal High Court were established, and a question affecting the right of South Australia to use the waters of the Murray were brought before it, and the judgment of the court was in favour of the States of New South Wales and Victoria, and against South Australia. Suppose, too, that the South Australian Judge on the High Court Bench was against the judgment. Would not the people of South Australia then say that the court was biased, and that its Judges leaned towards the States from which they came? In the early days of federation it is most important that nothing should be done to foster State jealousies, and therefore decisions which effect State interests should come from a body whose impartiality is unimpeachable. I do not say that the High Court might not come to the same conclusion that the members of the Privy Council would come to; but I think that the feeling of a State against whom judgment was given would be that her interests had not been fairly dealt with by the Federal Court. Then the objections to the High Court are

very great on the score of expense. I think that the expense will be so great that we shall see growing up in the minds of the people a feeling of indignation against those who are responsible for its creation. We have already strained their loyalty to federation to a point of extreme tension. Indeed, I had no idea that people could become so hot, or that the condemnation of Ministerial action could be so general throughout Australia as we have seen it of late. In whatever State you visit there is a feeling of dissatisfaction with federation. People think that things have not gone on rightly. In my opinion, the fault lies, not with the federal machinery, but with those who have been in charge of it, and who have failed in every instance to exercise the common sense which the occasion has demanded. Wherever you go you hear some fresh complaint. One man complains that he cannot get a telephone connexion that he wants ; another man has some other complaint to make ; and so we find that the general feeling of the community is that the federal administration has been a gigantic muddle. For this the Ministry are entirely responsible. They undertook the administration of departments before they were ready to do so. Those who hold office have been too long accustomed to the little matters of State administration to be safely intrusted with the larger matters that fall under the administration of a Federal Cabinet. The time has passed for the Government to administer the affairs upon the same lines as were formerly observed in the States. Ministers should consider the interests and wishes of the whole of the people over whom they have to govern, and however convinced they may be of the advantages to be derived from certain measures they should not bring them forward until they are likely to meet with the approval of the great body of the people who have to submit to them. That is a very sound principle to be followed, not only in the framing of the laws, but in their administration. During the stormy times through which the Federal Legislature of the United States passed in the last century, Alexander Hamilton found that so much opposition was being displayed by the people of two or three of the States to an Excise Act that, like a wise administrator, he allowed the law to almost fall into abeyance in those States ; that is to say, he administered the Act with such discretion and care that it was made

to appear less offensive. I wish the Minister for Trade and Customs had exercised the same care with regard to the administration of his department in at least one of the great States of the Commonwealth. I wish that he had had some appreciation of the fact that a radical change was being made in the laws under which the people of that State had to live, and that the public were likely to feel some resentment, because they believed that they had not been able to secure the truest and fullest possible representation in the Federal Parliament. He should have recognised the feeling which existed there that the Prime Minister had not made the electors fully acquainted with the Tariff that was to be submitted to Parliament ; that, if he had done so, many of those who were returned as supporters of the Government would have been rejected in favour of others, and that as a necessary consequence the Tariff would not have been carried in its present form. A certain amount of soreness exists not only in regard to the Customs administration, but also with respect to that of the Postal and Telegraph department. Such changes have been made in the latter department that for the last two years all extensions of the telephone system in the country districts have been denied, and all development has ceased. This is a very serious state of affairs, and complaints have been loud and general. Then, again, the residents in the country districts have been called upon to submit to the imposition of postage upon newspapers. Surely if the question of issuing a common stamp for all Australia had to be postponed for some years on account of the operation of the financial clauses of the Constitution, the imposition of a common tax might very well have been similarly deferred ; especially when the people of New South Wales were already contributing to the revenue to a much larger extent than was reasonable. The hundred-and-one pin pricks to which the public have had to submit have created a feeling of irritation against not only the Ministry but the Federal Parliament. If the resentment had always been directed against its proper object, namely, the Ministry, I should not complain, but I am convinced that the great majority do not distinguish too clearly between the Ministry and Parliament, and that consequently there is a likelihood of the Parliament

being embraced in the wholesale condemnation. The Opposition have made perhaps as strong and as patriotic a protest as was ever made by any body of individuals. They have attended here under great disadvantages as compared with many honorable members who sit behind the Government. Of 23 Victorian representatives, nineteen sit behind the Government, and it is therefore very easy for Ministers to rally their supporters to their aid at any time; whereas the majority of the members of the Opposition come from other States. I regret that a motion of censure was not proposed. It is true that possibly from a party point of view it would not have been wise to propose an amendment to the address, but I think there are higher considerations than those of party. The continuance of the present Government in office is a misfortune, because it is daily adding to the load which Australia has to bear. The longer they continue in office the greater will become those vested interests which are likely to make a strong and bitter fight against liberalism and progress. Therefore, I should have unhesitatingly supported a motion of censure with a view to ejecting the Government from office. I know that the leader of the Opposition thinks that it is absolutely impossible to carry a motion of censure against the Government, but I should have liked to attach to all those honorable members who support the Ministry the full responsibility of their action. I should have liked to see them go forth as a body of men who, up to the very last moment, expressed their belief in the Ministry as being the best that could be placed in office; and if it is considered advisable even at this late stage to move an amendment to the address I shall be glad to support it. I never cared about fighting against jelly fish. I always like to have something to fight against, something definite against which to direct my efforts. I should like to carry the fight against the Government to the very last point, and show that I recognise that their continuance in office is, through the perpetual maladministration of the departments, a menace to Australia. When the next election comes I shall do my best, by the use of my voice and pen, to see that the people of Australia are made fully acquainted with the misdeeds of the Government. It is not my fault that they are not well acquainted with them already; but, owing to the

frequent mistakes that are made by nine Ministers, it is impossible for one man's tongue to proclaim them.

Mr. SYDNEY SMITH (Macquarie).—I do not intend, as on a former occasion, to occupy four hours in commenting upon the matter which is contained in the Governor-General's speech. Honorable members may remember the circumstances under which I addressed the House at such length at the beginning of last session. I think my action then resulted in some good, as it enabled honorable members to call upon Ministers and their supporters to defend their position. The Prime Minister is, in my opinion, open to blame for the way in which he has treated the people of the Commonwealth. It is all very well for the right honorable gentleman to tell us that he did not mislead the electors as to his intentions regarding the Tariff. His speech at Maitland was delivered with a view to induce free-traders to record their votes in favour of the Government, and the old-age pension scheme was put forward as a sop to the labour party. The Government must have known perfectly well—as they have admitted since—that it was impossible under the "Braddon" clause to adopt an old-age pension scheme, because of the difficulty of raising the necessary funds. They told us that they would not resort to any direct taxation, and they confessed their inability to raise the extra £4,000,000 required through the Customs without imposing intolerable burdens upon the people. They have now dropped the scheme altogether. Referring to the Tariff at Maitland, the Prime Minister said—

A business Tariff, a practical working Tariff, and a real Federal Tariff is what we require. If you desire revenue destruction, then you must look for another representative, and the Australian Parliament must look for another Ministry, for we shall not take part in such a task as that.

Reports have appeared from which it would seem that the right honorable gentleman stated that a Tariff yielding £4,000,000 would enable the Government to get over the difficulty caused by the "Braddon blot." The right honorable gentleman has repeatedly stated that he was misreported, but although he denies the accuracy of those reports, I think he will admit that the statement appeared in quite a number of the newspapers.

Sir EDMUND BARTON.—I do not know in how many it appeared, but I saw it in one.

It seemed so ridiculous and so utterly at variance with all my public utterances on the subject that nobody could possibly believe I had ever said it.

Mr. SYDNEY SMITH.—The publication of that statement in the *Sydney Morning Herald*, the *Daily Telegraph*, the *Evening News*, and the *Australian Star*, not to mention some of the country newspapers, must have exerted considerable influence upon the electors of that State regarding the question then at issue.

Sir EDMUND BARTON.—Is the honorable member referring to a period prior to the referendum?

Mr. SYDNEY SMITH.—Yes. I come now to a manifesto issued by his party upon the night that the Prime Minister was addressing his meeting. In offering these observations, I wish honorable members to understand that I am anxious to avoid all personal reflections. I think that we should endeavour to raise the tone of the Federal Parliament by avoiding all references of a personal character. In the manifesto to which I have referred—some thousands of copies of which were distributed—

Sir EDMUND BARTON.—Has the honorable member a copy of it here?

Mr. SYDNEY SMITH.—I have a part of it here—the other portion is at home. Amongst other statements contained in that manifesto is the following:—

Free-trade and a high protective Tariff are both impossible. The necessity of raising a large revenue makes free-trade impossible, and for the same reason a prohibitive Tariff is out of the question. Therefore, there is nothing to prevent both free-traders and protectionists from joining the ranks of the association.

Mr. BROWN.—The name of the association was altered for that purpose.

Mr. SYDNEY SMITH.—Exactly. The effect of that statement was to mislead the free-traders of New South Wales, and to induce them to vote differently from what they otherwise would have done.

Sir EDMUND BARTON.—Was that manifesto issued prior to the referendum?

Mr. SYDNEY SMITH.—No; it was issued upon the night that the right honorable gentleman delivered his address at Maitland.

Sir EDMUND BARTON.—It says that a prohibitive Tariff was impossible.

Mr. SYDNEY SMITH.—Yes. In his address the right honorable gentleman declared that he desired to raise revenue.

Sir EDMUND BARTON.—I have always stated that revenue was the first consideration.

Mr. SYDNEY SMITH.—That is so; but the Prime Minister must admit that after reading the statement to which I have directed attention, the people of the Commonwealth would scarcely expect a Tariff of the character originally proposed by the Government to be submitted to this House. Why, the duties levied upon some of the items which it contained amounted to 80 per cent. and 100 per cent. That the right honorable gentleman misled some of his own supporters in this matter is evidenced by the fact that Mr. Thomson, who formerly represented a free-trade constituency in the New South Wales Legislature, and who took the chair for him at one of his meetings, immediately upon the character of the Tariff being made public, wired as follows:—

Great wrath at betrayal of constituency by breach of promise. We expected heavy revenue duties, but not a one-sided Victorian monstrosity.

Sir EDMUND BARTON.—That shows that he did not understand the subject about which he was talking.

Mr. SYDNEY SMITH.—It shows that the Prime Minister misled the free-trade electors of New South Wales.

Sir EDMUND BARTON.—At the meeting over which Mr. Thomson presided I distinctly stated that the Tariff would be a protective one, that the Ministry was almost entirely composed of protectionists, but that the measure of protection afforded must be moderate, having regard to the circumstances of the States.

Mr. SYDNEY SMITH.—Did the Prime Minister say—

It will be a business Tariff, a practical working Tariff, a real Federal Tariff? That is what we will fight for. If you desire revenue destruction, then you must look for another representative and the Australian Parliament must look for another Prime Minister, for we shall not take part in any such task as that.

It will be generally admitted that some of the duties which were originally proposed by the Government must have been destructive of revenue.

Sir EDMUND BARTON.—No; the proof of the pudding is in the eating.

Mr. SYDNEY SMITH.—The duties originally proposed must necessarily have produced a large revenue. The other night my honorable friend intimated that I had

something to do with the defeat of the duty upon tea. I take my full share of responsibility in that connexion. Why did I assist in bringing about the defeat of that duty?

Mr. KINGSTON.—The honorable member had his leader's pair in his pocket.

Mr. SYDNEY SMITH.—I did so because on the 19th of March of last year the Treasurer brought down to the House an amended financial statement showing that up to that date he would, so far as he could ascertain from the estimates, receive nearly £600,000 more than he had anticipated, notwithstanding all the reductions which had been made in the Tariff. At that time we had dealt with all the principal items of the Tariff. The Treasurer's statement was submitted the night before we were called upon to deal with the tea duty, and in view of the fact that the revenue was so much in excess of the Ministerial estimate, many honorable members like myself, who believe that tea is a fair subject for duty, felt that they could not support a proposal which would provide the Government with an additional £500,000 or £600,000.

Mr. AUSTIN CHAPMAN.—The honorable member admits whipping on that occasion?

Mr. SYDNEY SMITH.—I admit having taken part in it.

Mr. AUSTIN CHAPMAN.—The honorable member did not say that in Tasmania.

Mr. SYDNEY SMITH.—Yes, I did; but when the Minister for Home Affairs was in Tasmania he told the people of that State a nice little fairy tale, which, I am glad to say, was not received with much appreciation. In dealing with the tea duty the Treasurer made the following important statement:—

I venture to say that if we had told the States which have been loyal to the federal movement from first to last that their finances were to be disarranged to a considerable extent, we should have found that they would not have entered into the Federation at all.

In the case of Tasmania the question at issue was to relieve that State of taxation to the extent of £15,124. But what was the position of New South Wales? The Prime Minister has frequently told the electors of that State that federation would not cost them the price of the registration of a dog—that it would not amount to 2s. 6d. per head of the population. Indeed, he has recently declared that its actual cost is only

about 1s. per head of the population. Yet, according to the last financial statement of the Colonial Treasurer under the Federal Tariff, the people of New South Wales are taxed to the extent of £1,250,000 more than they were previously taxed. This sum represents about £1 per head, notwithstanding which the Prime Minister assured them that federation certainly would not cost more than 2s. 6d. per head.

Sir EDMUND BARTON.—That was the estimate which was always made of the "new" expenditure caused by federation. It does not reach that sum even now.

Mr. SYDNEY SMITH.—Did the right honorable gentleman tell the people of New South Wales that they would be compelled to submit to additional taxation through the Customs representing £1,250,000?

Sir EDMUND BARTON.—No; but I told them that there must be a heavy Tariff in order that proper returns might be made to the States.

Mr. SYDNEY SMITH.—The Tariff at present operating yields about £9,500,000 annually, notwithstanding that reductions were made in it representing taxation to the extent of £1,250,000 a year. Yet my honorable friend opposite blames the Opposition, because in a fair fight they defeated an attempt on the part of the Government to extract an additional £500,000 or £600,000 from the pockets of the people.

Mr. AUSTIN CHAPMAN.—The honorable member explained that matter differently in Tasmania.

Mr. SYDNEY SMITH.—I explained it as I am explaining it now: I never make speeches calculated to mislead people.

Mr. MAUGER.—The honorable member cannot have been correctly reported.

Mr. SYDNEY SMITH.—I do not make much complaint of misreporting, of which, however, I have to take my share. This is not the first time the Prime Minister and myself have come into collision over the matter of misleading the electors in reference to a Tariff. A few years ago the Prime Minister was a supporter of our free-trade Ministry, and when an attempt was made, shortly after his election, to raise the fiscal issue, he said that "he would have nothing to do with the Opposition." The Government was defeated a few weeks later, and the right honorable member accepted office as Attorney-General. Mr. Wise, the present Attorney-General of New South Wales, speaking in reference to a partly protective

Tariff which was introduced in the New South Wales Parliament, said:—

The honorable and learned member for East Sydney, Mr. Barton, has had two opportunities of making his choice, and on each occasion he has deceived those who trusted him. I tell him now that upon the great question of a union of the colonies his chance of leadership has gone by for ever. The man who will not be a leader upon that question, or upon any other great question requiring the confidence of the people, is the man who has betrayed that confidence twice.

Sir EDMUND BARTON. — Mr. Wise has repented of that since.

Mr. SYDNEY SMITH.—I dare say that Mr. Wise has repented of a good many things since, but that was his opinion as a free-trader. At any rate, these remarks show that the Prime Minister was not true to the promise he made to the people of East Sydney when he was elected, but that he brought in a protective measure, which was contrary to the wishes of the electors, as was proved by the subsequent defeat of the Government. The Minister for Home Affairs has been making some speeches in Tasmania in reply to those delivered by the leader of the Opposition. It must be admitted that the Minister for Home Affairs had a very small audience at the meeting to which I am about to refer.

Sir WILLIAM LYNE.—I had a very large audience; the honorable member must have been reading the *Launceston Examiner*.

Mr. SYDNEY SMITH.—I saw by one of the newspapers which support the honorable gentleman's policy that at that meeting there were about 500 people present. At the meeting addressed by Mr. Reid, although a charge of 1s. per head was made for admission, up to ten minutes before the hour of commencement—

Sir EDMUND BARTON.—To see the play.

Mr. SYDNEY SMITH.—It is a play which the Prime Minister does not like, and which he will like less before the general election is over. I was about to point out that, notwithstanding this charge for admission—which, I may say, was made against the wish of the leader of the Opposition—the hall was packed. On the other hand, when the Minister for Home Affairs addressed a meeting in the same hall the audience was so small that a curtain was drawn half-way down the hall, while in the galleries there was not a single auditor. At that meeting the Minister for Home Affairs

endeavoured to show that protectionist Victoria had made great progress as compared with free-trade New South Wales, and to support his position he referred to the deposits in the Savings Banks of the two States. As a matter of fact, during the last ten years the Savings Bank depositors of New South Wales have increased by about 79 per cent., as against an increase of 34 per cent. in Victoria, while the deposits have increased by 105 per cent. in New South Wales as against 71 per cent. in Victoria. During the same period the average per depositor was £38 11s. 8d. in New South Wales as compared with £24 14s. 8d. per head in Victoria, while in 1901 the amount per head of population in the Savings Banks of Victoria was £8 8s. 8d. as against £8 13s. 9d. in New South Wales. In 1891, in all the banks, building societies, and other provident associations of Victoria, the deposits amounted to £7,195,001 more than did the deposits in similar institutions in New South Wales, whereas in 1901 the reverse was shown, the amount in New South Wales being over £5,000,000 more than in Victoria.

Mr. MAUGER.—The honorable member is comparing a boom year with a drought year.

Mr. SYDNEY SMITH.—I will take any year the honorable member likes to mention. The Minister for Home Affairs, in the course of his speech in Tasmania, said that in the Savings Banks of New South Wales the deposits amounted to £11,000,000, ignoring the fact that they amounted to nearly £900,000 more.

Sir WILLIAM LYNE.—I gave the exact figures.

Mr. SYDNEY SMITH.—I took the figures from the report in the *Sydney Daily Telegraph*.

Mr. MAUGER.—How much was there in the banks generally?

Sir WILLIAM LYNE.—Give the number of Savings Bank depositors.

Mr. SYDNEY SMITH.—The honorable member for Melbourne Ports changes his ground as soon as he finds the facts against him. I admit that there were more depositors in Victoria, but I have shown that the deposits per depositor and per head of population were greater in New South Wales than in Victoria.

Mr. MAUGER.—Where are the friendly societies?

Mr. SYDNEY SMITH.—All these societies are lumped together in *Coghlan*. The Minister for Home Affairs talked about the enormous sums of loan money expended in New South Wales as compared with Victoria. It must be remembered, however, that the way in which the figures are used in Victoria would deceive most honorable members. In New South Wales the expenditure of loan money includes such works as sewerage, tramways, and local government, and the amount comes to £51 4s. per head; but in Victoria, for the purpose of reference, water and sewerage works and tramways are kept apart. If in Victoria all these works were taken into consideration in the same way as in New South Wales we should find that in 1900, which, I believe, was the last year of office of the Reid Administration—and we are not responsible for what has taken place since—

Mr. SPEAKER.—Does the honorable member intend to connect these remarks with the question before the House?

Mr. SYDNEY SMITH.—I think I shall be in order in showing that New South Wales has made progress under free-trade, while Victoria has gone back under a protective policy. The expenditure per head of population in New South Wales in 1900 was £51 4s., while in Victoria it was £54 2s. 4d. The Minister for Home Affairs stated that the New South Wales Government had received £40,000,000 from the public lands, but if we compare the alienated lands in Victoria and in New South Wales we find that the latter State has parted with 24 per cent., and Victoria with 41 per cent. It must further be borne in mind that Victoria has received from her minerals no less a sum than £263,000,000 sterling; while from the same source New South Wales has received only £138,000,000. Victoria thus had a splendid start with £125,000,000 more than New South Wales from this source.

Mr. MAUGER. — How about the last ten years?

Mr. SYDNEY SMITH. — I am now speaking of the total receipts. The Minister for Home Affairs tried to gull the people of Tasmania by speaking of the great success of manufactures in Victoria as compared with those in New South Wales. But during the last twelve years, the number of males employed in the factories of Victoria has decreased by 2,046, as compared with

an increase in New South Wales during the last eleven years of 11,258. It must be admitted that the number of females employed in the factories of Victoria has, during that period, increased by 11,143, but the total increase of males and females in New South Wales has been 15,256 as against 9,097 in Victoria. Then the Minister for Home Affairs tried to show that even in the matter of population Victoria could compare favorably with New South Wales. But surely it is no evidence of prosperity under protection that in the last ten years Victoria has lost one-tenth of her population, and is still losing it in large numbers. The Attorney-General himself admitted in a speech he delivered on this question in the Victorian State Parliament on the 5th October, 1892, that in Victoria the miners had nothing to expect from protection, while the farmers had obtained all the benefit they possibly could from that policy, and would soon be in the same position as the miners, thus showing clearly that protection could not possibly be of any advantage to either of these classes. As to trade, I should like to refer to the figures of Mr. Fenton, the Victorian statistician.

Mr. MAUGER.—He is all wrong.

Mr. SYDNEY SMITH.—Everybody is all wrong, according to the honorable member for Melbourne Ports. But Mr. Fenton shows that in the years from 1860 to 1900 there was a decrease in extra-Australian trade amounting to £600,000 in Victoria, as against an increase of £26,000,000 in New South Wales during the same period.

Mr. MAUGER.—Does not the honorable member know that Mr. Fenton has said that he forgot to include the whole of the timber trade?

Mr. SYDNEY SMITH.—That will not amount to a great deal.

Mr. MAUGER.—Over £100,000.

Mr. SYDNEY SMITH.—The difference in favour of New South Wales was £26,000,000. Forty years ago the extra-trade of Victoria exceeded that of New South Wales by about £14,000,000. Whereas in 1900 the extra-trade of New South Wales exceeded that of Victoria by £11,000,000. In this debate references have been made to the administration of the Customs department. Like my honorable friends on the opposition benches I believe in the law being administered in a fair and just way.

man attempts to defraud the revenue, let the Minister enforce the law; he ought to discriminate between a man who has deliberately tried to defraud the revenue and a man who has made a mistake, as has been the case very often.

I could cite a number of cases where the magistrates have told the Customs authorities that there was no intention to defraud the revenue, but that they were bound to impose a fine of £5, although the sum in dispute amounted to only a few shillings. I hold that in such cases a man is not to be made a criminal where he is guilty of no wrong intent, but of only a simple mistake. I wonder what the Minister would say if every person who did business with his department were to be round and say—"I shall proceed against you for every mistake which I have made in administering the law."

If that policy were adopted, prosecutions would be instituted for every mistake that has been made in hundreds of cases. If the Customs authorities proceeded against for all the mistakes that they have made, we could well understand what would happen. The Minister has a very novel method to prevent the possibility of any mistakes on his part coming before the courts. In this connexion, I may refer to the case which was tried in Sydney yesterday. I do not know anything of the merits of the case; I do not know the merchant concerned, and no one has communicated with me on the subject. I have only read the report which appeared in the *Evening News* yesterday evening. If Mr. Goldring, the merchant in question did wrong, he must pay the penalty for his wrong-doings according to the statement which was submitted on his behalf to the court, his goods, books, and papers were seized, and have been held, for some considerable time—perhaps, I believe—the department prevented him from going on with his business, refusing to give him a reason for their course of action. I shall quote the exact words of the Sydney telegram which appeared in the *Evening News*:—

The case of Magnus Goldring against the Collector of Customs occupied the attention of the Full Bench to-day. It came before their Honours on an application by Goldring, who is an importer of watches and jewellery, to make absolute a rule by which the Commonwealth Collector of Customs had been called upon to show cause why a writ of *mandamus* should not be issued to compel him to sign entries for two parcels of watches, and to state his reasons for refusing to do so.

A man whose business is being interfered with by the Customs department has a right to know the reason for their action.

He was also called upon to show cause why he should not either deliver up applicant's books, which were taken away by him under certain powers exercised by him under the Customs Act, or, in compliance with the requirements of the Act, give applicant certified copies, for the purpose of enabling him to carry on his business.

If this thing can be done to Mr. Goldring it can be done to any other merchant in the Commonwealth, and any man is liable to have his business ruined by the action of the department. One would have thought that the Minister would have been only too glad to have a full inquiry made into the case in order that Mr. Goldring might have an opportunity to obtain justice if he had a cause of complaint against the administration of the law. But what did the Government do?

The application was based on the ground that the delay in returning the books of the applicant or furnishing copies within a reasonable time was a denial of his rights; that he was entitled to have his entries passed, and to have the goods delivered for home consumption within a reasonable time after the production of the material for such entries, or to be informed why the entries had not been passed.

Surely that is a reasonable request for any merchant to make! How would any merchant who holds a seat in this House like the Customs authorities to seize his goods, books, and invoices, interrupt his business without ascribing any reason for their course of action, and decline to allow a copy of his invoices to be made? I am sure that the honorable member for Tasmania, Sir Philip Fysh, would not like to be treated in that way. Mr. Goldring does not appear in the character of a dishonest man when he publicly appeals against the action of the Minister, and courts the fullest inquiry into his transactions with the department. It does not look as if he was afraid of an inquiry being held.

Sir Julian Salomons, when the affidavits in support of the application had been read, took a preliminary objection that the Court had no jurisdiction to deal with the matter.

Last session it was the duty of the Opposition to point out to the House how persons in the Commonwealth were prevented from taking any action at law against any member of the Commonwealth Government, and a short Bill was introduced in order, as I understood, to enable any aggrieved person to apply for some measure of redress. Apparently the Minister for Trade and

Customs can interpret the law as he likes, and will not allow a court or any one else to intervene and give redress to a business man who feels aggrieved by his administration. It appears to me to be an extraordinary proceeding on his part, and to need explanation. According to this report his action looks very bad indeed. Sir Julian Salomons, acting for the Government,

said that the Commonwealth Constitution having transferred the Customs department to the exclusive jurisdiction of the Commonwealth Parliament and its Executive, no officer of the Customs, any more than any officer of the Executive Government, was open to mandamus from the State Court.

What remedy does this man possess?

MR. DEAKIN.—If he had paid the duty he would have obtained his goods, and then he could have sued for the deposit which he had made. Instead of that, he chose to take another course, and to ask the court to command a Commonwealth officer to do something.

MR. SPEAKER.—Order. The Attorney-General can give the explanation at a later stage.

MR. SYDNEY SMITH.—I should like the Attorney-General to be allowed to give the explanation now, sir.

MR. DEAKIN.—I can assure the honorable member that Mr. Goldring having two other remedies open to him, chose a third, which would have meant coercing the Commonwealth without the Court being properly informed as to the circumstances. He had his remedy under the Claims Against the Commonwealth Act, and he did not choose to take it. He had his remedy under the Customs Act, and he did not choose to take it. He chose to do something else.

MR. SYDNEY SMITH.—Why should not the Minister for Trade and Customs allow him to have access to his books and to make a copy of the invoices?

MR. KINGSTON.—He could have got them at any time by depositing the amount of the duty.

MR. SYDNEY SMITH.—I understand that in some cases where merchants have overpaid the department, the Treasurer will not refund the excess amount. I have been told of one case where, because the importer did not take action within a certain time, he could not get the excess payment refunded. It is a fair and straightforward course for a man to appeal to a court, and

in every such case the Minister ought to give a reason for his action—

In giving judgment, the Acting Chief Justice said that, under the 69th section of the Commonwealth Act, Customs and other matters were transferred to the Commonwealth, and officers were appointed to perform the duties of such Customs, including a comptroller and collector for each State. It was quite clear our State Legislature and Government had nothing to do with the matter, and that this court had no power to say whether a federal officer had or had not discharged his duties properly. That was entirely a matter between him and the authority which appointed him. The Collector of Customs owed no duty to the State Government.

Seemingly, it is difficult for a man to get any redress in a case of this kind. Mr. Pilcher, who is a leader at the Sydney bar, advised Mr. Goldring as to what was the proper course for him to take; his advice was followed; and the Government immediately set up the plea that the court had no jurisdiction. It is a case of such importance that an explanation ought to be given by the Minister. The action of the department does not reflect much credit on the Commonwealth; and it is not fair that the Commonwealth should be placed in such an invidious position. When the Prime Minister spoke at Maitland not long ago of the work which had been done by the Government he referred to the Act which had been passed. He took a great deal of credit to the Government for the passing of the Public Service Act. He pointed out that it was a splendid measure, inasmuch as it took away all political patronage and influence from the Ministry. I wish to ask the right honorable and learned gentleman who was responsible for taking away political patronage and influence from the Ministry? In their original Bill the Government took to themselves all the necessary powers to make appointments, increase salaries, and effect any adjustments; and the honorable member for Wentworth proposed an amendment which compelled the Government to obtain a recommendation from the Public Service Commissioner before they acted, in order that he might have a voice in every case of the kind. The influence and power of the Public Service Commissioner which had been annulled under the Bill as introduced by the Government was in that way restored.

MR. WILKS.—He would have been merely a recording clerk.

MR. SYDNEY SMITH.—Yes. That would have been very handy no doubt for

some members of the Government, judging by certain appointments that have been made. There was certainly need for a Public Service Act to prevent political influence, because I think even honorable members opposite were shocked.

Mr. AUSTIN CHAPMAN.—The honorable member is an authority on that point.

Mr. SYDNEY SMITH.—I was for many years a member of a New South Wales Government, and I defy any one to point to any case in which I allowed political influence to interfere with appointments in the department I administered.

Mr. WILKS.—They tried to get at the honorable member, but could not manage it.

Mr. SYDNEY SMITH.—I do not say that I was any better than any one else; but I defy any one to point to any appointments in the public service of New South Wales of which I have reason to be ashamed. I think the honorable member for Eden-Monaro will admit that I always obtained the services of the very best men.

Mr. AUSTIN CHAPMAN.—We all give you credit for that.

Mr. SYDNEY SMITH.—The Prime Minister cannot take much credit for the Public Service Act, because if it had been passed as proposed by the Government it would not have got rid of the political influence to which reference has been made. I come now to one or two other matters which I think are of much importance. In speaking of the Tariff the Minister for Trade and Customs in December last made a notable admission. It is not often that we can get a protectionist to make any admission of the kind; but that made by the Minister was in keeping with assertions made from time to time by honorable members on this side of the House, and as often denied by protectionists. In speaking in the House on the 2nd December last, the right honorable gentleman is reported by *Hansard* to have made this statement—although, I suppose, the Ministers will attempt to deny the correctness of *Hansard*—

The honorable member may look it up as much as he likes; but he will find that the figures are as I have given, showing the importations from Germany, France, and Belgium. And I say as regards these countries protection and cheap labour reign supreme.

These are the countries which my right honorable friend has always urged that we should copy. He says that we ought to

adopt protection because it benefits the working classes.

Mr. WILKS.—If the honorable member reads the newspapers of Melbourne to-day, he will not think it has done so.

Mr. SYDNEY SMITH.—I think we can obtain plenty of evidence that it has not helped Victoria. We are all sorry for that, because we have no feeling against this State. We recognise that the men of Victoria are as good as those of any other part of the Commonwealth.

Sir WILLIAM McMILLAN.—Almost.

Mr. SYDNEY SMITH.—I shall not make that exception. A large number of former Melbourne residents live in my constituency, and they are splendid men. They came over to free-trade New South Wales, and they have done well. They have obtained there the benefit of fresh air and freedom.

Mr. WILKS.—And they are now on the honorable member's committee.

Mr. SYDNEY SMITH.—Of course they are. I take exception to the action of the Prime Minister in regard to the proposed preferential trade between England and the colonies. When a cablegram was published in the Melbourne newspapers giving the substance of Mr. Chamberlain's speech, my right honorable friend, not as Sir Edmund Barton, but as the Prime Minister of the Commonwealth, sent a cablegram to England intimating his approval, as head of the Federal Government, of the proposal, and presumably the authorities at home would believe that he was speaking for the Federal Parliament.

Sir EDMUND BARTON.—I did not send any cablegram; I simply expressed my opinion in answer to a request by a representative of a press agency.

Mr. SYDNEY SMITH.—That opinion was cabled home by the press agency, and my right honorable friend will admit that it was transmitted to England as the opinion of the Prime Minister, speaking for the Commonwealth.

Sir EDMUND BARTON.—The opinion of the Prime Minister, speaking for his Government.

Mr. SYDNEY SMITH.—If that is the opinion of the Government they should have the courage to admit it; they should come down to the House and say—"This is our opinion; we do not want any mistake. We believe we are voicing the opinion of the people of the Commonwealth, and

we are prepared to stake our existence on it." In view of what Mr. Chamberlain has said, it is singular that in the speech which the Prime Minister delivered at Maitland in 1901 he made a statement, which also appeared in the Governor-General's speech of 10th May, 1901—

Some time must elapse before the financial conditions of the Commonwealth will admit of provision being made for old-age pensions. It is, however, the desire of my Ministers to deal with the subject as soon as possible.

The right honorable gentleman told the people what he was going to do. First of all, he caught the free-traders like Mr. Thompson, who was gullible, but found out his mistake. Of course, some of us knew the right honorable gentleman too well. We had been in Parliament with him, and knew that on the question of free-trade he was able to turn somersaults without any trouble. The Prime Minister told the people of the Commonwealth, in the course of his Maitland speech, that he was in favour of old-age pensions, and that the workers could expect them, not from the Opposition, but from his Government. He told the free-traders of Australia that his Government were not going in for any Tariff to destroy revenue, but for one which free-traders and protectionists alike could join hand in hand in supporting. He gained his point through what I say was a piece of deception. He knows that had it not been for that deception the Vice-President of the Executive Council, for whom I have the greatest respect, could not have obtained anything like 50,000 votes. In this way the right honorable gentleman gained his point. He secured the support of a large number of free-traders, as well as that of a great number of workers, and passed this objectionable Tariff. No doubt Mr. Chamberlain read the Prime Minister's speeches, and said—"The Prime Minister of the Commonwealth is a pretty shrewd fellow; he humbugged the workers and the free-traders.

Mr. SPEAKER.—Order! The honorable member must not say that the Prime Minister humbugged the electors.

Mr. SYDNEY SMITH.—I am speaking in a political sense. I will say that he misled them.

Sir EDMUND BARTON.—I do not mind it, Mr. Speaker. The honorable member said just now that I deceived the electors.

Mr. SYDNEY SMITH.—I will say that the right honorable gentleman deceived them.

Mr. SPEAKER.—The honorable member must not say that.

Mr. SYDNEY SMITH.—Then I will say that he led them astray. No doubt Mr. Chamberlain, on reading my right honorable friend's speeches, considered that the Prime Minister had done very well; that he had been able to lead the workers astray by the promise of old-age pensions; that he had led the free-traders astray; and had succeeded in getting his Tariff through—

Mr. THOMSON.—Not "his" Tariff.

Mr. SYDNEY SMITH.—He succeeded in passing, not the Tariff he proposed, but one to which we objected because of the heavy duties which it still contained. No doubt Mr. Chamberlain hoped to succeed by adopting similar questionable tactics.

Sir WILLIAM McMILLAN.—A Tariff that the right honorable gentleman did not understand.

Mr. SYDNEY SMITH.—I do not say that. I am sorry that Mr. Chamberlain supports the system of preferential trade proposed, because we all give him every credit for his action in connexion with the South African war. We all cordially supported the action of the Government—or most honorable members of the Opposition did so—in sending troops to assist the Empire, and we should do it to-morrow if the occasion arose. We are all anxious to do what we can to assist the Empire, because if it goes down we must go down with it. I start therefore with a fairly good opinion of Mr. Chamberlain, but I must say that I am astounded that he should be a party to the system of preferential trade proposed. What does Mr. Chamberlain say—

The workers must be convinced that they would be recouped the tax on food by extra wages, by social reforms, and by old-age pensions.

Mr. WILKS.—He laid great stress on old-age pensions.

Mr. SYDNEY SMITH.—Yes.

Sir WILLIAM McMILLAN.—They will need them if a tax is placed on food.

Mr. SYDNEY SMITH.—After two kites had been flown, first by Mr. Chamberlain and then by Mr. Balfour—one speaking one way and one the other—those gentlemen considered that they could correctly interpret public opinion, but I think they

will be mistaken. Mr. Balfour, who was at first half-hearted, then made this statement :—

Is it so certain that the working classes would repudiate such a tax? If by a general tax on foodstuffs it was possible to obtain from the colonies large measures of free-trade in manufactured goods, I am not sure it would not be worth while. I do not know whether the British working classes would consent to the sacrifice, or whether the colonies would consent to modify their Tariffs.

As free-traders we should welcome the opening of our doors, because we realize that we are able to hold our own. The Minister for Trade and Customs referred in the extract I have given to the imports from France, Germany, and Belgium, where, he said, low wages and protection reigned supreme. Our imports from those countries amounted to about £3,860,000, but our exports to those countries totalled about £6,520,000. We are sending goods to those countries, and receiving in return 70 per cent. more goods than they get for the goods they send to us. We have gained in one year £2,660,000 by our trade with the foreign countries to which reference has been made. Then it appears that the Government believe that England is going down, for I presume that is really the effect of the Prime Minister's cablegram. He indorses Mr. Balfour's opinion that England is going down. I see no evidence of it. According to the latest returns there is no likelihood of anything of the kind. The latest report issued by the Board of Trade does not indicate anything in that direction. What do we gather from it? In 1871 the population of the United Kingdom was 260 per square mile; in France it was 177 per square mile; in Germany 196 per square mile, and in the United States 10·7 per square mile. In 1900 the United Kingdom maintained a population of 342 to the square mile; France, 191; Germany, 269; and the United States, 21. If these countries were called upon to maintain the same population per square mile as England, with its 120,000 square miles of territory, France, instead of maintaining 39,000,000, would have to maintain 71,230,000; Germany, instead of maintaining 56,367,000, would have to maintain 72,000,000; and the United States, instead of 75,000,000, would have to maintain nearly 1,226,735,400. This is according to the last statistics supplied to Parliament by the Board of Trade.

Mr. MAUGER.—If the honorable member compares New South Wales with Victoria on that basis, where will New South Wales be?

Mr. SYDNEY SMITH.—I am endeavouring to show that England is really going ahead, and will presently give figures showing trade, &c., per head of population as well as per square mile. We know that, as a matter of fact, Victoria is going back.

Mr. AUSTIN CHAPMAN.—Mr. Chamberlain had better withdraw.

Mr. SYDNEY SMITH.—He will be made to withdraw. I do not say that my speech or any speech made in this Parliament will have any effect upon Mr. Chamberlain, and I dare say that even the speech of the honorable member for Eden-Monaro will have less effect upon him than that perhaps of any other member of the House. When the honorable member for Melbourne Ports speaks of comparing New South Wales and Victoria, I would ask him whether he will deny that in the value of goods manufactured and in process of manufacture there has been a decline of £2,412,000 for the last year.

Mr. MAUGER.—I do deny it.

Mr. SYDNEY SMITH.—There we are, *Coghlan* is wrong again.

Mr. MAUGER.—No; Fenton is wrong.

Mr. SYDNEY SMITH.—They are all wrong if their statements do not suit the views of honorable members opposite. I would ask honorable members whether the figures dealing with the annual production of coal give any evidence that England is going down. According to the figures supplied by the Board of Trade during 1890-4 the average annual production in tons, per head of the population in England was, 3·79; in France, 4·3; in Germany, 7·9, and in the United States, 1·09. In 1895-99, the average annual production per head of population had risen in England to 5·07 tons, in France to 7·8 tons, Germany 1·69 tons, and in the United States to 2·57 tons. Let honorable members apply any test they like, and they will find that England is ahead. Is that any evidence of decay? Now, let us look at the wages paid to coal-miners, and it must be remembered that one of the arguments used by the Prime Minister at Maitland depended upon the question of wages. The right honorable gentleman told the coal-miners that if they went in for protection factories would be established in the State and more coal would be used. England, as we know, has an

open door, and yet her consumption of coal is greater than that of France, the United States, or Germany.

Sir EDMUND BARTON.—Does the honorable member refer to export or internal consumption?

Mr. SYDNEY SMITH.—I have referred to the average annual production, but I will give the figures of internal consumption presently. The wages paid to miners in England are 10d. per hour; in France, 4d.; in Germany, 4d.; and in the United States, 5d. Is there any evidence there that British workmen are worse off than those of other countries?

Mr. SPEAKER.—Does the honorable member connect this with the Governor-General's speech?

Mr. SYDNEY SMITH.—I do. I do not know why I am asked the question. Reference has been made to the question of preferential treatment, and I am endeavouring to show that England has no need to go in for preferential treatment in the way suggested because she is prosperous now without it.

Sir EDMUND BARTON.—There is nothing of that in the Governor-General's speech.

Mr. SYDNEY SMITH.—I have already objected that the right honorable gentleman had not the courage to challenge us on the question. I should not have blamed him if he had not sent home a cablegram in which he speaks for the people of Australia.

Sir EDMUND BARTON.—I did not send it.

Mr. SYDNEY SMITH.—The right honorable gentleman speaking as Prime Minister of Australia gave the information to the press agency.

Sir EDMUND BARTON.—They asked my opinion, and I gave it, and I gave them another opinion yesterday.

Mr. SYDNEY SMITH.—I say that if the right honorable gentleman, as Prime Minister of Australia, speaks for Australia, he should be prepared to come down here, and take the responsibility of it. However, he does not speak for Australia.

Sir EDMUND BARTON.—He speaks for the majority.

Mr. SYDNEY SMITH.—Nor does he speak for the majority of the people of Australia.

Sir WILLIAM LYNE.—The honorable member speaks for Great Britain.

Mr. SYDNEY SMITH.—I speak for Great Britain because I know that if the Union goes down, we go down with her.

I find according to the Board of Trade returns that the estimated consumption of coal per head of population in 1900 was, for the United Kingdom 4·08 tons, for France 1·19 tons, for Germany 1·77 tons, and for the United States 3·08 tons. Does that give any evidence of the decay of England? Now, let us take the production of pig iron, and let it be remembered that while we have here a Government prepared to give certain encouragement to the establishment of the iron industry, there is in England no protection and no bonus for that industry, which is in open competition with all. What is the position in this respect in England to-day. Taking the five years 1895-9, the average annual production of pig-iron per head of population was ·22 tons in the United Kingdom, ·06 tons in France, ·13 in Germany, and ·15 tons in the United States. Is that any evidence of the decay of England? Can any evidence of decay be found in the figures dealing with exports? But I find that the exports of domestic produce per square mile in the United Kingdom in 1900 were valued at £2,338; from France £804, from Germany £1,062, and from the United States £79. Per head of population the average value of exports for the years 1895-9 amounted to £5 19s. 5d. for the United Kingdom, £3 14s. 8d. for France, £3 7s. 3d. for Germany, and £2 18s. 4d. for the United States. There is in those figures no evidence of decay which calls upon us for a change in our whole fiscal policy. Then I take the average trade of the United Kingdom with Germany, and I find that during 1880-85 the imports of the United Kingdom per head of population amounted to 14s. 6d., and the exports to 10s. 3d., while during 1896 to 1900 the average for imports was 14s. 3d., while the average for exports was increased to 11s. 9d. That certainly shows no evidence of decay. If we take the totals, the figures are £3,700,000 and the total exports £5,500,000. Now, if we take the imports of merchandise in relation to the total we will find that in 1880 the percentage from France was 10·25, from Germany 5·92, and from the United States 26·04. In 1900 the percentage was the same from France, it was 5·96 from Germany, and 26·53 from the United States, showing a very little increase. In connexion with exports the figures for 1880 were, for France 6·99 and for 1900 6·97, for Germany for 1880 7·60

and for 1900 9·34, and for the United States for 1880 13·83. I have not the figures for 1900. If we take the figures relating to shipping we find that in the United States of 92½ per cent. engaged in foreign trade 7 per cent. of the trade was carried in American vessels and 85½ per cent. in British vessels. This has been so strongly brought under the notice of the American authorities that they have instituted an inquiry to discover whether their position cannot in some way be improved. If we take the figures affecting exports of domestic produce we shall find that the exports of the United Kingdom for the five years 1895-1900 gave an average value of £226,000,000, for France £135,000,000, and for Germany £166,000,000. In 1900 our British exports increased to £283,000,000, or an increase of £57,000,000. In France the increase was £29,000,000, and in Germany the increase was from £166,000,000 to £222,000,000. Let us take another test in the number of unemployed in all trades covered by the returns of the trades unions, and we find that while during 1892 to 1894 the number was 7 per cent. in 1899, in 1901 the number had been reduced to 3 per cent. In the engineering and metal trades the number of unemployed in the years 1892 to 1894 was 8½ per cent., and in 1899 it was only 3 per cent. These figures do not show any evidence of decay. If six of the great Powers were called upon to maintain the same population per square mile as Great Britain, with her 120,000 square miles, we should find that instead of maintaining 390,000,000 people, as they do at present, they should maintain 4,400,000,000.

Mr. MAUGER.—Will the honorable member apply that reasoning to New South Wales and Victoria?

Mr. SYDNEY SMITH.—I think I have been fair with honorable members in giving these figures of population, wealth, trade, and the consumption of coal; and while I give the figures for free-trade England I give the figures for the other side as well. I only ask that honorable members opposite should do the same in regard to Victoria. The Secretary to the Board of Trade, in commenting upon those figures, says—

Whatever these figures show, it is clear that they do not show that there has been any material displacement of home manufactures in our markets by Germany.

Mr. MAUGER.—In what year was that written?

Mr. SYDNEY SMITH.—The document from which I am quoting was laid upon the table of the House of Commons in 1902, and no later figures are obtainable. Those statements show that there is no evidence of the decadence of British trade.

Mr. MAUGER.—Surely the British Government do not say that England is decaying.

Mr. SYDNEY SMITH.—No, but they are trying to reverse the policy which British statesmen have followed with remarkable success for the last 50 years. We are told that France and Germany are getting our trade; but there is not a workman's paradise in either of those countries. I have a return here which shows that in 33 German towns, each with a population of about 100,000, the highest wages paid in 1901 were 19s. 3d. and the lowest 13s. 9d. a week. In France, in the summer of 1882, men got 2s. 6d. a day, and in the summer of 1892, 2s. 4½d., while the wage paid to women was 1s. 9½d. and 1s. 7½d. in the two periods respectively. In Belgium, in 1874, men were receiving 1s. 7½d., and in 1895 1s. 7d. a day, and women 11½d. and 11½d., a decrease in each case. It must be remembered, too, that in those countries people ordinarily work not eight, but ten, twelve, and thirteen hours a day. Sir Robert Giffen, a well-known writer of financial essays, pointed out that in Great Britain during the last 50 years the wages of carpenters have increased 43 per cent., of bricklayers and masons 30 per cent., of pattern weavers 55 per cent., of weavers 115 per cent., of spinners 160 per cent., and of miners 50 per cent. When under protection wheat was 94s. a quarter, the farmers used to pay their labourers 7s. a week. In 1878 wheat was 46s. a quarter, and they paid 15s. a week, while in 1886 they paid 15s., though the price of wheat was then only 30s. a quarter. The working class representatives in the House of Commons are unanimously opposed to any reversal of the fiscal policy of the country. They know that wages are higher, hours of labour shorter, and conditions of employment better in free-trade England than in any protected country. I find from another return that in 1887 the weekly increase in wages was £45,000, in 1898 £95,000, and in 1899 £114,000. The total increase for 1889 was £6,000,000, and for the first

eight months of 1900 £150,000 a week, or a total of about £8,000,000. On page 52 of the document from which I have quoted there is a return called table G, which shows the average annual value of the importations into England from Germany in the periods 1880-1884, 1891-1895, and 1896-1900. In dealing with this return I shall take no notice of the importation of sugar. We all know that sugar is not produced in the United Kingdom, but her importation of that commodity is very large, amounting, I believe, to over £9,000,000. If the Germans like to pay bounties to produce beet sugar cheaply for the advantage of the people of England, I am sure the English workers have no cause to complain. Comparing the periods 1880-1884 and 1896-1900, the increase of importations into the United Kingdom from Germany, deducting sugar, is £353,333, not much more than £400,000. Is there in those figures any evidence that the productions of German workmen are displacing in the English markets the productions of British workmen? The Board of Trade report says—

Our exports consist more largely of manufactured goods in proportion to our whole exports than do those of France and the United States, but we are run very close by Germany in this respect. Nevertheless, measuring per head of the population, we are far ahead of Germany or any other of our competitors.

The importations into Great Britain consist largely of raw material which comes from America, Germany, the colonies, and other countries, to be made up by British workmen, and re-exported very largely to the countries of original production. For example, the United Kingdom imports immense quantities of cotton from the United States, and, under free-trade, manufactures 66 per cent. of the cotton goods used in the world. That is done under free-trade, and by workers who are paid better wages than are received in protectionist countries.

MR. KENNEDY.—Are the wages paid in Great Britain better than those paid in the United States?

MR. SYDNEY SMITH.—On that subject I should like to quote the opinion of Mr. Hoskins, a well-known manufacturer of iron, who, in New South Wales, prospered under free-trade. When, in 1900, a contract was opened for the supply of cast-iron pipes for the Geelong waterworks, he was ready to land the pipes required at Geelong, if the duty were remitted,

for £26,000, but the Otis Company, a Melbourne firm, wanted £32,000. As the Government of the day would not remit the duty, the Melbourne tender was accepted, so that the Geelong people are now paying interest upon £6,000 more capital than would have been expended if the tender of the free-trade manufacturer had been accepted. In 1901, after a visit to America, Mr. Hoskins, speaking about the conditions of labour there, was reported to have said that in some of the large steel works, and notably in Carnegie's, men were called upon to work for eleven hours a day, and for thirteen hours on the night shifts. American employers take more out of their men in many ways than do employers here. Generally ten hours is a working day, but in the Homestead Works the hours were eleven in the day-time, and thirteen at night, and the majority of employes were not Americans but Russians. Returning to the subject of the importation of raw materials into England, I may point out that materials for textile manufactures were imported to the extent of £77,347,363, for sundry industries to the value of £65,079,691, and that the imports of metals represented a value of £33,195,391, the total being over £175,000,000. Of manufactured goods, England imported only £93,225,005 worth. Now, looking at the other side we find that the manufactured goods worked up by British workmen—paid at higher wages than continental employes, and working for a smaller number of hours per day—and exported from England, represented a value of £234,789,389. Thus England exported manufactured articles to the value of £141,000,000 in excess of her total imports of manufactured goods. That does not tend to show that England's manufactures are being displaced by any of her competitors. These figures are taken from the official returns of the Board of Trade, and the position in regard to Germany is summed up as follows:—

In the period under review there was an increase in our imports from Germany to the extent of 3·7 million pounds. There has been some decrease in the imports of agricultural produce from Germany, balanced by an increase in the imports of sugar, and some slight increases in the imports of cotton, woollen, glass, and iron manufactures, none of which, however, are imported to any great extent. On the other hand, our exports to Germany increased by £5,500,000, or over 30 per cent. This increase was largely due to one special article, coal; but woollen yarns, cotton manufactures, iron and steel manufactures,

and machinery also contributed their share. Whatever these figures show, it is clear that they do not show that there has been any material displacement of home manufactures in our home markets by Germany.

I think that this supplies the best evidence that could be produced as to the progress made by England under free-trade. I had not intended to speak at such length, but the interruptions of my honorable friends opposite have shown the necessity for affording them a little enlightenment. They evidently do not read the latest reports, or do not properly digest the facts contained in them. I have quoted from the reports of the Board of Trade, and I now wish to read an extract from a statement by Armitage Smith, who in his *Fifty Years of Free-trade* says :—

Statistics of wages and prices show that with easier work and shorter hours a labourer gets now about 65 per cent., factory operatives 75 per cent., and a skilled mechanic 90 per cent. of necessities than he did 50 years ago. Sir R. Giffen has stated that nearly the whole of the economic advantage of the last 50 years has gone to the working classes, that is, their position has not only changed absolutely as regards the comforts of life, but relatively as regards other classes in their share of the general prosperity. While the capital has increased, the income from capital has not increased in proportion. The increase of earnings goes exclusively, or almost exclusively, to the working classes. What has happened to the working classes in the last 50 years is not so much what may be called an improvement as a revolution of the most remarkable description.

The condition of the British Empire is so satisfactory to-day, and the progress she has made during the last 50 years has been so marvellous, that it is extraordinary to find a man like Mr. Joseph Chamberlain contemplating such a leap in the dark as has been indicated by recent cables. England now enjoys a position among the nations such as has never been achieved by any great power, search the annals of history as we may. Taking her population per square mile, I have pointed out that if the six great Powers are to maintain a similar proportion of people to area, they must sustain 4,400,000,000 instead of the 390,000,000 they have now. England under a free-trade policy has controlled over one-quarter of the surface of the globe; her population to-day represents one-quarter of the whole population of the earth, and her surplus wealth is sufficient to pay the national debts of all the nations twice over, and leave a substantial balance.

The policy of free-trade, which has done so much for England, and has produced such marvellous results, is one that we should seek to engraft upon the Constitution of Australia. We should endeavour to avoid the adoption of a protectionist policy, and we should not for one moment agree to sink the fiscal question, as has been advised by the Prime Minister. The *Melbourne Age* has supported the Government view that we ought not to raise the fiscal issue at the next elections. We are told that we should defer the revival of that question until after the close of the next Parliament, by which time the protectionists hope that they may obtain a still larger majority than they now possess in this House by the same objectionable tactics as were adopted at the last election. The advantage which the protectionists now enjoy in this chamber is not very great. We have 35 free-traders here as against 40 protectionists, including the honorable member for Tasmania, Sir Philip Fysh, who was returned as a free-trader, but has voted as a protectionist. When I was in Tasmania I was told that "free-trade" was one of the most prominent features in the placards on the cabs which conveyed the honorable member's supporters to the poll. Notwithstanding the honorable member's apostacy, the protectionists have a majority of only five in this House, whilst the free-traders have a majority in the Senate. The Government majority in this chamber was obtained under very questionable circumstances, and I venture to say that upon the fiscal question, this House does not represent the views of the people of Australia. We shall not, therefore, follow the advice of our enemy, the *Melbourne Age*. I warn free-traders that, although the present Tariff is not one of which they can approve, they have been saved by the exertions of the free-trade party from much more calamitous results. Instead of having revenue duties upon some articles and protectionist duties upon others, they would have had to submit to all round high protective duties, and if the Government secure a large majority at the next elections, there is a strong probability that an effort will be made to still further increase the burdens of the people. The Government have crippled the great mining, agricultural and pastoral industries of Australia, which cannot derive any benefit from a protectionist policy. They have ignored the example of New Zealand,

which admits agricultural and mining machinery free of duty, and they have condemned our agriculturists, miners, and pastoralists, who are obliged to seek markets for their produce in competition with the whole world, to bear heavy taxation upon all the necessities of life, and upon all the implements used in carrying on their several industries. As against this, we find that the Victorian manufacturers who have enjoyed the benefits of protection for the last 35 years, and are still unable to stand alone, are allowed to obtain their machinery free of any impost. Our staple industries have not received fair treatment, and I feel convinced that when the time arrives for the people to express their opinions regarding the action of the Government, they will return a substantial majority of honorable members who favour a free-trade policy.

Sir WILLIAM McMILLAN (Wentworth).—I had hoped to hear some speech from the Government side before being called upon to address the House this evening. It is remarkable that the Government should have been willing to allow the debate to close, as it certainly would have done if I had not risen at this time, without some reply by the Minister for Trade and Customs, to the very severe criticisms which have been passed upon his administration. We have had speeches from the leader of the Opposition, the honorable member for North Sydney, and others, containing very serious charges against the administration of Ministers, and especially against that of the Minister for Trade and Customs. In regard to some of these charges, Ministerial action should have been taken to offer an explanation the moment they were uttered. I know that in many respects a Government has to be thick-skinned; but, if charges concerning the administration of justice and of the great departments of the State largely affecting the industrial life of the country are made in Parliament, they should be the subject of immediate inquiry, and honorable members should, at the very earliest opportunity, be placed in possession of the actual facts. No Government, however large its majority may be, does itself any good by stolidly ignoring the questions and asseverations of a minority. Having passed through a very anxious session, in which the great work of the Commonwealth was completed—I refer to the framing of the Tariff—it might

naturally have been thought that during the present session, in which to a large extent our attention will be focussed upon what may be called non-contentious subjects, it would not be necessary for honorable members to deal exhaustively either with legislative or administrative matters. But, on the other hand, I cannot forget that this is probably the last occasion in connexion with a debate of this kind in which honorable members will have an opportunity, prior to the general election, of criticising the administration of the Government. If I may be permitted to say so, I do not think that I can be regarded as an unfair man. During the whole of my political career, as the Prime Minister knows, I have been anxious to accord fair play even to my opponents. In the first Administration of the Commonwealth, I recognise that even if the Government had been composed of angels from heaven friction would have been inevitable. Difficulties were bound to arise, and under any circumstances many were sure to be greatly dissatisfied. But after making all allowances for these considerations, I feel very strongly as a federalist, who is as ardent, pure, and, I hope, as patriotic in my aims as is the Prime Minister, that the first two years of the Commonwealth Administration have been disastrous to the tone, the character, and the sentiment of federation itself. I feel that there is a great deal of justice in the chagrin and disappointment which are felt by people in all parts of Australia concerning the first two years of the administration of the Commonwealth Government. It was perhaps unfortunate that in forming his administration the Prime Minister had to choose—naturally, I suppose—men who had taken a leading part in the political life of the different States, and that offices had to be allocated to them without any regard being paid to their previous training or capacity to fill those offices. It is a curious circumstance in connexion with human affairs that sometimes one error—one small accident as we might call it—alters the whole tenor and character of a period of history. I have no desire to be personal, but I say that if you, sir, could have been placed in the position of Minister for Trade and Customs, and if the right honorable gentleman who now fills that office could have been elevated to your chair, the whole history of the administration of the Government

during the past two years would have been changed. I do not hesitate to say that if the Minister, who is undeniably possessed of very great abilities and talent, but who is utterly unfitted by character and experience for his present office, had not been placed in that position, and if the policy enunciated by the Prime Minister at Maitland had been carried out in the faith and integrity of its evident meaning, I should not have had to rise to censure the Government for having broken its pledges and exhibited to the Commonwealth a series of administrative blunders which have brought contempt upon it in all parts of the world. We have, unfortunately, a Cabinet of lawyers. No man has a greater respect than I have for the legal individual who devotes his life to what is probably one of the highest professions in the country ; but I do think that in many respects a legal experience is not the best training for the broad administration of business affairs. It seems to me that the Minister for Trade and Customs has made two mistakes which have been fatal to his administration. In the first place, he does not seem to know the difference between administration and adjudication. In dealing with his department he has imagined himself to be upon the Supreme Court or the magisterial bench. Now, all Governments—not merely Governments such as those in Australia which undertake the control of a great many business enterprises, as, for instance, the management of the railways—must possess departments of a purely business character. In itself the Customs department is a great business department. Let us look at the history of the legislation connected with it. This Parliament enacted a law which conferred upon the Minister the most stringent possible powers for the prevention of fraud. The Minister gave us his sacred promise—a promise which was repeated elsewhere—that a certain provision which we inserted to show that the highest would be punished equally with the poorest would not be put into effect unless a *prima facie* case of fraud had been made out. Again, when some prosecutions took place in Sydney, the leader of the Opposition put substantially the following question to the Minister:—“Does the Minister acknowledge that in every case, even where it is clear that no fraud has been attempted, but an error has been made, he is bound to prosecute?” In reply the right honorable gentleman said

—“I do not say anything of the kind. I hold that I am not bound to prosecute unless I see that fraud has been attempted.”

Mr. KINGSTON.—I have never said anything of the sort at any time.

Sir WILLIAM McMILLAN.—Then I ask the Minister if, because we inserted in the Customs Act a provision which gave him power to call a clerical error a fraud, he has resolved to send the most trivial cases of error into the police court. Is that the administration of the right honorable gentleman ?

Mr. KINGSTON.—The administration is that if an importer truthfully declares the nature of the goods and their value, and produces the proper invoice, he will not be prosecuted.

Mr. THOMSON.—That is only recent administration.

Mr. KINGSTON.—I beg the honorable member's pardon. It has been the administration for nine months.

Sir WILLIAM McMILLAN. — The Minister has said that he is anxious, if every possible information is given to the department by the importer, that no prosecution shall take place. But let me remind honorable members of some of the facts connected with his administration. In New South Wales it used to be the practice for merchants and importers to do all in their power to assist the Customs department. When any doubt was entertained regarding an entry, the custom was to consult the officer of the department and for that officer, together with the individual interested to decide what was the correct duty. The Minister for Trade and Customs heard of this arrangement, which, to any man imbued with business principles, would seem fair and straightforward. But he immediately said—“We will do nothing of the kind. You must make your entry, and if any error be found in it you will be prosecuted.” In other words, the Minister laid a trap for the importers. What was the reason for this prosecution? This was the reason: the Minister, when he began his administration was imbued with the idea that nine-tenths of the importers of Australia were rogues. Otherwise there is no sense in his administration. Yet for many years Customs administration in these States had proceeded smoothly enough. The very provision which is contained in the Commonwealth Customs Act was embedded

in the Act of Victoria. Wherever did we hear of such prosecutions and persecutions as have taken place under the Commonwealth Act? It is all very well for the Minister to put on a courageous front? It is very easy for him to use the money of this country to prosecute and persecute small struggling traders, but it is an act of absolute cowardice for him with the machinery of Government at his back, and with the whole of the revenue at his command, upon discovering a pure error, involving perhaps 10s. or 12s., on the part of firms which for 30 or 40 years have held unblemished records, to haul them before the police court and to brand them as criminals for the remainder of their lives. Either it is childish administration or the right honorable gentleman has some object in view. What has been the result of his administration? Only a few days ago on my way from England, I saw in one of the newspapers a declaration by him that his experience led him to believe that the huge majority of the merchants were perfectly honest. Even if he did make some mistake in the early part of his administration, when once he found he had been befooled, as I believe he was befooled, he ought to have had the candour and courage to go back in his steps. He ought to have said, "The majority of these men are honest, and I want to get them on my side; I, by my administration, will call on these men as honest traders, as other Treasurers and other Collectors of Customs have done, to help me in the administration of the Customs department." But what did the Minister do? Befooled at the beginning, he steadfastly, with that pig-headed obstinacy which is his characteristic, went on his course simply because he had begun it, and, at a time when he knew the great majority of commercial men were perfectly honest, he did everything in his power to set them against himself and his administration. I call that childish. This honorable gentleman has seen other departments administered. We have, in this Ministry of all the talents, men who, like the Minister for Home Affairs, have probably each of them in the course of his public career administered three departments of State. The Treasurer, who never would be guilty of such absurdities as I have indicated, and the other Ministers of the Crown who form this Government, have personally administered the Mines, the Lands, and other departments of State. Will anybody tell me that any

Sir William McMillan.

business in this world could stand the treatment to which this unfortunate Customs department has been submitted by the Minister? But I go further, and ask every member of this Ministry on his honour to tell me whether he has not dissented from the administration of his colleague. I defy any Minister to-day to tell me that he has not so dissented. And this is what is called responsible government. One Minister out of nine defies the other eight, and also defies the public opinion of the country. I say it is a farce of Government. There is no other Minister on the Treasury benches who would have acted like the Minister for Trade and Customs. I do not know what his purpose is, or what he is aiming at. It is well enough for him to lie by when these charges are made, but I say the country must call him to account. If we are a democracy we must have no class legislation. Yet, in this first Commonwealth Government, within two years, we have a gentleman who knew nothing about trade and commerce—who was simply the square peg put into the round hole owing to exigencies of the formation of a Government—but who takes it on himself to be the guardian of the morality of the people. I tell him that there are firms whom he has prosecuted and persecuted for 2s. or 3s., but who can stand this prosecution and persecution, and whose honour is equal to that of himself and of his colleagues. I am not a lawyer, but I have always understood that it is the intention which constitutes the crime. I have to speak to-night without notes, but I can cite from memory, on the authority of the public prints, the case of Messrs. Sargood and Co. A certain gentleman from the Customs department went to the Police Court and said: "Mr. Magistrate, this is a case of error; there is no fraud; there is practically no stain on the character of these people, but I press for a conviction." The result was the imposition of a penalty of £5, with the alternative of fourteen days' imprisonment. Supposing the representative of the firm, in the face of that expression of opinion on the part of the prosecuting officer, had gone to gaol, as many men would do in order to assert a principle and show the absurdity of such administration, would there not have been a cry throughout the length and breadth of the country? One of the most respectable men in Sydney

wrote to the Minister a letter, a copy of which I had the opportunity of seeing. This took place at one of the earlier stages of the persecution ; and in that letter the merchant pointed out that he had an unsullied record of 20 or 30 years in the capital of the mother State. I know that man well ; and in his case a mistake was made in connexion with an Inter-State certificate—a mistake which arose in consequence of the clumsy way in which the law was framed. It was one of those mistakes in connexion with which the administration ought to have saved a man from persecution. It was a case in which, I think, certain boxes of butter were imported from New Zealand, and these were mixed up with other boxes. These details, however, do not matter in an illustration of the kind. The duty had been paid, and no question was raised on that score—there was no question whatever of any benefit accruing to this man. But through the error of his clerk—an error which probably arose because the boxes were not definitely marked—the consignment was sent on to Queensland as, I believe, New South Wales butter ; at any rate, it was a matter arising out of an Inter-State certificate. This man, although he wrote to the Minister, had to present himself at ten o'clock in the morning at the Criminal Court, and, to use his own expression, had to “mingle with the drunks of the day.” He was kept at the court till about four o'clock in the afternoon before his case came on ; and this was a man who had probably never before in his life been in a criminal court. Surely that is a position in which even the most extreme radical or labour member, or anybody else, would not like to see a decent honest citizen. I quite agree that there must be very stringent regulations, and I realize that a man with fraudulent intent might continually plead clerical errors. But let me give another case. People are not generally assumed to be fraudulent when there is overwhelming proof that they are honest. This is the case of a large firm ; and, in the first place, any person who conceived the opinion that the firm was fraudulent would have to imagine that the principal, who represents probably some £300,000 or £400,000 of invested capital—the principal of a firm the honour of which is at stake, and which deals in large transactions—went to his shipping clerk, whose salary

was probably £200 a year, and said—“Look here, we want you to put in fraudulent entries.” In other words, it has to be imagined that a firm of this stamp would place itself at the mercy of a shipping clerk in receipt of a salary of £200 a year. On the face of it, such a supposition is childish and absurd. No man with a mind capable of grasping anything beyond the narrow technicalities of a narrow profession would ever think such a thing. I will take the case of one such firm, which had paid £27,000 in duty to the Government of Australia without a single hitch. This firm in the whole of its career never had a charge of any kind brought against it ; but in an invoice there was made what on the face of it was an error. I shall describe what I mean, and, without really mentioning the particular firm, give an analogous case. If a person imports nails in packets marked as containing nails, and exhibits an invoice, and the shipping clerk, by one of those mysterious mistakes of which all men are capable, in the entry describes the consignment as screws, that on the face of it would to all reasonable men be an error. No *prima facie* case of fraud could be imagined under such circumstances, except by a lunatic. Against the firm which I have in my mind there had never before been a word of suspicion, and although they had previously paid from £25,000 to £27,000 in duty, they were brought up before a police court to answer a charge involving about 25s., and were met with the alternative of a fine of £5 or fourteen days in gaol. What is all this wonderful talk about the saving of the revenue ? I believe it to be an absolute fabrication. There has been such a reign of terror exercised in the Customs department that the officers are becoming mere hirelings. There are things done in the Customs department in Sydney that would never be done except under a system of terrorism and tyranny. I do not know why the Minister for Trade and Customs pooh-poohed a statement made to-night by an honorable member that “conscience money” had been paid in a case where an importer had found he had made a mistake in his statements to the department. But there is no doubt that, such is the terror of re-opening a question of the kind, merchants refrain from openly admitting that errors have been made. I tell the Minister for Trade and Customs that at the present time there are delicate questions with regard to the payment of duty exercising the

minds of certain people in Sydney; and there is a terror, no matter what may be said by Customs officers, that by some insidious means the very candour and honesty of the merchants involved may be taken advantage of, and that there may be a retrospective investigation. Up to the present moment these merchants—and they have taken advice from me—absolutely do not know what to do. I always understood, from the first time I became acquainted with political economy, that one of its axioms is that taxation, although it may happen to be burdensome, ought, in its collection, and in the administration of the law, to be as pleasant and as free from friction as possible. Men ought to know what they are going to be taxed. They ought to know what the law is; but instead of this, there is such a system in the Customs department that men are afraid to be even candid in their expressions to officers. I want to know whether this state of things is to go on. I want to know whether this great Commonwealth Government, which was to be broader, freer, more liberal and magnanimous than any mere provincial or State Government, is going to say that because men have money, or belong to the capitalistic class—that because men belong to the class which has made England, and made possible the introduction of Englishmen into these States—it is better to persecute them, and thus play to the gallery. Then, again, I want to know whether this House is going to be true to itself. This House passed the Customs Act on the sacred understanding from the Ministers of the Crown that the particular provision to which I have referred, would in practical administration be used only as a weapon against fraud. Are members on that side of the House so biassed by party feeling, or are members of the Government so frightened or so loyal to their colleague, that, although they know the administration has been wrong, no steps are to be taken to alter the present state of affairs? When we find this provision, which was to be exercised only in cases of fraud, taken advantage of by the Minister to persecute a great section of the community for his own purposes—whatever those purposes may be—I want to know whether Parliament is going to be true to itself and say to the Minister—“We gave you this provision, because we thought you were going to treat the community as

an honorable administrator; but now that we find there a desire to please certain sections of the community at the expense of others, we will take this weapon out of your hands, fully determined that this Act shall be reformed.” That is the question which we have to face. I feel that in many ways we have not very much to boast of in our legislation or our administration. I feel that instead of taking a broader view, not merely in legislation, but also in administration, we have been narrow, provincial, suspicious. We have not risen to the national standard which might have been expected to be reached, and what is the result? Ardent federalists at one time thought that by good government, by the best men of the community being attracted to this Parliament, a higher standard of public life would be attained, and that a greater confidence in administration would permeate the community than prevailed in the smaller communities. The federalists of a few years ago thought that bit by bit, through the provisions of the Constitution, certain services and certain powers of a national character would be handed over by the States to the Commonwealth Parliament. But that all depended on the first few years of our administration. What is the ghastly result of the past two years? I venture to say that if you were to ask the States to-morrow to transfer any great service like that of the railways to the Commonwealth, they would scout the proposal. They would say—“What! give over the administration of our railways to men who have shown such ignorance and imbecility both in the Post-office and in the Custom-house; do you think that we are mad?” No, sir; it will take many years of wise administration by future Governments before the effects of the narrow-mindedness and the inefficiency of the administration of the present Government are wiped out. I am sorry that I have not brought my notes. I wish now to call the attention of the House for a few minutes to a question which—although I understand from the Governor-General’s speech it is not to come practically before us during the present session—has been brought into such great prominence during the last few days that I think it is necessary that any honorable member who has made a study of it should state his views clearly and unmistakably. I mean

question of giving preferential rates to the United Kingdom. I believe that honorable members are not quite aware of the whole importance of this subject. I know well enough that in talking to certain sections of protectionists I am talking to deaf ears. On the other hand, I wish honorable members to understand that this is a question on which both free traders and protectionists might stand side by side, hand in hand, shoulder to shoulder. In the first place, we cannot shut our eyes to the fact that any preference by the colonies for the mother country must mean, if it has any sense in it at all, some preference for the mother country to the colonies. I made that statement in a speech which I made in London before Mr. Chamberlain published his latest manifesto. But that is not the question of England's fiscal policy. It may be said that we have nothing to do with her fiscal policy; that we cannot possibly give a preference to her from a selfish motive. But if it is clear that the question of preferential trade must lead to the abandonment of England's fiscal policy, then we are very largely interested in anything which affects the mother country. I can quite imagine many protectionists saying, quite candidly—"Although we are in protection for Australia, we believe in protection for the mother country." Many persons will say that, but let us ask, what is the object of this policy, Mr. Chamberlain? The object is to bind the Empire by closer bonds than have ever been known before. I take it that there is a further reason, and it is to make the Empire stronger as a whole by union and by these bonds. The British Empire is composed of about 40,000,000 persons in the United Kingdom, and, say, 10,000,000 white persons outside its shores. A policy which involves a renunciation of England's free-trade, and if such renunciation strikes a vital blow at her commercial policy, where is the benefit of the move-

I take it that we desire to continue on with the mother country, to draw year by year those bonds closer, because she is the great centre of power and influence on which the whole Empire hangs. Look at the question in the most abstract form, is it likely that small countries like England and Scotland, which are really the great centres of our manufactures, and which do a business of £100,000 or £900,000,000 in exports

and imports will do anything to offend customers numbering 300,000,000 or 400,000,000 of civilized people for the sake of conveniencing 12,000,000 persons in their own territory? The idea is absurd. There is absolutely no basis for what is called a Zollverein. But, again, there is a much higher aspect of this question than even that which appears on the surface. Up to the present time the safeguard of England and the safeguard of the Empire has been the free untrammelled operation, politically and commercially, of the different parts. Canada has gone its own course, and it has obtained its own systems of responsible and local government. Australia, by a gradual evolution—nobody having blundered on the other side—has bit by bit got rid of almost every prerogative of the Crown except the links which bind us to the mother country in the persons of the Governor-General of the Commonwealth and the Governors of the States, and in the right of appeal to the Privy Council in London. Lately we have been bound more closely together as comrades in arms on the fields of South Africa. We are bound by religious ties. We are bound by this fact, that Australia is the purest British possession in the world. With the exception of a few aliens our people are entirely British, and we are as free as any nation in the world can be, with simply an Imperial link in which Imperial interests, being our interests, too, have to be studied as well as our local interests. What is this the first step towards? It is the first step towards a mechanical arrangement which, if it is once begun, can never be retraced, and also a mechanical movement in trade and commerce. What is the destiny of this country? Its destiny is to trade with all the world. We grow a peculiar kind of wool which every nation buys. We have meat, wheat, and cattle to sell, and we are placed in the centre of the Pacific, with congested populations in the Eastern world. If ever there was a country which by nature and geographical position was intended to be free from commercial shackles of that kind, it is the island-continent of Australia. It must be recollected, as I said before, that if this course is once pursued, we may never be able to retrace our steps, and, instead of solidifying the Empire, instead of drawing the bonds of union closer, we may be creating a source of irritation which in the future may be too great to bear. I quite agree with Mr. Chamberlain that everything does

not consist in cheapness. I quite agree with Mr. Chamberlain and others that sentiment is a magnificent force. I hope that the day will never come when, in great national crises we may not be ready to venture all for the sake of our common country. But that is high pressure. That is not the every day business of life. No political union can go on unless it is based not merely upon sentiment but upon the mutuality of material interests. Any arrangement which in the future might seem to be detrimental to the real trading, commercial, and other interests of this country from which it seems impossible to recede, might, by the operation of the very system, by the irritation which it engendered, sow seeds of dissolution which would prevent the ultimate union of the British Empire. For years we have been trading directly with all parts of the world. Instead of our foreign trade being done through London it is done directly by men who have come here from Germany, Austria, France, and America to buy wool and other products, and that trade has been increasing by leaps and bounds. We do another trade not merely with the United Kingdom, but with the British possessions. Can any sensible man conceive of any system of preferential rates which will be satisfactory to all parts of the Empire? Knowing how different are the conditions of countries like Canada, South Africa, and Australia, can he conceive of any blending of interests to such an extent that we can have any harmonious system which will work smoothly everywhere? It is all well enough for Canada to take this view. It wishes to be the granary for Great Britain. It wishes Great Britain to be protectionist, and it was the first promulgator of preferential duties. Most distinctly we are bound up with the interests of the mother country, and in looking at the question of preferential trade we must consider the effect on the mother country. As a free-trader, as well as for other reasons, I look upon any proposal at the present time to disturb that fiscal system which has made Great Britain the mistress of commerce throughout the world, which has given to her these colonies, and made it possible for us to exist, as an invitation to commit suicide. I cordially indorse the action taken by the Prime Minister in London with regard to the naval subsidy. Unlike some of my legal friends, I do not want to split hairs

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on the question of representation and matters of that kind. I desire a plain, business-like transaction, and if ever there was a bargain struck in the world, that bargain by which, for £200,000 a year, we gain the security of the British Navy is one of the greatest. We continually hear it said that Great Britain must defend her own shipping. But is there no colonial shipping? One of the greatest enterprises that we have is that of the Union Steamship Company of New Zealand. We have also Howard Smith and Sons' fleet; we have the Adelaide Steam-ship Company, the Australian United Steam Navigation Company, and a large number of others. It would probably cost over £1,000,000 a year to protect even our own waters. When we take the interest on expenditure, as well as the absolute destruction of obsolete warships, and other points into consideration, we must see that the bargain we have made shows us to be almost as cut-minded a people as are our cousins of the United States of America. As for the future, as sensible men we can leave that alone; what is to be done twenty years hence need not bother honorable members of my age, and I think the Government are to be commended in proposing to put their stamp upon this arrangement. I also feel that in this short session we should not do more than is absolutely necessary to complete that part of the Commonwealth structure which will render justice to all our people, and make the different requisite services run smoothly. There is a great difference between the laws we have to pass that are practically similar to other laws in the different States to which we have been accustomed, and laws like those pertaining to the Inter-State Commission, which relate to the different States in their Inter-State relations. As a body we can have very little knowledge of those at present, and a postponement will enable us to mature our views in regard to them. My own opinion is that if we pass the great Judicature Bill, which will establish a High Court for Australia; if we complete the defence arrangements under the auspices of my right honorable friend the Minister for Defence; and pass a Bill for the appointment of a High Commissioner, so that we shall have proper representation in the United Kingdom, those three measures will probably be quite sufficient for this session. In view of our position as a Commonwealth Legislature, we

ought to be careful that all our Acts are as complete as possible. The measures I have named will have to go through both Houses, and if we pass them during the present session I think we shall do as much as is necessary. Compulsory arbitration is one of those matters which I think can very well be put aside. I am aware of the ardour with which the Minister for Trade and Customs for several years has carried out schemes, or dealt with proposed schemes of the kind, but it seems to me that we must class this legislation merely as experimental. We have now an Arbitration and Conciliation Act in operation in New Zealand, while one has recently been passed in New South Wales, and these should be object lessons to us as to the operation of this principle. It would be well for us to pause before we commit ourselves to any piece of legislation which is not urgently required, and on which we shall have far more information by the time that the next Parliament meets. Every one is anxious to stop industrial strife, but in attempting great social changes and great remedial measures we must be very careful that we do not forget those basic principles of liberty to which we owe everything. I do not know how people view the operation of the Act in New South Wales—I do not know how it is going to operate—but I do not like some of the arrangements which have been made. They seem to me to be absolutely a blow at the ordinary principles of human liberty. It is a very serious thing to place the whole industrial life of a community in the hands of one man. At the present time a very able man sits in the arbitration court of New South Wales, and practically adjudicates. He has two assessors sitting with him, but he is practically the dominant spirit. That man has in his hands practically the control of the whole industrial life of New South Wales, for except in a matter of law, there is no appeal from the decision of the court. It may be necessary, it may work well, but it is a fearfully drastic experiment. It certainly does not fit in with the beliefs which have made up the framework of British character and British liberty. At the same time I am no mere clinger to what are called principles if it can be shown that by certain experimental legislation, by certain bold schemes, we may ameliorate the lot of our fellow beings. I am quite willing to put aside any

Shibboleth if I see that by doing so I shall help to raise the general condition of my country. But there is no necessity to hurry the passing of a Conciliation and Arbitration Bill. It has been put forward to placate a certain section of this House, and I submit that if it is not necessary to deal with it now, if it is better as a matter of wisdom and of statesmanship to wait and see how the principle operates, no pressure of any party ought to influence an independent and courageous Ministry. As regards the capital site, I hope that something definite will be done this session. I feel very strongly that the 100-mile limit—a question which I suppose cannot be opened now—is a very serious detriment to the future settlement of this question. I believe that one of the best sites in New South Wales would be a place a little within the 100-mile limit of Sydney, and that it has all the conditions of water supply and all the conditions of hygiene necessary for such a purpose. I presume that nothing can be done in that direction; but it is a matter which ought not to be forgotten in determining this question. I do not think that it should be delayed; but it seems to me that the unfortunate provision in regard to the 100-mile limit is liable to deprive, not New South Wales or the people of New South Wales, but the people of the Commonwealth as a whole, of a site which, while not in any way interfering with the capital of New South Wales, while in spirit carrying out the provision inserted in the Constitution, would have been at the same time acceptable in every way to the majority of honorable members. I observe that the Governor-General's speech refers to the proposed construction of a railway line between Western Australia and South Australia. With all due deference to those who may have expressed their views, that is a matter on which I do not think any honorable member—at any rate from the States not directly interested—should express a definite opinion unless he has a very peculiar personal knowledge of the subject. In my case I do not think I should express an opinion until I have before me the whole official knowledge that the Government can produce, upon which to form a judgment. I have no doubt in my own mind that the line proposed, or something similar to it, will ultimately come. I have no doubt that as the years go by we shall have for

strategical purposes, and for purposes of communication, to make lines which may not be in the category of purely commercial railways; but I think that before many of these lines are completed the railways will have to be amalgamated. It is a very different thing to project a non-paying line simply supported by the Federal Government under the peculiar conditions of our finances, and to project a line on a system of railways which is paying well, and which may be able to stand the loss for national purposes. The question of the appointment of a High Commissioner is a very important one. The position occupied by the Commissioner will not be that of an agent whose duties are more or less of a trading character. The duties of the High Commissioner will be almost entirely of a diplomatic character. He will be the ambassador—if that expression can be used while the two countries are under the same Crown—between Australia and the mother land. But there is one thing which I think the High Commissioner for Australia and the High Commissioners of other parts of the Empire may do. They may be the means of solving the question connected with the future political union of the different parts of the Empire. The gentleman appointed to the position will, I presume, be retained in the office for several years. He will be in close communication with the Colonial-office, with the High Commissioner for South Africa when the colonies there are federated, and the High Commissioner for Canada; and I look to these High Commissioners as likely to form probably the nucleus of the colonial council which must precede any scheme of political union. There must be some mode by which the different parts of the Empire can confer. The proposal of which we have heard so much of late from Mr. Chamberlain is entirely before its time. It has been placed before the British public, and there has been no means of getting at the colonial opinion. I look to these High Commissioners, and to the conferences which may be held in future between representatives of different parts of the Empire, to pave the way for this political union, but I deprecate as I said before, any attempt for electioneering purposes, either here or at home, to force a question so full of great importance to the future destiny of the British Empire. Having expressed myself strongly with regard to the matter of Trade and Customs, I should like now to appeal to the Minister to

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reconsider the position he has taken up. I believe, and I know he believes, that the present state of affairs cannot go on indefinitely. I presume that the Minister for Trade and Customs is one who would like to see preferential rates established, and that he would like also to see the protective system introduced into England. I should like to ask the right honorable gentleman what would be the result in England under a protective system if one tithe of the trouble that we have had during the last eighteen months were experienced in that country? Why, there would be almost a rebellion in the country. That country is a great commercial country, and the people know that the £2,000,000,000 to which the right honorable member for East Sydney referred in his interview the other day, though perhaps he slightly exceeded the real amount, as being lent to other parts of the world by the British people, was earned from commerce, trade, and manufactures. I say that the inauguration of any system such as that which has been inaugurated in the Custom-house of this country, if it caused one-tenth of the irritation that has been experienced here during the last 18 months would put the people of old England into a state of rebellion. Such a thing would be absolutely impossible. I asked the Minister for Trade and Customs, at the end of last session, if he intended to alter the provision in the Act to which I have referred, because I did think that the right honorable gentleman felt that he was in a peculiar position in regard to it, that he thought he was bound to let things take their course, and let every case go to the courts, as the matter was not one purely of administration. The right honorable gentleman told me that he did not see any necessity to alter it.

Mr. KINGSTON.—If the honorable member has read the report of my last interview with the Sydney Chamber of Commerce, he will know that we arrived at the happiest conclusions.

Sir WILLIAM McMILLAN.—I believe the right honorable gentleman had an interview with the Sydney Chamber of Commerce, and I believe further that with the fatality which appears to have followed the right honorable gentleman on various occasions, there is now a difference of opinion as to what he really said at that meeting. I am told that what he really did say was this—"If you show me

your original invoices, I shall look after the matter of the payment of duty." The right honorable gentleman says now that he did not say that; but I can put two or three gentlemen on oath who will say that they asked him particularly — "Do you mean the entry?" and that he said—"No, I mean the original invoice." Now, the right honorable gentleman was right in what he did say, but he is wrong in his repudiation. The great struggle in connexion with customs cases in Victoria years ago, when I had some knowledge of it, was on the question of the original invoice. Certain firms passed what they called copies, or passed invoices coming from their own agencies in London, and not from the original manufacturers; but the Customs authorities were perfectly satisfied the moment the importer showed the original invoices. I may tell the Minister for Trade and Customs that as a result of the Customs authorities acting harmoniously with the merchants, those merchants who did show original invoices brought pressure to bear upon others. They formed themselves into a vigilance committee, by means of which they assisted the Customs authorities, and the result was that after a certain time original invoices had to be shown. That is the attitude which the right honorable gentleman ought to assume.

MR. KINGSTON.—Really the honorable member is barking up the wrong tree.

SIR WILLIAM McMILLAN.—The right honorable gentleman now says, I presume, "Show me the entry." What sense is there in that? Is there any conciliation in that? "Show me the entry, and I will get you in a trap. I will not allow my officers to tell you whether the duty upon these goods will be 15 or 10 per cent. No. Make out the entry. If you are wrong, and I decline to give you advice, it is a fraud, and I shall have you before the police court."

MR. KINGSTON.—I think the honorable member must be mad to say what he is saying. We came to a very happy understanding in Sydney.

SIR WILLIAM McMILLAN.—I hope for the sake of his original intelligence that the right honorable gentleman is mad. I shall now give the facts of a case that occurred in order to show the spirit in which the Act is administered. The Minister may say that this was done by an officer of the department, and that he cannot be held

liable for whatever may be done by officers of the department in all portions of Australia; but I say that the right honorable gentleman has so permeated the officers in the department in every city of Australia with terror and fear, and has so brought them down almost to the position of State serfs, that they are practically frightened to do what is right. I can give proof of this case, and cases after all are better than mere declamation. A certain firm was not quite satisfied as to its interpretation of the Tariff in relation to certain goods imported in a case. They passed a sight entry, and the goods were opened. The Customs officers decided that certain lines were dutiable at certain rates. By that time the fear and want of confidence in everything connected with the department were so great that this firm's customs clerk said to the officer—"You put down opposite these lines in pencil what you say are the duties." The officer did so. Of course, this instance would not have come before the right honorable gentleman, but I am giving it to him as an instance of what has been going on. A short time afterwards a similar case arrived consigned to the same firm. They, of course, did not pass a sight entry, because they had the opinion of the Customs officer, and they put the goods through as usual. They were seized by the Custom-house officer, but he was confronted with his own decision, and if it had not been for that document with his own pencil-marks upon it, the firm would have been brought to the court and fined £5, with an alternative of fourteen days' imprisonment.

MR. KINGSTON.—But the honorable gentleman says that nothing at all was done to them.

SIR WILLIAM McMILLAN.—Nothing was done, because nothing could be done. There was the proof of the officer's previous decision, and even the glaring injustice of the right honorable gentleman was not capable of doing anything to the firm in those circumstances. I have only one or two words more to say. The peculiar and glaring injustice of this administration in one of its phases arises out of these circumstances: We began the consideration of the Tariff about the 8th October, 1901, and the right honorable gentleman knows that it went through innumerable revisions in both Houses. If the whole community had been as intelligent as the Minister for Trade and

Customs, which of course they could not be expected to be, they could not possibly have known where they stood owing to the kaleidoscopic changes made to the Tariff. In the next place, the classification was bad in many cases, so bad that the right honorable gentleman knows that if we had taken the verdict of twelve men as to the class to which certain goods belonged, six men would give one opinion and six another. In all the circumstances, I ask whether this was not an occasion for fair and lenient consideration? Was it not a time for discretion in administration, rather than for the right honorable gentleman to call not merely an error a fraud, but to denounce as a fraud an error which was the result of our own operations and the general difference of opinion? What has been the result, even with the Minister himself? He has changed his opinion time after time. He has given different decisions, and with a meanness contemptible in a Minister of the Crown, in cases in which duties were paid, when it was thought the goods were dutiable, and in which the importers have appealed to have the amount returned, by taking advantage not of the law, but of a technical arrangement of his own, under which notice had to be given within a certain time, he refuses to this day to pay back money which was never due to the Customs. I say that all this sort of thing must come to an end. The Minister for Trade and Customs may remain stolid, and the Government may remain stolid, but whatever I may think on the subject of the prejudices of honorable members opposite, I recognise that it does not follow that because a man is a protectionist he has no desire to see pure administration of the Customs. Because a man is a protectionist it does not follow that he desires to see any persecution of the mercantile classes of the community. If we are a democratic community, we shall desire equal law and justice for everybody. Though we may have our own differences and our own ideals, at the same time, so long as under our industrial system a certain class does exist, and so long as that class is under the law, and is honest if we put taxation upon it, though it may be heavy, its collection ought to be made as light as possible. We believe that justice should be done, no matter what the consequences, and the name of the Commonwealth

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Government ought to stand as high, if we are going to be a great nation in this country, as that of the British Government.

Debate (on motion by Mr. BRUCE SMITH) adjourned.

SPECIAL ADJOURNMENT.

Resolved (on motion by Sir EDMUND BARTON)—

That the House, at its rising, adjourn until tomorrow at half-past 2 o'clock p.m.

ADJOURNMENT.

CUSTOMS DECISIONS : TRANSCONTINENTAL RAILWAY TO WESTERN AUSTRALIA.

Motion (by Sir EDMUND BARTON) proposed—

That the House do now adjourn.

Mr. KINGSTON (South Australia—Minister for Trade and Customs).—I promised to give some information to the honorable member for North Sydney with reference to the dates upon which certain opinions were given, and received at the Customs House. I find that the first opinion was given on 26th September, 1901, to the Treasury. It was afterwards forwarded to the Customs on 27th February, 1902. Another was given on 6th February, 1902, to the Audit-office, and received at the Customs-office on 11th February, 1902. Three other opinions, dated 26th March, and 23rd December, 1902, and 27th March, 1903, were also given.

Mr. KIRWAN (Kalgoorlie).—There is a matter connected with the transcontinental railway to Western Australia to which I should like to draw the attention of the Prime Minister before we adjourn. We are getting a considerable amount of information regarding the proposed line, and one of the arguments most commonly used concerning the railway is that it would be of advantage for defence purposes. I desire to ask the Prime Minister if he will get exact official information regarding the proposed Western Australian trans-continental line for strategic and defence purposes. It is, I think, the only point upon which the Government are not now endeavouring to get information for the benefit of the House, and I fail to see why we should not have information upon that point.

Sir EDMUND BARTON.—I will do my best to satisfy the desire of the honorable member.

Question resolved in the affirmative.

House adjourned at 10.29 p.m.

Senate.

Wednesday, 3 June, 1903.

The PRESIDENT took the chair at 2.30 p.m., and read prayers.

FORTIFICATIONS: ALBANY.

Senator PEARCE asked the Postmaster-General, *upon notice*—

1. Is it a fact, as reported in the Western Australian newspapers, that during the recent visit of Japanese warships to Fremantle various officers from these vessels were invited to Albany and shown over the fortifications there?
2. What officer was responsible for these gentlemen being shown over these fortifications?
3. Is this action indorsed by the General Commanding the Commonwealth Forces?

Senator DRAKE.—The answers to the honorable senator's questions are as follow:—

1. Japanese officers were not invited to Albany.
2. The Officer Commanding Royal Australian Artillery, Albany, permitted certain Japanese officers to visit the Princess Royal Battery.
3. No. The Officer Commanding should not have done so without special authority.

POST-OFFICE: MOUNT GAMBIER.

Senator MCGREGOR asked the Postmaster-General, *upon notice*—

Is it the intention of the Government to improve the post-office buildings at Mount Gambier; if so, when?

Senator DRAKE.—The following is the answer to the honorable senator's question:—

It is the intention of the Government to either improve the post-office buildings at Mount Gambier, or to erect a new building. The Deputy Postmaster-General of South Australia has reported that, in his opinion, alterations, for which plans have been prepared, and some general repairs, costing together about £750, will be sufficient to meet all requirements. It has, however, been represented to the Postmaster-General by some of the residents and others interested in Mount Gambier that the course recommended by the Deputy Postmaster-General will not adequately meet the situation, and that a new post-office is necessary. The cost of such building is estimated at £3,000. The whole question is still under consideration.

CARRIAGE OF MAILS: VICTORIA.

Senator DE LARGIE asked the Postmaster-General, *upon notice*—

1. Whether the State Government of Victoria failed to carry out the conditions of contract for the carriage of mails within the State of Victoria during the late strike?

2. If so, does the Postmaster-General intend to take action against the State Government of Victoria for non-compliance with the conditions of contract?

Senator DRAKE.—The answers to the honorable senator's questions are as follow:—

1. The State Government of Victoria are not under any contract for the carriage of mails.
2. Under the existing arrangement between the Post-office and the Commissioner for Railways in Victoria for the carriage of mails within that State, which was made when both were State departments, and which prescribes the rates to be paid for such service, a claim will be made for a rebate for services discontinued or reduced during the late strike. Financially, the rebate will not affect the State of Victoria.

AUSTRALIAN CONTINGENTS, SOUTH AFRICA.

Senator CHARLESTON asked the Postmaster-General, *upon notice*—

If it is his intention to cause to be laid upon the table of the Senate copies of all correspondence passed between the Auditor-General, the Treasurer, and the Attorney-General, including opinions given by the Attorney-General to the Auditor-General, with reference to moneys received from the Imperial War Office by the Federal Government towards defraying the cost of sending the Australian contingents to South Africa?

Senator DRAKE.—The following is the answer to the honorable senator's question:—

This correspondence is contained in the report of the Auditor-General already laid upon the table of the Senate.

COINAGE OF SILVER.

Senator STANFORTH SMITH asked the Postmaster-General, *upon notice*—

What was the decision come to at the Premiers' Conference in London regarding the coinage of silver by the Commonwealth?

Senator DRAKE.—The answer to the honorable senator's question is as follows:—

Coinage of silver was not the subject of discussion at the Premiers' Conference in London. The Government is in communication with the Secretary of State for the Colonies regarding the question.

NEW SENATOR.

The PRESIDENT laid upon the table a letter from the Governor-General, forwarding a certificate under the hand of the Governor of Western Australia, notifying that Mr. Henry John Saunders had been appointed to be a Senator for the State of Western Australia.

Certificate read by the Clerk.

PAPERS.

Senator DRAKE laid upon the table the following papers :—

Transfers approved by the Governor-General in Council for the financial year 1901-2.

Transfers approved by the Governor-General in Council for the financial year 1902-3.

PRIVATE MEMBERS' BUSINESS.

Resolved (on motion by Senator Lt.-Col. GOULD for Senator Lt.-Col. NEILD)—

That unless otherwise ordered, private orders of the day take precedence of private notices of motion on alternate Fridays.

CHAIRMAN OF COMMITTEES.

Resolved (on motion by Senator DOBSON)—

That Senator Robert Wallace Best be Chairman of Committees of the Senate during the present session, and until the 31st day of December next.

GOVERNOR-GENERAL'S SPEECH :**ADDRESS IN REPLY.**

Debate resumed from 28th May (*vide* page 233), on motion by Senator Sir JOHN DOWNER—

That the address in reply be adopted.

Senator PULSFORD (New South Wales).—I propose to address myself in the first instance, and mainly, to the subject of the administration of the Customs department, and as an introduction to that criticism I desire to refer to a statement in the opening speech that, "notwithstanding the drought," the finances of the Commonwealth are in a satisfactory state. It appears to me that by reason of the drought the Government have been putting their hands into the pockets of every man throughout Australia, and in this way helping themselves to the cash of the people. In an unusual and unexpected way they have amassed hundreds of thousands of pounds, and now they come down and coolly tell us that, "notwithstanding the drought," they have plenty of money. It is in consequence of the drought, and in consequence of duties which have been levied that ought not to have been levied in a time of great distress, that the Government have got money in hand. I have noticed two or three things during the recess with regard to wheat. In a country which, perhaps, we do not look upon as a very first-class country—that is Afghanistan—some time ago the Ameer issued orders that any family

having more than enough grain for its own use was to sell it ; and within the last few weeks a further order has been issued abolishing for the time being the import duties upon grain. That is a country which we look down upon, but it has some thought for the consumers of food. I have noticed, too, that in another country that, perhaps, does not stand very high, namely, Mexico, similarly strong steps have been taken to protect the consumer. I read—

The Mexican Government is determined that the wheat ring that has been cornering the grain market shall be treated with much severity, and for this purpose a decree has been issued lessening the duties on wheat, and the railway rates have been reduced from the border. The Government proposes to establish municipal bakeries and to sell bread to the poor. The policy of the Government is to break up all monopolies that raise the price of living to the masses.

That has been done in Mexico. But in the Commonwealth of Australia we have caused wheat to be raised 100 per cent. in value without one thought of the consequences to the great mass of the people by so doing. Perhaps the most singular thing of all is what has occurred in Germany. I suppose that the German is the last man whom we should think of accusing of anything in the nature of sentiment. Yet, in the new German Tariff, of which I hold in my hand a translation issued by His Majesty's Imperial Government, I find that there is a section which provides that an estimate or calculation shall be made of the amount that has been collected on the average per head by duties on grain and on meat imported during the last five or six years, and that in future the amount collected in excess of that average shall be put aside for the benefit of widows and orphans.

Senator PLAYFORD. — How many years hence?

Senator PULSFORD.—I was interested to see a paragraph in to-day's newspapers referring to the year 1910. This provision takes effect at once. It is section 15—

If the net Customs yield per head of the population of the German Empire derived from produce to be taxed under Nos. 1, 2, 102, 103, 105, 107, 107A, and 160 of the Customs Tariff exceeds the net Customs yield per head of population derived from the same goods for the average of the financial years 1898 to 1903, the surplus is to be used towards the establishment of a provision for widows and orphans. Provisions for guarantee will be made by a special law. Until this law—

That is until the year 1910.

comes into force, the additional yield in question is to be collected for the account of the State.

and is to accumulate at interest. If this law does not come into force by the 1st January, 1910, then from that time onward the interest of the additional yield, and also the additional yield coming in, are to be made over to the individual invalid insurance establishments in proportion to the insurance contribution furnished by them in previous years for the purpose of provision for the widows and orphans of the persons insured with them. The requisite statute is to be approved by the Imperial insurance law.

Well, that is an important step. So it appears, Mr. President, that more and more throughout the world, in small countries and in large countries, there is a growing feeling that the bread of the people ought not to be subject to taxation. But the Commonwealth has thought differently—at any rate the Government of the Commonwealth has thought differently. They have collected moneys right and left from every householder throughout the length and breadth of Australia, and they come down now and say, "We have got plenty of money notwithstanding the drought." There is one thing which should never be forgotten. The people of Australia owe the free-traders a great debt of gratitude with regard to the Tariff, because by action that was taken the duties which the Tariff proposed to impose on imported meats were abolished. We all know that meat has surely been dear enough. Prices unheard of before in Australia have been paid for meat, and things have been very hard in regard to it, notwithstanding that there has been no duty. But let me ask what would have been the price of meat, and how much more would the working people of Australia—the consuming classes—have had to pay if the duty of 20 per cent. on live meat, and one penny per lb. on dead meat had remained on the Tariff and had been collected, or had stood as an obstacle and bar to the importation of meat from New Zealand?

Senator PLAYFORD.—Has any live meat been imported?

Senator PULSFORD.—A very large quantity was imported into Sydney, and there were a number of shops that for a long time sold nothing else. If it had not been for the importation of New Zealand meat into Australia—

Senator STYLES.—Live meat?

Senator PULSFORD.—Live meat; if it had not been for that importation the price, heavy as it has been, would have been very much heavier. What has this large revenue been mainly used for? I will tell the

Senate. It has been mainly used to white-wash the Customs administration. The Minister for Trade and Customs is going round the country saying—"Look at this big revenue; it is my stern, rigid, just administration that is collecting all this money." In this way they are using the money extracted out of the pockets of the people improperly, as a means, as I say, of white-washing the Customs administration, or attempting to do so. The Minister is acting like "little Jack Horner," who—

Sat in a corner,
Eating his Christmas pie;
He put in his thumb
And pulled out a plum,
And said "what a brave boy am I!"

That is what the Minister is doing. He is pulling all this money out of the pockets of the people, and then he struts about the stage of Australia and says—"What a brave boy am I!"

Senator DAWSON.—In the other House they blame him for not collecting money enough from the public.

Senator PULSFORD.—That is news to me. I do not think any one is likely to blame the Minister in that direction, although I am of opinion that a less drastic administration would, perhaps, bring in rather more money. But the whole talk about bringing in revenue by this rigid administration is pure moonshine. The Minister for Trade and Customs poses as a democrat. I really believe that he is under the impression that he is one. But I do not know any man who, in the official orbit in which he revolves, is more of an autocrat. What he desires to do, that he does, quite irrespective of what Parliament or the people desire or say.

Senator HIGGS.—No; according to the law.

Senator PULSFORD.—According to the law says Senator Higgs. What did he do? Let me read from the report of the Auditor-General—

Notwithstanding the opinions given, the department of Customs dealt with the duties collected from the date of the uniform Tariff.

and so on. The Minister for Trade and Customs was a law unto himself. He defied the Auditor-General, he defied the opinion of the Attorney-General, and he persisted in dealing in his own way with the revenue. I believe, Mr. President, that it was mainly owing to steps which were taken by myself that Tasmania has since, despite the Minister

for Trade and Customs, received the sum of £11,000, and that Queensland is also to receive money. I mentioned what was going on to several members representing Tasmania, and one of them I know undertook to speak to the Treasurer of that State. It was upon the representation of the Treasurer of Tasmania that this adjustment took place, and the adjustment has got to be made to the whole of Australia. It is idle, therefore, for Senator Higgs to ask us to believe that the Minister for Trade and Customs is a gentleman who is perfectly willing to do what the law directs him, whether or not he thinks fit.

Senator CHARLESTON.—He gave way on that occasion.

Senator PULSFORD.—He gave way because he was compelled. The Ministry compelled him. I will give one or two instances in which the Minister has been overridden.

Senator PLAYFORD.—How does the honorable senator know? He was not in Cabinet.

Senator PULSFORD.—We shall see later on whether I have not shown that the Minister for Trade and Customs has been overridden in more ways than one. I will give another instance of the waywardness of the Minister. Here is his new book—a guide to this wonderful Tariff of his. Honorable senators may remember that last year I drew attention to a regulation, a decision, an order—I do not know what he calls it—issued by him in which he said that all importations of free goods and goods subject to specific duties, were to be valued in the same way as goods subject to *ad valorem* duties are valued—that the shipping value was to be taken and 10 per cent. added thereon. I pointed out the consequence of doing that—that it was just ruining our statistics. But the Minister is deterred by nothing except pure force from a course he has decided upon. The rule made by the Minister is still followed in entering all goods; but 10 per cent does not cover the freight of the hundreds of thousands of pounds worth of grain coming into Australia. In the case of the maize which is being landed here, the freight is more like 40 or 50 per cent. In this way the valuations in our statistics are being distorted. Yet what do we do? I, like other honorable senators, and perhaps to an even greater extent, refer from time to time to our statistics of exports and imports.

We take our Customs returns, and we say they show that we have imported so many millions of this and so many millions of that, and that the quantities received from this and that country are so much. But the Minister is totally destroying the value of our Customs returns by the system which he is following in defiance of what has been pointed out. I am certain that there is no other country in which this system of valuing bulk imports rules. The Minister for Trade and Customs is following a certain course which, as I have said repeatedly, both in the Senate and out of it, Parliament was assured would not be followed. In a speech delivered in the Senate, Senator O'Connor is reported at page 4288 of *Hansard* to have made this statement:—

Of course with regard to these trivial matters, which are always used as an illustration, the answer is in the first place in 99 cases out of 100 there will be no prosecution over these small things; and in the second place, if there is it is not likely that they will be pressed in any way for the recovery of the few shillings or the pound or so which may be involved.

Was Senator O'Connor sincere and honest in making that statement? I am perfectly sure that he was, and that he was stating what he implicitly believed would be the line of conduct adopted in administering the Customs Act. After the Act had been administered for some time, and after various statements had been made with regard to it in another place, the honorable member for Melbourne (Sir Malcolm McEacharn), according to *Hansard*, page 16313, made this statement in another place:—

Before the Bill was discussed by this House the Minister kindly sent a copy of it, and of the regulations, to the Melbourne Chamber of Commerce, and I was one of a deputation from the chamber who waited upon the Comptroller-General, Dr. Wollaston, and went through various matters with him. He afterwards submitted our representations to the Minister, and many alterations were made. When at the time we pointed out the hardships that would fall upon ship-owners and merchants if the Act was literally administered, we were assured that many of the clauses to which we took exception were to be found in existing Acts, and had never been harshly enforced in the past, and that there was no intention whatever that anything but a fair spirit should be adopted in dealing with merchants and ship-owners. As a consequence, those who were vitally interested in certain clauses of the Bill refrained from fighting them as they might otherwise have done.

That statement showed that certain honorable members of another place would have opposed some of the clauses in the Customs

Bill had it not been for the assurance they received that they would not be administered in a drastic manner, but would be given effect to wisely and with discretion just as were similar clauses in State Acts.

Senator HIGGS.—That assurance was not given by the Minister.

Senator PULSFORD.—Does an assurance by Dr. Wollaston or by the Vice-President of the Executive Council count for nothing? Let me remind honorable senators that Mr. Kingston was Minister for Trade and Customs for more than nine months before the Federal Tariff was introduced, and that he then had powers similar to those in the various State Acts. How did he exercise them? Did he put them into force? No. He allowed us to discuss the Customs Bill, knowing that certain clauses which he asked us to pass were similar to those in various State Acts—that they were only being used in cases of fraud, and that they were not being brought into force as weapons to be used against persons making innocent mistakes.

Senator HIGGS.—To what clauses does the honorable senator refer?

Senator PULSFORD.—I refer specifically to such a clause as that under which a clerical error is called a falsification, and the importer responsible for it becomes liable to be brought before a police court. There are various other provisions, with which I suppose Senator Higgs is just as familiar as I am.

Senator HIGGS.—A forged cheque might be a clerical error.

Senator PULSFORD.—I wish to draw attention to various statements which have been made defining the practice that should be followed in any sensible administration of the Customs department. I shall quote first from a speech delivered by the leader of the Opposition in another place, Mr. G. H. Reid—

It is essentially foreign to the genius of British administration for any department of public business in dealing with any class of His Majesty's subjects to make innocent mistakes the ground of police court prosecutions. Right through the web and texture of our principles in applying the force of authority and law to the different classes of His Majesty's subjects we have always maintained the great sound and humane principle that we should never endeavour in the administration of our statutes to put the honest man and the swindler side by side in the police court.

That is well put, and I do not see that it contains anything to which any honorable

senator could take exception. Then Senator Symon is reported in *Hansard*, page 16076, as follows:—

Police courts are not the places in which to rectify clerical errors, but the places in which to punish offenders. . . . It is admitted on all hands, even by the magistrates, that there is no element of wrong-doing, but that it is simply a question of accident which may occur in the best regulated firms and amongst the most honest people.

Those are the opinions of two opponents of the Government. Let me now quote those of two of their supporters. Sir John Quick is reported in *Hansard*, page 16311, to have made this statement—

The Minister ought to be careful and not institute a prosecution where there had been merely an error of judgment. . . . I hope that the Minister as far as he possibly can will not institute a prosecution in respect of merely an innocent mistake, but will always consider whether there is associated with the offence some element of neglect resulting in personal advantage or loss to the federal revenue.

Then what was said by Senator Best in the course of a speech delivered in the Senate—

Errors and mistakes are inevitable in the passing of entries and in connexion with customs business. . . . Who of us are not in sympathy with men whose integrity and probity have never been doubted and who have been taken to the police court because a clerk has been guilty of some inaccurate statement in connexion with a customs entry. . . . I say it is harsh and cruel, and calculated to cause much bitterness to insist upon the merchants in such circumstances (where there is no fraud) being dragged before the court.

What we demand is, that where there is no crime there shall be no resort to a criminal court. Surely that is a simple demand which ought to be attended to by any Minister worthy of the name. When the Customs Bill was before us, Ministers either honestly assured us of the way in which it would be administered or they were guilty of some misrepresentation—not in the Senate, and not in another place as regards most of the Ministers—and I cannot understand the position taken up by the Minister for Trade and Customs. He has administered an Act in a way which his colleagues have said should not be followed. The position is one which I have called upon him and his fellow Ministers, one after the other, to explain. If they do not explain it they must submit to the consequences.

Senator CHARLESTON.—But they are not threatened with any consequences.

Senator PULSFORD.—How easy it is for mistakes to be made. On the basis of

an estimate of the business transacted in the Sydney Custom-house, I believe that the import entries for all Australia in one year amount to the enormous total of about 500,000 ; while the export entries represent about 250,000 more. These figures will give the Senate some idea of the enormous amount of clerical work involved, especially as some entries each contain ten, twenty, or 50 items. In order to show how easy it is for a mistake to be made I shall instance a case which occurred not long ago in Sydney. An importer received a parcel of muslin of which he knew nothing. He had not ordered it, but he found it in a case containing some other goods. He took the muslin to the Customs officers who valued it at between £3 and £4 and he paid duty on that valuation. Two or three days later, however, he received the invoice which showed that the value was between £19 and £20, as the muslin was of a very special kind, and he went at once to the Custom-house and paid the difference. That illustrates how easy it is to make a mistake. I have before to-day mentioned an extraordinary error which took place in the Sydney Customs-house some time ago, when a Customs clerk in compiling the statistics relating, I think, to boots and shoes, made an error of £100,000 in his addition. He carried over the mistake from page to page till the final total was reached, but it was never discovered until I challenged the figures. Then the collector wrote to me that a mistake had been made. It was a mistake of one figure, but it occurred in the sixth column and thus made a difference of £100,000 in the total. These illustrations show how easy it is for clerical errors to arise, and how serious a simple error may sometimes be. I have now an opportunity of showing how business is done through the Customs. I have here an invoice of a shipment of goods landed in Sydney to the order, not of a very big house, but of a suburban retail establishment.

Senator HIGGS.—Is it a genuine invoice?

Senator PULSFORD. — I decline to answer that question. The invoice comprises no less than 22 pages, and embraces 448 different items, although the total value is only £354. The firm in question, conducting only a suburban retail shop, had to employ a custom's firm to clear the goods for them. They went to the Fuller Carrying

Company of Sydney, and gave them the invoice with instructions to pay the duty, and the firm in question proceeded to follow out their orders. What did they do? In regard to £7 worth of goods they entered them at the Customs-house at a duty of 5 per cent., when they should have been entered at a duty of 15 per cent. There was there an error made involving a shortage of duty to the amount of 15s. 5d. Then in one page of this long invoice they came across a lot of muslins, which were invoiced in a peculiar way. Instead of being invoiced by the yard, it happened that they were remnant pieces, and were invoiced at so much the remnant, and were valued at 5s. and 6s. each. The firm's clerk said to himself, "That cannot be the price at per yard, these are muslins made up." And so he entered the goods as apparel, and though they were liable to a duty of only 5 per cent., he paid duty upon them at the rate of 25 per cent. Being a small quantity the total duty only came to £1 9s. 2d., but the amount of duty overpaid was £1 3s. 4d. The amount underpaid in the other case being only 15s. 5d., it is clear that the Customs authorities received 7s. 11d. more than they were entitled to. What did the Customs authorities do? They proceeded against the firm for the short payment. They said afterwards that they did not know there had been an over-payment. Though that information was given in the court the prosecution was not withdrawn, and being proceeded with the firm had to pay a fine of £5, and 5s. 6d. costs, on account of the error involving the short payment, although the Customs authorities were money in hand. The firm had to do more than that, however. The Customs authorities demanded that before the goods were taken away the firm should give a bond for their value. We must remember that whenever an error occurs, however innocent and trivial, if it is an error upon which the Customs authorities can secure a conviction in court, the goods are liable to forfeiture, and a fine inflicted in court is a legal condemnation of those goods. This firm, therefore, had to give a bond for the value of these goods before the Custom-house authorities would allow them to be removed. Although they knew all the circumstances of the case, and although this took place so long ago as last August, it was only on the 28th April last that the Collector of

Customs in Sydney wrote to the firm cancelling the bond in these terms :—

I beg to inform you that the Acting Minister of Trade and Customs has decided that in this instance the forfeiture of the goods shall not be forced.

Senator HIGGS.—The honorable senator does not complain about that?

Senator PULSFORD.—“Shall not be forced”—after duty had been overpaid! That is surely adding insult to injury. Yet I am asked to believe that the Customs administration is honest, just and proper.

Senator PLAYFORD.—It was in this case, all events.

Senator PULSFORD.—Honest?

Senator PLAYFORD.—It would not have been honest if the Customs had kept the goods.

Senator PULSFORD.—Was it honest to bring a man into court when he had overpaid duty?

Senator PLAYFORD.—They did not know that he had overpaid.

Senator PULSFORD.—They had known for months, and had made no attempt to the interim to settle the matter. Let me go further with the experience of this firm. This day week, in Sydney, this firm was again had up at the police court in connexion with a matter which was just out as paltry as the previous one.

Senator MCGREGOR.—They must have some suspicion of them.

Senator PULSFORD.—If Senator McGregor happened to be doing any business which led him into contact with the Customs-house, and he were to offend the best employé in the department, that officer would be enabled to throw upon him reflections of a very objectionable and undeserved character.

Senator MCGREGOR.—It is very mean of the honorable senator to suggest that an officer would do such a thing.

Senator STYLES.—Would he do it?

Senator PULSFORD.—Does my honorable friend, Senator Styles, know anything about human nature?

Senator STYLES.—No.

Senator PULSFORD.—Probably not. I hold in my hand the summons issued to the firm to which I have referred. They are charged with having passed an entry which is “false”—that odious phrase which all honest men object to when levelled at them when they have fallen into some simple mistake.

Senator DRAKE.—It is the term used in the Act, is it not?

Senator PULSFORD.—I know there is that provision in the Act, and the Minister has power to use it, and ought to use it where he knows or expects that there is fraud at the bottom of what has occurred.

Senator MCGREGOR.—But it seems that these people were in the habit of making mistakes.

Senator PULSFORD.—I object to the honorable senator's interruptions.

The PRESIDENT.—I must ask Senator McGregor not to interject. The speaker has appealed to me, and the standing orders strictly prohibit interruptions.

Senator PULSFORD.—I have the particulars of this case. I have here the invoice which shows that there was one case of linings shipped to Sydney, and entered at Sydney in the month of August last year. The firm passed the entry at the Customs, and described the goods in the entry as linings according to the invoice. There were six different descriptions of linings; but one portion of the shipment worth £7, out of a total value of £32, happened to be a lining which had a little stripe in it. It was absolutely a cotton lining, but because of this little stripe the Customs authorities said that it was partly a silk lining. And because of that silk stripe they decided that the lining was liable to the duty on goods containing silk. The contention was perfectly right. Now, what took place? The firm who had imported these goods went insolvent, and the Customs agents were told by the Customs authorities that if they gave a guarantee that they would pay the value of the goods if their forfeiture was decided upon they might take delivery. The agents said—“No, we cannot guarantee the value of these goods when the real owner of them has gone insolvent, but we are willing to pay the difference in duty if it is due.” They were not sure that it was due, and they sent to the Customs various samples of goods. I may say here that the parcel of linings upon which the extra duty was claimed was invoiced at 13½d., while other linings in the same shipment valued at 15½d., were properly charged duty at 5 per cent. only. These goods remained in the custody of the Customs from August last till the 27th May last, when the firm received this summons to appear at the Water Police Court. What were they to do? The owner of the

goods was bankrupt ; they had passed the entry according to form, and they thought the trustee in the insolvent estate would have fought the case, because they were not sure that the stripe was really silk. However, they said that it would be the safest and cheapest thing in the end to admit that a mistake had been made, and allow themselves again to be fined £5. Now, what was the amount involved ? It was only 15s. 3d. The mistake was as simple and transparent as possible. I have here the invoice which says so many yards of "striped sleeve lining." This is another instance, and will any honorable senator venture to tell me that the Customs Act under which things of this kind can be done is being rightly administered ? I shall now draw the attention of the Senate to two or three matters of a different character.

Senator HIGGS.—Will the honorable senator give us some on the other side—the just cases.

Senator PULSFORD—Some time ago a foreign vessel called the *Barfillen* arrived at Newcastle to load a cargo of coals for some far foreign port. The cook of the vessel during the voyage to Newcastle, as all ship's cooks do, had been collecting the cook's perquisite in the shape of the waste fat, known always in shipping circles as "slush." When he arrived at Newcastle a man came on board and offered to buy it. There was about 2 cwt. of it, and the utmost value that he would be able to obtain for it would be somewhere between ten and fifteen shillings. The cook sold the slush and delivered it to the man who bought it. What did the Customs authorities do ? They said there was a duty on "slush," only they did not call it slush, they called it tallow unrefined ! "There is a duty upon this of 2s. per cwt. It is under Customs control, and you had no right to move it." The cook who owned the fat and sold it was summoned to the police court and the man who bought it was also summoned to the police court, and they were each fined £5. I suppose the captain of the vessel came to the relief of the cook and advanced the money, because in this case the fine was paid and he was able to go away. But the shoreman could not raise the money and he went to gaol. The Customs authorities themselves admitted in court that the cook of the vessel knew nothing about the regulations. From inquiries I have myself made, I believe

that the man on shore did know that he was running a risk, but I confess that I have not much sympathy with a Customs administration that draws "slush" into the net. I am, however, chiefly referring to the case of the cook of this vessel who was a foreigner visiting our shores, and was treated in this way by being mulct in the sum of £5 and costs. Is that honest, fair, or reasonable ? Is it administration of which we may be proud, or such as should satisfy us ? Take another case, which happened not long ago. The Orient steamer *Oruba* arrived in Sydney, and on board there was a young sailor named Tingey. He had, whilst in London, been given a small parcel sent by a sister in London to a sister in New Zealand. It contained some small articles of drapery and a bible. He was to bring the parcel to Sydney, and there post it for New Zealand. In the full light of day he went ashore to go to the Post-office, and he was stopped by a Customs officer. He was treated even worse than the man in Newcastle, because he was put under arrest for moving something that was under Customs control. He was taken to gaol, and was subsequently brought before the police court and fined £5, and the parcel was confiscated. Two or three days afterwards, when I had ascertained all the facts of the case, the Prime Minister was advertised to speak in Sydney. I made all the facts public, and asked him to express some opinion on administration of that sort. What did he say ? He said he had seen this statement in the newspaper, and sent for the papers in relation to it. He told that big meeting that the man ought not to have been arrested, and that there was no ground for the infliction of a fine ; and he added :—"I have ordered that the confiscated parcel shall be returned and that 80 per cent. of the fine shall be remitted." You might have talked till doomsday before you would have got that amount of reason out of the Minister for Trade and Customs. That is one case in which perseverance has brought about a small measure of justice. But a strange thing happened in connexion with that case. The gentleman in Sydney who was representing the sailor wrote to the Customs authorities in Melbourne, and they replied a fortnight after the speech by the Prime Minister, stating that they agreed to return the parcel, but that they could not remit the fine. This has led to some

controversy ; but in the other House a day or two ago the Prime Minister repeated his statement, and said that he was going to see that his promise was carried out.

Senator CHARLESTON. — Mr. Kingston ought to resign after that.

Senator PLAYFORD. — Mr. Kingston had nothing to do with it. It was done by Sir George Turner, who was acting for him.

Senator PULSFORD. — Excuse me, Mr. Kingston had everything to do with the infliction of the fine.

Senator PLAYFORD. — The court inflicted the fine.

Senator PULSFORD. — Yes, but the prosecution was instituted under the administration of Mr. Kingston. If my honorable friend had been administering the Customs of Australia, he knows as well as any man knows that this prosecution would have been impossible.

Senator PLAYFORD. — In our colony, when I was a Minister, if a man came on shore with silk, we would arrest him straightway, and make him explain himself pretty quickly, too.

Senator PULSFORD. — Under circumstances such as I have narrated, an arrest would have been an impossibility.

Senator PLAYFORD. — It would not have been in South Australia.

Senator PULSFORD. — I have stated the true facts of the case, and shown the position taken up by the Minister for Trade and Customs, the Prime Minister, and the Treasurer. It appears that the letter declining to remit the fine was written on the authority of Sir George Turner, who did not know at the time of what had been said by his chief in Sydney, and it was not written with any intention of disputing the decision at which his chief had arrived.

Senator DRAKE. — That might easily happen.

Senator PULSFORD. — It only shows what room there is for difference of opinion. Let me now refer to another case which occurred only a fortnight ago. The ocean steamer *Sierra* arrived in Sydney from San Francisco. The chief steward was a man named Hannigan, who had been sailing between those ports for eighteen years, and the voyage to which I refer was his last one. He had brought with him a few small presents for some friends in Sydney. He instructed the barman to take these to the Customs officer in his box on the quay. Anybody who travels knows this usage.

You take the goods to the Customs officer and he fixes up the amount of duty, and settles it for you. The chief steward gave the boy who took the goods a £10 note, as he had no smaller English money in his possession. When the boy got to the gangway he was stopped by an officer still within the ground of Customs control, and told—“No, you shall not pay the duty. You are moving goods without right. You shall not take them back, nor shall you take them to the Customs officer's box. You are to be summoned.” So the Customs authorities summoned the steward, the bar attendant, and also a cabman who was employed at the ship to take the things away, and who was carrying some of the parcels to the Customs box. At the police court there was no defence. There could be no defence to a charge of having moved the goods before they got the leave of the Customs authorities. If a Customs officer chooses to bring an action there can be no reply to it. Each person was fined £5 and costs, and, like a man, the steward paid the fines, amounting to £15, and costs amounting to 20s. In that way, after running for eighteen years between San Francisco and Sydney, he has finished up his connexion with the Australian trade.

Senator MCGREGOR. — Very likely he did the same thing many a time and never passed entries through the Customs.

Senator PULSFORD. — My honorable friend wishes to throw suspicion all round. If he were travelling he might be asked to take charge of a parcel, or of a present. If there is a Minister who is determined that every possible opportunity for suspicion shall be availed of, and a charge laid on every occasion, what possible chance is there of business being got through in a creditable way? What possible chance is there of avoiding all such prosecutions as those which have been disgracing Australia and arousing the indignant spirit of our people during recent months?

Senator DRAKE. — Oh, no.

Senator PULSFORD. — What I say is quite right. I am speaking specially about New South Wales, in which there is rising a spirit of intense indignation at the administration of the Customs.

Senator STYLES. — One out of twenty.

Senator PULSFORD. — I am not exaggerating; the statement I am making

is absolutely true. Other charges have been made from time to time in regard to Inter-State certificates. Let me now give the particulars of a case in which the Treasurer came to the rescue and quashed a fine that was imposed some time ago, and then let honorable senators tell me if they ever heard of anything more ridiculous. In Sydney there is a firm named Rich and Co., with branch houses in Bourke and in Brisbane. The firm were sending two bags of rice from New South Wales to Queensland, and they had paid duty on 98½ lbs. In the Inter-State certificate the weight of the rice was put down as 100 lbs. instead of 98½ lbs. There was some difference of duty on 1½ lbs. of rice which affected the statement in the Inter-State certificate. This was alleged to be a falsification, and the firm were dragged to the police court and fined. I wonder if Senator McGregor indorses an action of that kind. What has been done in connexion with that case? In the Sydney press of yesterday I read this letter to the firm from the Customs department—

With reference to the proceedings taken against you by the department in respect to an incorrect Inter-State certificate for certain rice, I beg to state that the Acting Minister for Trade and Customs having reviewed the circumstances connected with the matter, has decided that the fine imposed may be refunded.

Senator MCGREGOR.—Does the honorable senator object to that?

Senator DRAKE.—Is that unjust?

Senator PULSFORD.—That is the decision arrived at by Sir George Turner many months after the fine was paid, and, mind, not by Mr. Kingston. Sir George Turner has stepped in and reviewed the case. I know of no case, however trivial, however unjust the fine, and the proceedings may have been, in which Mr. Kingston has voluntarily come forward and attempted to rectify the injuries done and to lessen the results of a harsh and cruel administration. In Sydney we have a firm named Warren and Strang connected with the boot and shoe trade. They have had several experiences of the Customs. In one case, of which I have already stated the particulars, a mistake was made by the Customs. On another occasion, a few weeks later, the firm received a parcel of tray cloths enclosed in a case of muslins, but without advice being received. The case was passed and opened in their warehouse,

when the parcel was discovered. On the same day the mail arrived, and brought an invoice for the goods, value £8 5s. 3d., duty being 20 per cent. They immediately communicated with the Custom-house, explaining the mistake and paying the duty. In these two instances the firm only did what was right, and what we should expect any honest firm to do. From America another shipment arrived for the firm which I said deals with boots and shoes, and unknown to them in one case was a small shipment—about £10 worth—of calf skin. This time the Customs people found out the enclosure before the case was delivered, and summoned the firm to the police court. The firm wrote to the collector and drew attention to what had been done on two prior occasions. It was all of no avail. In the police court they desired to fight the case and give evidence of what they had done on the two previous occasions, and the solicitor prosecuting for the Customs objected to their bringing forward that evidence of their honesty. Is that the sort of administration of which we can be proud? The firm was fined £5, and I for one do not know what has become of the goods.

Senator CHARLESTON.—In Adelaide I do not think they are allowed to make post entries.

Senator PLAYFORD.—It appears that the Customs were dealing with people who were very unscrupulous, and the revenue might be greatly defrauded. I know that I used to fine such offenders pretty heavily when their tricks were found out.

Senator PULSFORD.—What sort of tricks?

Senator PLAYFORD.—Putting goods in a case and stating that it contained goods other than those which it really did contain. That is a false statement.

Senator PULSFORD.—If the honorable senator knows anything about trade and commerce he must be aware that it is a very common thing for a parcel to be enclosed. Persons going to or from England are constantly asked by friends to take charge of a small parcel or perhaps a large parcel and it is a common thing for a small quantity of goods to be enclosed in a larger package through some friend. In this world where mistakes are constantly happening is anything much easier than now and then for the advice of such an enclosure being made to fail?

Senator PLAYFORD.—Then it ought to be punishable for it opens the door for any amount of fraud.

Senator PULSFORD.—I am quite agreeable for a fine to be inflicted, but I am not agreeable, nor would my honorable friend be agreeable, if he received a parcel of the sort to be charged with having made a false entry and fined £5.

Senator CHARLESTON.—I am surprised that they were allowed to make those post entries.

Senator PULSFORD.—What else could be done? I happen to have a memorandum about post entries. It shows the style of the administration. It is from a firm in Townsville, and is contained in a letter written to me. This firm had been prosecuted for a simple clerical error, and they said that they were very much astonished a day or two after to receive the following letter from the Custom-house :—

Customs and Excise Office,
Townsville, 25th April, 1903.

GENTLEMEN,—

I have the honour, by direction, to inform you that post entry may be accepted for the duty short paid by you on two casks of spirits ex bond.

Your early attention will oblige.

On inquiring what it meant from their Customs clerk, this firm found that it concerned post entries in connexion with the locker's return. A Customs official had gauged the goods, and had given the firm's clerk the quantity on which the entry was to be passed. The entry was taken to the Custom-house, and according to the re-gauging given by the locker made at the Custom-house when the calculation was being made, the locker's mistake was discovered. Then, notwithstanding the fact that the mistake was made by the Customs official, the department wrote in this sort of way, that "post entry may be accepted." They did not say that the mistake was theirs, and made by their official. They did not say—"Be good enough to pay shortage in the form of a post entry." They wrote as though this firm had done something wrong and said—"Post entry may be accepted."

Senator STYLES.—It did not hurt the firm.

Senator PULSFORD.—I object to this style of administration. I object to this tone from Customs officials. I object that when everything is done straightforwardly and according to the Customs officers' own

finding that any firm should be addressed in this fashion. To show the Senate some of the difficulties of the position; I should like it to be known that since the Tariff was agreed to by Parliament thousands—literally thousands—of Customs decisions have been formulated, and orders have been made public. Some time ago I treated the public of Sydney to a list of 100 of these. I will treat the Senate to about ten of them. I do not think that honorable senators have seen them. Here is one decision with regard to sewing-machines—

Machines, sewing.—Heads or working parts above plate, free; other parts, of wood and metal, 20 per cent. as furniture; cover, if of metal, 25 per cent.

Sewing-machine accessories.—Oil cans containing oil for lubricating, cans 20 per cent. Oil dutiable under Item 84. Instruction books free, whether imported with or separate from machine. Leather belting in the piece, 20 per cent.

NOTE.—The Minister has decided to admit one belt free for each machine if accompanying same.

The next decision is as follows :—

Coffin Furniture.—Mixed metalware, unplated, 15 per cent.; metal and plated, 20 per cent.; balance, 20 per cent. as fancy goods.

Then comes sen sen. This is a Chinese article. The first decision said it was to be entered as confectionery at 2d. per lb. Then another decision came out that it was to be entered as perfumery at 20 per cent.

Drugs in bulk, such as roots, leaves, seeds, &c., not mixed or compounded, free, if not spices.

Chains, key for outside wear, 25 per cent., as jewellery.

Chains, key, not for wear, free.

Watch keys of all kinds, whether for hanging on chain or otherwise, are dutiable at 20 per cent., as accessories to watches.

Then there is a definition of mining picks—

Officers are instructed that mining picks in the Tariff are to be taken to mean double-ended pointed picks, and single-ended picks with hammer head, not exceeding 4½ lb. weight.

Here is another order—

Claims for discount are not to be allowed if supported only by statement in the invoice in a handwriting different from the body of the invoice. Where the handwriting in the invoice showing discount is different from that in the body of the invoice, then corroborative evidence is required.

I will not go any further. Those are some of the decisions given under the Tariff Act—some of thousands in the new Tariff Guide that has been published. I believe that the decisions total altogether something like 10,000, so that the lot of the importer at best "is not a happy one." I want to

say now that, despite all the statements about publicity, there is a large number of decisions which are given in private by the Minister. I have told the Senate that a conviction in a court carries with it the forfeiture of the goods—that is, when the Minister chooses to enforce it. The Minister is a law unto himself absolutely on this point. There is case after case in which a man has been taken to the court, and the court has said—“This is a trivial matter: there ought to be nothing done, and no fine imposed.” But the court has inflicted the minimum fine, which, unfortunately, is £5. Then, what has the Minister done? Has he given up the goods? No. He has retained them. There are lots of cases in which, despite the declaration of the court that there was no crime involved, and that nothing but a mistake had occurred, the goods have been retained for months and months. In many cases it seems as if there were a determination that they should be finally confiscated.

Senator FRASER.—The only proper course is to have a committee to inquire properly into the administration.

Senator PULSFORD.—I agree that that is the only straight course. The Minister ought not to be allowed to administer the Act in a way which may be thought by some to be for the purpose of obtaining political capital.

Senator DRAKE.—How can he help what the people think?

Senator PULSFORD.—That is the last use to which any Act of Parliament should be put. The Postmaster-General said the other day that these matters ought to go to the court, and that the court ought to decide whether the mistake made was an intentional one or not. Let me tell the Senate that in nearly every prosecution which has been undertaken by the Customs the department has, in the first instance, decided whether it was a case of fraud or not. Case after case has gone before the magistrate, and the prosecuting solicitor has said in court that there was no imputation of fraud, but that what was alleged was a pure mistake. Surely there is a decision. If the Minister has decided that there is no fraud, why go to the court at all? And why, if you have gone to the court, have the audacity to say that you have done so in order to let the court decide? The whole thing is a subterfuge and a misrepresentation.

Senator DRAKE.—An innocent mistake.

Senator PULSFORD.—Is it an innocent mistake on the part of the Crown to prosecute a man whom the department knows to be innocent! Let me go a little further and hit a little harder on this subject of the method of acting adopted by Ministers. The Ministry tell us that they are going to do everything above board—everything in sight of the public—and leave decisions for the court, when in fact they are not doing so. Let us see what is going on in the Postmaster-General's department. The honorable and learned senator told the Senate the other night that he was much “shocked” at what was going on in his department, that he knew that letters were being inserted in parcels, but that he would not have any prosecutions. He said more than that—that he would not sanction any publicity in regard to fines which he inflicted.

Senator DRAKE.—I have not done so yet.

Senator PULSFORD.—He deprecated making public the results of his own private inquiries. Now then, I want to point to something which in my opinion is rather serious in regard to that department. The Postmaster-General, as the Senate knows, deals with troubles of this sort himself. He inflicts, I suppose, a paltry fine on somebody. But the Minister is doing something more than that. He is himself judge and jury in grave cases of embezzlement. If the Ministry find it incumbent on them to take a man to the police court in connexion with three-hap'orth of rice, or some paltry error, are they the persons who should undertake to settle in private a grave case of embezzlement?

Senator DRAKE.—Is not the honorable senator going to give us particulars of that statement?

Senator PULSFORD.—I am about to refer to them. In the Auditor-General's report, under the head of defaults, I find, in connexion with the Postal department, a record of fifteen cases where officers employed at the Post-office have embezzled money, and where the matter has been dealt with, more or less, by the Minister. Let me show what has been done. I will take New South Wales. There are seven cases of officers in New South Wales. In four of those cases the police court was appealed to. One man was sentenced to three months' imprisonment; two others to twelve, and a fourth to eighteen months.

Two of the men who were sent to gaol had paid in the amount in default. But I find a lot of other cases—one in Brisbane, where the amount in question was £495 4s. 2d.—where there was no prosecution. I suppose the man in question had rich friends.

Senator DRAKE.—That is only the honorable senator's supposition.

Senator PULSFORD.—At all events the money was paid, and the man was dismissed. Here we have fifteen cases under the heading of "defaults," in only five of which prosecutions took place. In the remaining ten the men concerned were asked to resign, and did so, or were got rid of in some other way. The money was paid, and the matter was hushed up. That is what is taking place in the Postal department under an administration which we are told strives by every means in its power to do everything in the eyes of the public. Cases involving hundreds of pounds are quietly settled, while trifling clerical errors involving nothing at all are brought before the police court. The whole thing will not bear investigation. An order issued only a few days ago by the Customs department in regard to catalogues introduced into Australia through the Post-office provides that—

Duty must be paid on catalogues printed outside the Commonwealth and posted separately to customers here, otherwise they are to be seized under section 35 of the Customs Act.

What does that mean? Occasionally I receive from London publishers a catalogue of new books, but if I accept the next that reaches me I shall be liable to be taken to the police court, and charged under the Customs Act with moving goods subject to the Customs control. Could anything be more absurd? I find that the new German tariff contains a provision that goods imported through the Post-office, weighing up to 250 grammes—that is a little over 8 ozs.—shall be free of duty. Yet in this Commonwealth I may find myself some day visiting the police court, and being fined £5 for moving, without payment of duty, a catalogue sent to me through the post. I shall do my best to avoid the risk. As a matter of fact I have already written to the Postal authorities in Sydney directing that they are not to place any catalogues in my box at the Post-office, or to deliver them to me. But has the Postmaster-General nothing to say with regard to so absurd a decision? Has

he nothing to say on behalf of the thousands of people in Australia to whom catalogues and price lists are sent? Why should not a price list come in free?

Senator DRAKE.—It is dutiable.

Senator PULSFORD.—Yes, a single catalogue, dutiable at 3d. per lb. according to weight, would be liable to an impost of something like half a farthing.

Senator DRAKE.—Publishers at home might send out a great many catalogues.

Senator PULSFORD.—Why should they not come in free?

Senator DRAKE.—Why should they not pay duty?

Senator PULSFORD.—How can duty be paid upon them? I get special books, perhaps of a political character, sent to me, and catalogues of such books are not distributed broadcast throughout the land. Perhaps 100 or 200 may be sent out here at a time, and every man who receives one will be liable, under this decision, to serious consequences. This is the precious administration of the Customs department which we are asked again and again to believe is a wholesome one. I have no desire to labour the question of Customs administration, although it is a very sore point with me. Before the close of last session I told the Vice-President of the Executive Council that there would be no peace until the whole matter was settled, and I say again that there will be no peace until that stage has been reached. Let the law be honestly, fairly, and reasonably administered, and let there be an end to proceedings such as those now going on. I should like to give the Senate the details of a case which occurred recently in Sydney, but it would take too long to read the affidavits. Briefly stated, the facts are that about six or nine months ago a Sydney importer named Goldring imported a lot of watches mainly for the Christmas trade, and that these watches were seized by the Customs department. The importer has by every means in his power appealed to the Customs department to hand them over to him. He has tendered money; he has offered guarantees and bonds; he has written letter after letter, and his solicitor has done the same. His invoices, papers, and other documents have been seized, however, and still the Customs authorities have not brought any prosecutions against him, nor have they given him any information of the charge against him. They have simply

taken his goods, and more or less ruined his trade. Only a day or two ago this importer, as a last resort, appealed to the Supreme Court of New South Wales for a mandamus to compel the Collector of Customs to state the charge against him, and to return his books, in order that he might proceed with his business. What did the Minister for Trade and Customs do? Did he meet the man straight out? No; he defended the action, and said, "the Court has no jurisdiction."

Senator CHARLESTON.—The Judge said that.

Senator PULSFORD.—That was the defence raised by the Minister, and it was successful. A State Court has no power to issue a mandamus against an officer of the Commonwealth. Behind that want of power the Minister is sheltering himself. Meanwhile, the goods of the unfortunate importer are being detained, and his business is being hung up and practically destroyed. Is this a state of things that we can tolerate? I shall pass now from the unfortunate Customs administration and deal briefly with a few matters mentioned in the Governor-General's speech. In the first place I wish to say that I shall hail with gratification the establishment of the High Court. I shall do all that I can to hasten its creation, because until it is established there can be no relief for a man hampered, as is the importer to whom I have just referred. The statement contained in the Governor-General's speech with regard to the report of the commission on the federal capital site is of a very indefinite character. We are told that it is hoped we shall have it at an early date. I trust that we shall, and that the Government will impress upon the commissioners the urgency of the matter. Then we are told that a Bill is to be brought before us dealing with Conciliation and Arbitration. My support of measures of that kind will be great, in proportion as the principle of compulsion is absent. I have always held that when employé's ask for an interview it is a scandal for their masters to refuse to meet them. I do not hesitate to say that I know of nothing more reprehensible than that. The employers presumably are the better educated and the more gentlemanly of the two classes, and it is not only ungentlemanly, but unworthy of educated men to refuse a request that they should meet their

employé's in conference. I should agree to inflict whatever penalty was asked upon employers who refused a conference, but I have no belief in compulsory conciliation. The Prime Minister went to England under a very strong promise and pledge that he would commit Australia to nothing, but he seems to have almost absolutely committed us in the matter of the proposed naval subsidy. We are in a position in which it is very difficult to escape from agreeing to the payment proposed. I admit that the sum is not much in view of the services which will be rendered, but in my judgment the proposal, if carried out, would not place Australia in the satisfactory position that I should like to see her occupying. When the flying squadron has flown away, we must of course be without its services. My opinion is that an enemy would seek to take advantage of an opportunity like that, and that in the absence of any naval power on our coast one hostile cruiser might do us very grave harm. Therefore I think we have to consider carefully what ought to be done in this matter, and I venture to throw out a suggestion. When the war between Spain and the United States broke out, it was found in the United States that a number of the great ocean-going vessels could render very great service if fitted with two or three heavy guns, and sent forth as cruisers. I do not see how we are going to get out of paying the subsidy of £200,000 per annum; but at the same time I fail to see how we are to get rid of the responsibility of keeping some defences round our coast. I, therefore, throw out a suggestion that whilst agreeing to this payment, we should make some arrangement by which perhaps half-a-dozen of the pick of Australian coasting steamers would be subsidized and made available as cruisers, should it become necessary to watch our shores.

Senator STANFORTH SMITH.—They are not fast enough to be of any value. They should be able to do twenty knots an hour.

Senator PULSFORD.—There may be that objection at present, but with the aid of a subsidy we should get a better class of coastal steamers. Of course, we could make arrangements for the use of the big oversea boats, but out of the whole number of vessels trading to Australia only those which happened at the moment to be on the Australian coast would be available if any trouble arose. We could not very well undertake to subsidize the whole of

the P. and O. and Orient Companies' liners. I should like to say something now with regard to the patents laws. I have always been a great believer in the value of patents, and I have always attributed the great prosperity of America very largely to its most liberal patents laws. But just fancy the difference: A man in America gets a patent for a few pounds, which gives him protection over a population of 80,000,000, whilst in Australia a man must at present take out half-a-dozen patents, and when he has done so his invention is protected over a population of about 4,000,000. That is not the way to do very much good, and I am anxious to go somewhat further than having patents which merely give protection over the Commonwealth. I desire to bring about a system of Imperial patents. I wish the Australian patent to be valid in the United Kingdom. I see that at the Imperial conference a suggestion was made by the Commonwealth Government with regard to the mutual protection of patents, and I shall read what is said on the subject in the report of the conference—

The conference also discussed the subjects of the mutual protection of patents and the purchase of ocean cables, which had been suggested by the Government of the Commonwealth. In regard to the first of these subjects, the accompanying memorandum, prepared by the Comptroller of the Patents office, had been circulated to the members, and while it was felt that it was of too technical a nature for effective discussion at the conference, there was a general feeling that it was desirable that the recognition throughout the Empire of a patent granted in one part of it should be facilitated, and that an inquiry should be instituted as to how this could be effected, and the following resolution was passed:—That it would tend to the encouragement of inventions if some system for the mutual protection of patents in the various parts of the Empire could be devised. That the Secretary for State be asked to enter into communication with the several Governments in the first instance, and invite their suggestions to this end.

It was to this suggested correspondence that the question of which I gave notice to-day had reference. I wish to know whether any correspondence has taken place upon this subject, and whether the Bill which the Government are about to introduce is to be a measure limiting the patents law solely to the Commonwealth, or whether there is any hope of that greater achievement of a patents law which shall give Australian inventors protection throughout the length and breadth of the British Empire.

Senator MCGREGOR.—So the honorable senator is a protectionist?

Senator PULSFORD.—Yes, -I desire true protection—sometimes even from Senator McGregor. Now, with regard to the question of the Western Australian transcontinental railway. I have no hesitation in saying that the project has my warm sympathy. I hope that the railway will be built. I think it is desirable that it should be built. But there is something to consider. The present is not the time when millions are to be had for the asking. I think we ought to decide that it is a desirable project, we ought to keep it before our minds, and we ought to be taking steps that will tend to make the object easy of achievement when we think the time has actually arrived. I venture to throw out the suggestion that as the project would, we hope, and may presume, be of material advantage to the State of Western Australia, the authorities of that State might consider whether they could not facilitate the achievement of this object by offering to bear some fixed proportion of the loss which must arise in the earlier stages of the history of such a line. Now with regard to the mail services and coloured labour, I confess I look back with some gratification to the time when the debate took place in the Senate upon the Immigration Restriction Bill, and when the clause excluding contract labour was under discussion. I moved an amendment proposing to limit that exclusion to those who were contracted for at less than current wages. It was a very simple amendment, and I think a very desirable one, and its acceptance would have saved Australia from a considerable amount of discredit and disgrace. I hope this session will not pass without our being able to do something to rectify the blunder that was then made. I think the amendment which I proposed ought to have been accepted, but of course when the measure was before us we were all dominated by the central object of the Bill, the exclusion of coloured races, and we perhaps lost sight to some extent of the odds and ends of the thing, and dealt merely with contract labour and white people and so on in various forms. As regards the mail services I hope we are not going to be so foolish as to cut off our noses to spite our faces. I hope we shall still be able to arrive at some sensible way of settling the mail contract business, and that we shall

not be relegated to a service of out-of-date slow-going tubs to conduct the mail business of the Commonwealth. I do not hesitate to say that a little calmer feeling is gradually coming over even the most excited Australians on the subject of coloured labour. I see that the men on the Japanese men-of-war now visiting us are being received wherever they go with acclamation.

Senator STANFORTH SMITH.—That is at the dictation of national courtesy. We do not want them to remain here.

Senator PULSFORD.—National courtesy is all I ask for; and I wish to dissociate Australia from the national discourtesy which disfigures some of our legislation. I never have been an advocate for throwing Australia open to all coloured races. I do not believe in any policy of the sort. If we take, for instance, the European and Chinese races, we shall find that the white races are practically spending races, whilst the Chinese are a saving race. The European will say with regard to his wages—“How much can I spend; what money have I to spend?”; whilst the Chinaman says—“What money can I save?” That is a wide racial difference, and objection to Chinese labour rests not so much on logic as on a strong instinct, and an instinct which is a true one.

Senator HIGGS.—Then it must be logical.

Senator PULSFORD.—It is because the white races spend their money that with them trade is brisk and profits are large, and good wages and big wages are desirable. The Chinaman, on the other hand, argues, as I have said, from the point of view of saving, and if people wish to put all their money into stockings there will be very little left for trade. The people of spending and generous instincts do not mix very well with those who practise what I may reasonably call a meaner economy. These races are therefore better kept apart. But let all the arrangements be conducted honorably. Let us insult no race, but give them the treatment which we expect from them. I should like to refer to the subject of contracts for the purchase of goods. The various departments of the Commonwealth Government have to buy a great many things in the course of a year. I have been looking at some of their contracts, and it does not appear to me that there is any system about them. For instance, in buying provisions I notice that in some places they buy tea at

7d., 8d., 1s., and 2s. per lb. Why this sort of thing should be I do not know. Then the Commonwealth has to make very large contracts for some goods. Take, for instance, an article so insignificant as sealing-wax, and we find that the Commonwealth buys twenty, thirty, and forty tons of that commodity at a time. I believe that there is only one maker of sealing-wax in Australia, and I wish to know whether, when a contract is being made, advantage is taken of the section in the Tariff Act which gives the Commonwealth power to import free of duty. Is the Commonwealth taking advantage of that section to obtain the goods which it requires for its own services as cheaply as they may be obtained? Another matter I should like to mention is that of life assurance. This certainly cannot be thought of this session, but it is a matter which should be borne in mind, and which should be dealt with as early as possible. It is desirable that Parliament should consider the subject of life assurance so as to safeguard the people of Australia from wild-cat schemes of life assurance. I can tell honorable senators that there are some of these afloat to-day and taking a good deal of money out of the pockets of Australia. There is only one other subject to which I desire to draw attention, and that is the subject of preferential trade. Honorable senators have listened to me so long, that important as this subject is, I propose to make my remarks upon it very brief. As a free-trader, I object to the proposal for preferential trade, and if I had the misfortune to be a protectionist I should still object to it. I cannot conceive of any protectionist favouring the proposals for preferential trade as they are now brought forward. The Australian export trade is really in a remarkable position. It simply stands upon velvet, and we cannot improve its position. We produce large quantities of farm and dairy produce, and for as much as we have to spare of this we have an open and free market in the old country. The people there will take as much as we can send, and a great deal more than we are able to send at present. Then we have also a free market for our wool in the United Kingdom. But here arises a very singular position. Australia produces a very much larger quantity of wool than the United Kingdom can or does take.

becomes of the balance? It is taken continent, and here, in regard to our products, which the Empire cannot consume, the great countries of the world have thrown aside their protective duties and become free-traders, and they give free admission. On the free list of the new German Tariff will be found wool, skins, and various other pastoral products.

Senator STYLES.—Raw materials.

Senator PULSFORD.—What does it mean whether they are raw materials or not? They are what we have to sell, and we have to sell the world is ready to buy from us. When Australian trade is on velvet why interfere with it? It can be bettered. How different is the position in which the trade of Great Britain is! The old country has to fight for admission for her products. Nowhere has to fight harder for admission than at her own kith and kin in the Commonwealth of Australia. Whilst declaiming about their love of the mother country, the Government do their best to impose big duties.

The Minister for Trade and Customs and the Treasurer bring in measures which say that they expect to reduce the duties by the amount of £5,000,000. As half of our imports come from the old world, what a straight-out blow is intended to be given to the country we love. Protectionists or free-traders, there is no difference that we do love England. But this extraordinary freak in the protectionist policy I cannot understand; it is for them to explain it. However, what I am pointing out is the wonderful difference between the position in the world of our export trade and our import trade. Great Britain has to fight for the entry of her goods everywhere. We have free admissions for all goods which we can produce. Where the Empire cannot take them the great countries step in, throw aside their protectionist policy, and give us free admission.

Senator STYLES.—They are very glad to take the raw materials.

Senator PULSFORD.—No doubt they are. In the year 1899 Australia bought from France, Germany, and Belgium goods to the value of £3,000,000, and those three countries bought from Australia goods to the value of £9,000,000. Is that a most extraordinary balance? We buy only £3,000,000 worth, and we sell £9,000,000 worth, and we are

asked to bring in a differential Tariff to penalize France and Germany. What does it mean? If we give a preference in one direction, we inflict penalties in other directions. Whether I be a free-trader or a protectionist, this fact stares me in the face, and it cannot be got over: that the great countries of Europe are buying enormously more from Australia than they are selling to her. Is not that a good thing to let alone?

Senator STYLES.—They do it because it pays them.

Senator PULSFORD.—Of course it does, and they would be foolish if they bought when it did not pay them. Another point I wish to draw attention to is the general idea of this preferential Tariff. Honorable senators little know I think that even in Great Britain it is very little recognised how big the Empire is, and how big its producing power is. Of course we know that the old country is a great producer of manufactured goods. Taking it all round the Empire is an enormous producer of raw materials, and in regard to a great many articles she is undoubtedly producing more than she can consume. I suppose every body admits that when an article is produced in excess of the consuming power of the Empire it cannot be benefited by a preferential duty. That is agreed to by protectionists as well as by free-traders. Now, let me read a list of articles in which this position has already been arrived at: Wool, tallow, hides, skins, tin, coal, gum, kauri, jute, rice, tea, coffee, palm oil, coconut oil, rum, pepper, ginger, pearl shell, certain kinds of fish, such as salmon, &c., indigo, dye woods, and various drugs. The list might be extended. Of all these items the Empire to-day is producing more than it can consume, and is depending on the rest of the world for the consumption of the balance, and with our enormous extent of country we are rapidly increasing our production, in the matter of agricultural and pastoral products and grain of various kinds. Take the importation of mutton into Great Britain. It is getting very large, and it looks as if the time will not be very far distant when the Empire will be producing more mutton than it can consume. I wish now to refer to the basis of this agitation for preferential duties. The country of its origin, if I may use the term, is Canada. I propose to read a brief extract from an article in the *North Atlantic* last

year, by Mr. John Charlton, M.P., a member of the Anglo-American Joint High Commission on British Preferential Trade and Imperial Defence. In the course of this article he says—

Canada desires preferential entry into the markets of Great Britain for her wheat, flour, oatmeal, animal products, timber, wine products, and fish; and she desires the preferential treatment without surrendering the essential features of her own Tariff policy, which is a moderately protective one. She would readily grant to Great Britain preferential treatment to a greater extent than at present, but she would probably decline to permit this preference to reach a point that would threaten her own industries, established under the moderate protection inaugurated in 1878. It may be assumed with confidence that neither Canada nor Australia can accept absolute free-trade with Great Britain. The dream of certain classes in these colonies is that preference, to an extent that would give them material advantage in the British markets over foreign countries, can be obtained, while they will be allowed to retain the distinctive features of their own policy at present in force. A preference of this amount (10 per cent.) as against the United States, Russia, and other food-export countries, would give to Canada and to the wool-growing and to the mutton and beef-raising interests of Australia very important advantages.

That shows the ignorance at the bottom of this preferential idea, because this Canadian writer is not aware that we produce wool so largely that a preferential Tariff can do nothing for us in this respect. He goes on to say—

She (Canada) has no preference in the British market whatever, while she gives British manufactures the preference above mentioned. When moderate duties were recently imposed upon grain by the British Parliament—amounting to 3*l.* per cwt. on wheat, and 5*d.* per cwt. on flour—it was supposed that Canada, in return for the preference of 33*l.* per cent., would be relieved from the operation of this taxation upon her grain products. This supposition was ill founded, and no recognition of Canada's preference has been designed by the British Government. The result has been a slight soreness of feeling, which could easily be made more acute by injudicious action in the future on the part of the Imperial Government. . . . Last session I introduced into the House of Commons at Ottawa the following motion:—

“That this House is of the opinion that Canadian import duties should be arranged upon the principle of reciprocity in trade conditions so far as may be consistent with Canadian interests; that a rebate of not less than 40 per cent. of the amount of duties imposed should be made upon dutiable imports from nations or countries admitting Canadian natural products into their markets free of duty; and that the scale of Canadian duties should be sufficiently high to avoid inflicting injury upon Canadian interests in cases where a rebate of 40 per cent. or more shall be made upon the conditions aforesaid.”

These statements indicate very clearly the basis of the agitation for preferential duties in Canada. I do not think that any more purely selfish policy was ever suggested than that put forward on behalf of Canada. They desire to keep up their duties to such a point that, after the 40 per cent., or whatever the allowance may be, is taken off, they will still be distinctly protective to their manufactures, and they ask Great Britain to impose a Tariff on the imports of food, from which Canadian farmers and producers shall be free. That is not a policy which I think can commend itself to Great Britain. It is a policy which carries with it the seeds of its own defeat. It must be defeated; it cannot possibly be agreed to, and it is so unsatisfactory that the people of Canada themselves, when the matter is once explained to them, will be the first to repudiate such an attempt to rob the working people of Great Britain. I look forward to the coming elections in Australia with great interest. I shall strive to bring about the return of a free-trade Government, which will bring the Commonwealth into line with the United Kingdom in its fiscal policy, and I believe that when once an important section of the Empire, like Australia, has sided with the old country in the matter of Tariff, all this talk about preferential duties will cease.

Senator STYLES (Victoria).—I do not propose to follow Senator Pulsford through the whole of his speech, but I shall begin where he left off with his slight reference to preferential duties. Judging by the cablegram in the *Age* to-day, the time is close at hand when every public man in Australia will have to declare himself either for or against preferential duties. I notice that Senator Pulsford made a reference to what is known in free-trade circles as natural protection, although he did not call it by that name. I wish to point out to him that the butter sent from Australia enters the United Kingdom on exactly the same terms as does the butter sent from Denmark. But we have to get it carried in cool chambers 11,000 miles. No cool chambers are required for the Denmark butter, which has to be carried only 800 or 900 miles. Great Britain gives her own people no preference. The foreigner sends his goods under the same conditions as our people send theirs. The American sends his wheat 3,000 miles; we send ours 11,000 miles,

and we had to pay the same duty after April of last year that the American had to pay. It is the same with the Argentine Republic. She sends her wool and wheat to Great Britain under the same conditions as we do, only she is 4,000 miles nearer to Great Britain. She sends her stuff about 7,000 miles, and we send it 11,000 miles. Great Britain does not give her children the slightest preference in comparison with these foreign countries. So I do not know that we have a great deal to be thankful for. Free-traders always fall into one mistake about this matter. They speak of the mercantile community or the buyers and sellers of Great Britain as though they were the Government of Great Britain. A man goes into a business like buying wheat or tallow to make money out of it, and he buys that article which pays him best. The nation has no control over the transaction. But the nation can show some preference if it thinks fit. Senator Pulsford has made some references to the Postmaster-General, who will, however, be able to speak for himself if he is given an opportunity of speaking again in the course of this debate. He compared the Postmaster-General's method of dealing with those who try to over-reach the Postal authorities with the method adopted by the Minister for Trade and Customs with those who try to over-reach the Customs authorities. The Postmaster-General made it clear the other day, to my mind at all events, that the reason why he deals with these cases and inflicts fines is that the offenders are nearly all of the poor and ignorant class who do not understand that they are breaking the law if they stick a letter into a parcel. They think it is all right, and that it does not matter, because it does not cost the Government any more to carry a parcel with a letter in it than it would cost to carry the parcel without the letter. But that cannot be said in the case of the importers. They are not ignorant people. They are well informed, and are surrounded by educated people who understand thoroughly well what they are doing.

Senator PULSFORD.—What about the ship's cook?

Senator STYLES.—Honorable senators opposite have attached undue importance to the "slush case." It is a farce to talk so much about it. Senator Pulsford has reflected upon the Minister, because he administered

the Customs of Australia for nine months without taking any extreme steps. But the honorable senator knows perfectly well that during that time the Minister had to administer six different Tariffs, and had at the same time to prepare his measures, including the Tariff, for submission to Parliament. He knows that during that period the Minister must have been up working day and night, doing enough for two or three men. Yet the honorable senator grumbles, because the Minister did not look into all the details for himself, as he is now doing. Of course he did what any other business man would do under the circumstances. He allowed the various officers to administer the Tariffs then in force, until the Commonwealth Tariff was passed, and we had uniform customs duties, when the Minister himself took charge. He only had the name of taking charge before. I agree with the action of the Minister in every respect. I think it was his duty to do as he has done. He may have over-strained it a little at times, but there is nothing like launching a large new concern properly at first, so as to let every one understand from the highest to the lowest that they are to act strictly in accordance with the letter of the law. No doubt the Minister had that in mind. He thought—"If we can start this thing well at the commencement it will run smoothly after a little while." And what after all are these mistakes of which we have heard so much? I suppose that during the time to which I am now referring there must have been £15,000,000 or £17,000,000, probably nearer £20,000,000, collected in customs duties. I suppose there have been hundreds of thousands of entries. And after all, seeing that a new Tariff had to be administered by men who had got into grooves under other systems, I think there have been very few complaints, and very few reasons for complaint. The Minister may have been harsh at times, but he acted rightly in being harsh in launching a new system. That seems to me, as a business man, what any business man would have done who had to start a new system. He would be very particular at the outset, knowing that when things got into smooth working order everything would go rightly. The honorable senator accuses the Minister of doing what he has done for the purpose of gaining political kudos. Whether he did so or not, he has got it.

He is now the most popular man in public life in Australia. Senator Gould may laugh, but it is quite true. This importers' friend to whom I am now referring—Mr. Kingston—stands head and shoulders above every public man in Australia in popularity. And I say advisedly that he is the importers' friend. I decline to believe that the bulk of the importers of Australia are dishonest men. The bulk of them are honest, but if only three or four in a hundred are dishonest, is not the Minister the importers' friend if he brings them to book? The honest and straightforward importer ought to be glad to see the dishonest persons punished. There may be cases of hardship, but I should like to know whether in the conduct of any business that any honorable senator has anything to do with cases of hardship do not arise. It must be so in connexion with the biggest concern in Australia, where there are hundreds of people to come into contact with every day. There are cases of hardship in small business concerns. At all events, in my opinion the Minister for Trade and Customs has acted very wisely and very well. I understand that when an honorable senator is speaking on the address in reply, he is at liberty to wander over the political field in almost every direction. That is the reason why I have followed the tracks of the boisterous previous speaker, who has wandered all over the country. But I should like now to speak in rather a different strain. I am going to refer first of all to the matter of the £200,000 naval subsidy. I am sorry to say, as a supporter of the present Government, that I am entirely opposed to any bargain of the kind. In 1887 a bargain was entered into between these six States—then colonies—and the Imperial Government, under which the Australian colonies agreed to pay £106,000 a year as their share towards the maintenance of the British Navy. Under that agreement there was what is known as the Imperial fleet, and also the Australian squadron, the former consisting of eight ships of various sizes, and the squadron consisting of seven ships. The latter is now known as the Australian auxiliary squadron. The capital cost of that squadron was £854,000. These States have paid £1,500,000 already for property originally worth £854,000.

Senator DRAKE.—What about the maintenance?

Senator Styles.

Senator STYLES.—I understand about the maintenance. I do not base any argument upon these facts, but I wish to observe that for the £1,500,000 which we have paid, we have not got a gun to show nor a trained man to put forward.

Senator FRASER.—If we had had the other arrangement we should have spent double the amount, and had nothing to show for it.

Senator STYLES.—Honorable senators are aware that there was a conference of Australian naval experts who, I believe, originally came from the United Kingdom some years ago. Having come from the United Kingdom they must have been good men.

Senator FRASER.—Not necessarily.

Senator STYLES.—I thought that, as a matter of course, they would be good men if they came from the British Navy. At all events they were naval experts, I take it, and knew more about the subject than any man here knows. They sat in 1899, and this is what they say in reference to the Australian auxiliary squadron, in the up-keep of which these States have spent £1,500,000.

When the Auxiliary Squadron was first established by agreement between the colonies and the Admiralty, it was generally understood in Australia, at any rate, that the ships would form a means of drilling and training Australian seamen. This expectation has never been realized. Payment in specie in return for naval defence, furnished *in toto* by the mother country, makes no advance whatever. Twenty or 50 years hence Australia's ability for sea defence—self defence—will be as to-day, and as it was ten years ago.

Senator Lt.-Col. GOULD.—What is the honorable senator quoting from?

Senator STYLES.—From the report of a conference of naval experts. The conference consisted of Captain Hixson, from Senator Gould's own State; Captain Creswell, from South Australia; Commander Collins and Captain Tickell, from Victoria; and a representative from the State of Queensland. The other two States now forming the Commonwealth were not represented. These are all officers who were trained in the United Kingdom. They are experts. As a layman I am bound to accept their opinion as valuable. They were paid by the States because of their expert knowledge. If they were not worth the money that was paid to them the States would not have kept them, I suppose. The other day Senator Dobson

startled me, as he sometimes does, by interjecting, while Senator Symon was speaking, that instead of paying £200,000 towards the British Navy, our fair share would be nearly £4,000,000. I wondered how he arrived at that figure, and he told us in his own speech how he arrived at it. He said that on a population basis our share would be from three to three and a half millions sterling. I understand from that argument that because Australia contains about one-tenth of the population of the United Kingdom, we ought to pay one-tenth of the annual outlay on the British Navy. That is surely an extraordinary argument. I never heard such an argument in the whole of my life. I looked up Senator Dobson's speech in *Hansard* to see if I had made a mistake, and I found that this was really what he meant—that we ought to pay one-tenth of the total cost of the British Navy. That would be on the assumption that the two little islands lying off the west of Europe constituted the glorious British Empire, on which the sun never sets. But Great Britain is only a portion of that Empire. It is true that she forms the heart of it, but so far as concerns area and population, she is only a portion of an Empire which consists of three hundred and sixty-one millions of people.

Senator Sir WILLIAM ZEAL.—How many of those are blacks?

Senator STYLES.—A great many of them.

Senator Sir WILLIAM ZEAL.—And the honorable senator would pole-axe them.

Senator STYLES.—No I would not, though I am not in favour of their being employed on board the steam-ships which are subsidized to carry our mails. They are to be kept out of the count in a case like this, but are to be employed on our mail steamers. If I am correct, and I believe I am, in estimating the population of the Empire at 361,000,000, we form one-ninetieth part and not one-tenth part of the British Empire, and on a population basis we ought to pay one-ninetieth of the £33,500,000 per annum required to keep the British Navy going. But I am going to show that we should not pay anything.

Senator Lt.-Col. GOULD.—The honorable senator would put us on an equality with the coloured subjects.

Senator STYLES.—Great Britain trades with the merchants of Ceylon, India, the Mauritius, and Hong Kong. Is her trade with the coloured people there worth nothing?

Are they not to pay a share, whether white or black, if their trade is protected? As I have said, we ought apparently to pay a one-ninetieth part of the £33,500,000 representing the cost of the British Navy, and that would be £372,000 a year.

Senator BEST.—Is it £33,500,000.

Senator STYLES.—I think my figures are practically correct. I have looked up the *Statesman's Year-Book* on the subject.

Senator BEST.—Do they include India's contribution?

Senator STYLES.—I think so. But a difference of £1,000,000 will not affect the proposition I am about to state. What is it that the navy has to protect? It is not our merchandise that has to be protected, but the ships themselves. We run many ships, but, so far as ocean-going vessels are concerned, not one of them is owned in Australia. They are all owned in Great Britain, and all the income which they earn belongs to Great Britain.

Senator Sir WILLIAM ZEAL.—What about the bullion sent home from here.

Senator STYLES.—If the ship is protected, and belongs to Great Britain, every shilling which she earns going to Great Britain, the Imperial authorities are bound to protect the bullion.

Senator Sir WILLIAM ZEAL.—But that bullion is our property.

Senator STYLES.—If the honorable senator sends sovereigns from here to Ballarat he does not protect them; the State which runs the railway by which they are carried does so. In the same way Great Britain should protect the goods which are put into her vessels, just as the German or French Government would do in the case of goods sent by vessels owned in those countries. From that point of view it would appear that we should not pay anything towards the maintenance of the Imperial fleet. But these facts do not relieve us from the duty of protecting our coastal vessels. We have a right to protect our coastal trade in any circumstances. If we were to pay half the cost, while Great Britain paid half, that would be a fair way of dealing with the matter. The responsible authorities at each end would each practically pay half, leaving out the ports of call, which really ought to pay something as long as we do so.

Senator Lt.-Col. GOULD.—We are not going to pay half under the proposed arrangement.

Senator Sir WILLIAM ZEAL.—Not one-fiftieth of the cost.

Senator STYLES.—I have pointed out already that we form one-ninetieth part of the 361,000,000 people constituting the British Empire—

Senator Sir WILLIAM ZEAL.—How many white men are there? That is a fair way of considering the matter.

Senator STYLES.—I cannot say. The question put by the honorable senator is a very fair one, but, white or black, they are all British subjects.

Senator Sir WILLIAM ZEAL.—The honorable senator would not allow the black British subjects to come here.

Senator STYLES.—But their trade has to be protected as well as our own. If a ship is sent from Ceylon to England with a consignment of tea, that shipment, which has been grown by coloured men, has to be protected just as has a shipment of wool grown by white men in Australia.

Senator PEARCE.—And their ports have to be protected.

Senator STYLES.—Exactly. A reasonable way of dealing with the matter is to ascertain, first of all, what would be our share on a population basis. I am taking Senator Dobson's own words. On a population basis, our share seemingly would be £372,000, that being a one-ninetieth part of the cost of the British Navy. But the authorities at the other end should be required to pay half, and our share would thus be £186,000 per annum.

Senator Lt.-Col. GOULD.—The Imperial authorities are asking for only £200,000 a year.

Senator STYLES.—They have asked for enough. We may take it that when the authorities at home go into these matters we are only as a parcel of children compared with them.

Senator Lt.-Col. GOULD.—They ask us to pay five-twelfths of the cost.

Senator STYLES.—No. What they have done has been to take figures similar to those used by Senator Dobson. Perhaps they have taken the white population of the British Empire.

Senator DRAKE.—We are asked to pay five-twelfths of the cost of the Australian Squadron. The cost is not to exceed £200,000, but it may be less.

Senator STYLES.—I would point out that under the old agreement provision was made for two fleets—for an Imperial fleet

and what is known as the "Australian auxiliary squadron," one comprising eight vessels and the other seven. The arrangement will be upset by the new arrangement, and there will be one fleet instead of two separate ones.

Senator Lt.-Col. GOULD.—That was the case before.

Senator STYLES.—No. I am going to show why the authorities in Great Britain desired this alteration. It is made quite clear. If all the vessels on the Australian States were combined and called a "British Imperial Fleet," then, as a matter of course, the Admiral would be in a position at any time to say to his officers "Such and such a vessel shall go to the China station and another shall go to South Africa," and so forth. In this way we should be left wholly unprotected. But under the agreement entered into in 1887, between these States and the United Kingdom, that could not be done.

Senator Lt.-Col. GOULD.—They did it, nevertheless.

Senator STYLES.—Then they broke the agreement, and, therefore, we should not trust them again.

Senator Sir WILLIAM ZEAL.—That is unworthy of the honorable senator.

Senator STYLES.—If they broke the agreement—

Senator BEST.—Was it not done by arrangement?

Senator STYLES.—I do not know. I was not aware that the agreement had ever been broken. Senator Gould informs me, however, that it has been, and I assume from his interjection that the Imperial authorities broke it in spite of us. Of course, if we consented through our representatives to the adoption of that course the matter must end there.

Senator BEST.—Of course, it does.

Senator STYLES.—I propose to make it clear why in a landsman's phraseology the authorities in Great Britain desire to see one body of ships here instead of two. The agreement made in 1887 between Great Britain and these States provided that the squadron—

Shall consist of five fast cruisers and two torpedo gun-boats as represented by the *Archer* (Improved type) and *Rattlesnake* classes. . . . Of these three cruisers and one gun-boat shall be kept always in commission.

I come now to the point to which I desire to direct special attention—

These vessels shall be retained within the limits of the Australian station. . . and in times of

peace or war shall be employed within such limits in the same way as are Her Majesty's ships of war, or employed beyond those limits only with the consent of the colonial Governments.

The stipulation that these vessels shall be employed beyond these limits "only with the consent of the colonial Governments" is what the Imperial authorities want to break through. As a matter of fact there were seven colonial Governments concerned, because New Zealand was a party to the agreement, and paid about £20,000 per annum, in addition to the £106,000 per annum which we contributed. I have not had the privilege of reading the agreement now proposed; I do not think it has yet been distributed, but I understand that there is to be only one fleet, in substitution for the two fleets—the fleet and squadron as they are called, at present on the station—and that it is to go away at any time the Admiral sees fit. That is, I believe, the substance of the agreement, and that is what I strongly object to. I strongly object to Australian money being paid under any such agreement. I, for one Australian public man, hold that we should not pay away our money in this way without having some voice in regard to the manner in which it is to be expended. We are to tie ourselves down under this proposed agreement nominally for ten years, but in reality I think it will be for fifteen years. The old agreement was to run for ten years, but it is still going on, and probably the one now proposed will remain in force for fifteen years.

Senator DRAKE.—The total naval force is not to be restricted to the squadron.

Senator STYLES.—I have not seen the agreement. I am only going on the documents to which I have had access. In regard to Australian matters I prefer to take the opinion of the naval experts which we have in Australia. Honorable senators have before them two documents bearing on this matter—one a report of the naval conference, and the other a report by Captain Creswell, formerly of South Australia. The impression made upon my mind in reading his report is that he is a very good man for his position. He was one of the board of experts which sat in 1899, and since then he has prepared a report of his own. As a matter of fact he was at one with the other members of the board, who said an expenditure of £191,000—

Controlled by the Federal Government, would be sufficient to provide for the maintenance of

five second-class cruisers in peace time . . . and for the raising and maintenance of a reserve of sufficient strength to provide not only for manning these vessels in time of war, but also to furnish a source from which men would be available to meet Imperial naval requirements and to make up waste.

I submit that we must listen to these men.

Senator DRAKE.—But they propose to give us only one ship at a time.

Senator STYLES.—I apprehend that we cannot expect to get five second-class cruisers at once. I believe that a second-class cruiser of the "highflyer" type is generally of 5,600 tons burthen, and would cost about £300,000. As each one of these vessels was put in commission under the scheme proposed by the board we should say to the Imperial authorities—"Take some of the others away." I know enough about the matter to satisfy me that the five cruisers referred to in the board's report would blow out of the water in a very short time the whole of the fifteen vessels at present here. There is only one among the fifteen which could stand amongst them. That vessel has a big gun.

Senator Sir WILLIAM ZEAL.—Is that the *Protector*?

Senator STYLES.—No, I am referring to the *Royal Arthur*, a vessel of about 7,700 tons, which has one 9·2 gun. The proposal is that we should have a couple of vessels of that kind.

Senator DRAKE.—Under the proposed agreement we are to get one first-class cruiser, two second-class cruisers, four third-class cruisers, and four sloops.

Senator STYLES.—The second-class cruisers referred to in the agreement proposed probably are only small vessels. In his report dated 7th February, 1902, Captain Creswell said—

An appropriation extending over ten years, setting aside £300,000 to £350,000 annually for naval defences, would be a more satisfactory arrangement. It would suffice to provide a fleet of five cruisers suitable for our defence, and leave no debt.

It would provide a sinking fund as well. Captain Creswell went on to say—

If continued even at a reduced amount it would provide for all renewals as required.

Referring to the special type of cruiser, not for long sea voyages, but for the defence of Australia, he says—

By adapting our design to the favouring conditions of a long coast line with many coaling ports, we can . . . largely increase the armament

and gun power. . . . Gun power can be so largely increased in an Australian ship that she would be equal to a ship twice her tonnage.

Captain Creswell is one of our leading experts in Australia, and he explains that if a vessel has not to go long journeys, she can have double the gun power in proportion to her tonnage that a vessel would have if she had to go all over the world.

Senator BEST.—For £350,000 a year more.

Senator STYLES.—No, £300,000. I went into this matter before I saw this report, and it seemed to me that five of these ships could be provided for £1,500,000. The working of them would cost about £150,000 a year, interest £45,000 and sinking fund £80,000, making £275,000 a year. Assuming that it would cost £300,000 instead of £200,000 a year, it must be remembered that £200,000 a year means 1s. per annum per head of our population of 4,000,000. The other £100,000 would mean 6d. per head more, and I do not think we should find one man in 100 who would grumble at that.

Senator PEARCE.—And the ships would belong to us.

Senator STYLES.—And, as my honorable friend says, the ships would belong to us.

Senator Lt.-Col. GOULD.—The estimate is £300,000 a year, and £47,000 a year for maintenance, up-keep, and interest.

Senator STYLES.—I think not. Captain Creswell speaks of from £300,000 to £350,000. He says that to set aside £350,000 annually for naval defences—and that includes everything, and not merely the ships—would be a more satisfactory arrangement, that it would suffice to provide a fleet of five cruisers suitable for our defences, and would leave no debt behind. And if continued, even at the reduced rate, it would provide for all renewals as required—that is, new vessels.

Senator Lt.-Col. GOULD.—No; that would not include new vessels.

Senator STYLES.—This is one of the great disadvantages under which the Senate labours. We have here several honorable senators who are well acquainted with military matters, to whom I listen with the greatest attention upon those subjects, but so far as I know we have no one here who can lead us upon questions like this, and in the absence of such advice we must be guided entirely by the experts whom

we pay. Of course I am aware that an Australian has no honour in his own country, and that if we require a man, whether it be to manage a railway or to build a ship, we send to some other country for him. For all that, we have managed to build our own railways, and we shall build our own ships and work them, too, as well as pay for them.

Senator BEST.—What would be the probable condition of these ships at the end of ten years?

Senator Sir WILLIAM ZEAL.—They would be obsolete in five years.

Senator STYLES.—I thought that would come, and I admit that it is a very pertinent comment.

Senator PEARCE.—It is not the case so far as the South Australian gunboat, the *Protector*, is concerned.

Senator STYLES.—That is so. The *Protector* is 19, and the *Cerberus* is 30 years old, and is as good a vessel as when she was first sent here.

Senator Sir WILLIAM ZEAL.—With muzzle-loaders?

Senator STYLES.—She needs to be re-armed, I admit. Her armament may be out of date, but the vessel herself is not out of date, and if she had 8-inch breech-loading guns in her, I am told she would now be more than a match for any vessel that could find its way into Hobson's Bay. It must be remembered that the *Orlando*, which is on the China station, and which was the flagship on this station, is fifteen years old. One of the vessels of the Australian Squadron, the *Penguin*, for which we are paying, was built in 1876. She is still in harness or in commission, as they call it in the navy, somewhere in the Southern Seas. I should like Senator Zeal to find out, as he may do from "*Brassey's Annual*," when every one of these ships was built, and what she cost. There is another point to be considered: Australians would man our own ships, whilst the ships coming from England are manned there, and change their crews every two or three years. While I was in Adelaide two or three weeks ago, 139 men and officers, bringing the number up to 150 or 160, were coming out to replace some of the men on the vessels of the Australian squadron because they had been three years on the station. Nearly every shilling earned by the men on board the fifteen vessels is sent to Great Britain.

It is not expended here amongst the people who do the paying.

Senator Sir WILLIAM ZEAL.—Do not the men spend their wages here?

Senator STYLES.—No; most of them send their wages to their wives. I am told that what they spend here is only a trifle.

Senator PEARCE.—There is not very much for them to spend.

Senator STYLES.—They have not much to spend, but they send their wages home, naturally enough, to their own people. With our own fleet it appears to me that there would be perhaps £150,000—it is not a great deal, but it is something—to spend amongst the people of Australia who pay for the fleet.

Senator DRAKE.—This agreement proposes that four of the ships should be manned by Australians and New Zealanders.

Senator STYLES.—I did not know that, and, like the old Scotchman, I still have some doubt on the subject. I understand from Senator Gould that the squadron was taken away at one time.

Senator Lt.-Col. GOULD.—One vessel.

Senator STYLES.—The statement was made by the board of experts, who sat four years ago, that not one Australian had been trained to naval warfare in the ships of the squadron, although it was understood that they were to be so trained.

Senator BEST.—The proposed agreement is clear upon that point.

Senator DRAKE.—Yes; three drill ships and one other vessel are to be so manned.

Senator STYLES.—When the matter comes before us later on I hope to be better primed.

Senator Sir WILLIAM ZEAL.—Four of these ships are to be manned by our own men.

Senator STYLES.—I understand that perfectly well.

Senator Sir WILLIAM ZEAL.—Then why did not the honorable senator say so? He kept it back.

Senator STYLES.—I have just told honorable senators that I have never seen the proposed agreement. I have also said that it was understood that the other vessels were to be manned to a certain extent by Australians, and yet the experts have told us that not one Australian was trained on board of them.

Senator BEST.—Was it in the agreement?

Senator STYLES.—I do not know.

Senator DRAKE.—Why not suspend judgment until the honorable senator knows what is really in the agreement?

Senator STYLES.—My judgment is already formed. I do not care two straws what the agreement is. I shall go for an Australian navy to protect our own floating trade, and not to protect oversea trade at all. If Great Britain protects that trade, she will do her duty, for all the money goes to her, and not to us.

Senator Sir WILLIAM ZEAL.—So she does protect it.

Senator STYLES.—And quite right, too. It has been pointed out by the *Age* that if we did not spend 1s., Great Britain would have to protect that trade. What we require to do is to protect our own coasting vessels that carry the trade which belongs to the Commonwealth. We should spend our money in doing that work.

Senator PEARCE.—And we should then be doing our duty.

Senator STYLES.—We are willing to do that, and I ask whether that is not coming to the assistance of the British Empire. If we have five vessels of our own here the whole of these fifteen vessels may be taken away, and used for service in other parts of the world. We are quite willing to pay £300,000 a year, and I am prepared to say that 99 out of every 100 men in Australia will agree that we should pay £300,000 to have our own ships manned by our own men, who will spend their money amongst us, and live amongst us, and who will have an interest in the place, which no men coming here from the United Kingdom can possibly have, because they will be interested in defending their own homes, their own people, and their own property.

Senator DAWSON.—The proposal now made is to destroy the Australian navy.

Senator STYLES.—There is one little question upon which I should like to say something, and that is the employment of coloured labour in mail boats. I was delighted to listen to Senator Pulsford this afternoon upon this subject. I could almost believe that one of the labour senators was speaking when the honorable senator came out so straight. The labour senators I think were absent when Senator Pulsford told us that he disliked the coloured man and would keep him out if he could. I think I am right in saying that I was the first federal member of either House who directed attention to

this question of coloured labour in mail boats. All the rest thought of it no doubt, but I was the first to mention it, and I refer to the fact only to show that I desire to be consistent. The argument is that we cannot do without coloured labour in the mail boats. We are referred to the P. and O. Company who have used coloured people for many years past, and coloured labour on the mail boats is said to be indispensable because they use it. But up till within a year or two the Orient Company, whose boats are quite equal to those of the other company, so far as a landsman can judge, worked the whole of their vessels without coloured labour.

Senator Lt.-Col. GOULD.—They have had to give that up.

Senator STYLES.—They employ coloured men only as stokers, even now ; and I can tell the honorable and learned senator that I went from here to Adelaide the other day on the *Urotava*, which had not a darkie on it at all. Senator McGregor was also on board that vessel, and I do not know that he saw one.

Senator MCGREGOR.—I never smelt one.

Senator STYLES.—I am told that on the French and German mail steamers only Frenchmen and Germans are employed, men who will spend their money in their own country.

Senator PEARCE.—There is a stipulation in connexion with the German line, that none but Germans shall be employed.

Senator STYLES.—I am told that that is so.

Senator DRAKE.—The French boats employ Arab stokers.

Senator Lt.-Col. GOULD.—A subsidy of 8s. 4d. per mile is given to the Norddeutscher-Lloyd line.

Senator STYLES.—But there is a bigger question behind all this, and one of very much more importance to my mind as a Britisher, and I am as English as they are made I hope. That is the danger of our vessels becoming manned by coloured crews or aliens of any kind.

Senator BARRETT.—As they are in Great Britain.

Senator STYLES.—That is at the bottom of the whole of this question. The Mercantile Marine of the United Kingdom has, in times gone by, been the recruiting ground for the British Navy. That is

where the men came from who did the "deeds that won the Empire." We are, of course, told by the jubilant free-trader that the oversea trade of the United Kingdom is expanding. So it is, largely expanding every day. They say to us—"Look at our enormous mercantile fleet," and when we look at it, we find that 70 per cent. are "boys of the bull-dog breed," and the other 30 per cent. are coloured men or white aliens.

Senator PEARCE.—The black-and-tan terrier breed.

Senator STYLES.—For the fifteen years ended 1900 it was shown by returns laid before the British Parliament that there were 43,000 seamen added to the mercantile navy of the United Kingdom. Of these 19,000 were coloured men, and 12,000 were white foreign aliens, so that 31,000 out of the 43,000 sons of the sea were not British-born at all, and only 12,000, or about 28 per cent., of the increase in fifteen years to the mercantile navy of the United Kingdom were "boys of the bull-dog breed" coming from the country from which we hail, and the rest were aliens. That is the most serious aspect of the matter, and it is very much more serious than the employment of one or two aliens in half-a-dozen ships, and anything which this Parliament, or anybody, can do to stem that tide should be done, even if it involves loss. When you find a paper laid before the Imperial Parliament only two years ago, showing that out of 43,000 additional hands in fifteen years there were 31,000 aliens, it is about time to think over the matter, and to take every possible step to prevent the spread of this thing.

Senator DE LARGIE.—What do the ship-owners care? They will sell their souls for money.

Senator STYLES.—Like most other persons, ship-owners desire to make as much money as they can. I do not know that my honorable friends in the labour corner care about money, but I must say that I should like to make much money. I do not know, however, that I should care to employ these darkies. We are told, as we were told to-day by Senator Pulsford, to give the grand old mother country a show. So far as I can see, the ship-owners in the old country are giving the grand old foreigner and the grand old darkie all the show.

Senator Lt.-Col. GOULD.—How is the honorable senator going to assist to get rid of these foreigners?

Senator STYLES.—What I favour is the exclusion of coloured men from the two lines of mail boats that we subsidize at the rate of £36,000 a year each. When we pay such a large subsidy as £72,000 a year to the two companies we ought to have a voice in the determination of a matter which affects not merely Australia but the Empire.

Senator Lt.-Col. GOULD.—And even that subsidy does not enable them to pay their way.

Senator STYLES.—If we did not give them the subsidy, in my opinion, they would still come here. We do not subsidize the German or French lines.

Senator Lt.-Col. GOULD.—The German line is subsidized to the amount of 8s. 4d. per mile, and the French to the amount of 6s. 8d. per mile, as against a subsidy of 2s. 7d. per mile to the British lines.

Senator STYLES.—Let Great Britain subsidize her steam-ships, and send them here. Let her follow the good example set by Germany and France, and serve Germans and French as her own people are served in France. No British ship is allowed to coast from port to port in France; the coasting trade is all done by French-owned vessels. Let us hear what my friend Captain Creswell says—

The great want of every previous naval war has been men to man our ships. Wholesale impressment can no longer be enforced to make up the number. . . . There is at the present time a shortage of some thousands of officers and men necessary to raise the fleet to actual war strength, even allowing for a response by 75 per cent. of the Naval Reserve—a liberal allowance.

That statement, not written with that intention, contains a caution against our doing the very thing which my honorable friends opposite wish us to do—that is, to man the boats with coloured labour. I am sorry that the leader of the Opposition is not present, as I have something to say about him. I desire to show the inconsistencies of that honorable and learned senator who is in favour, not merely of a white Australia, but of a British Australia; who would exclude white foreigners if he could, and who is yet in favour of employing coloured labour on the mail boats. It is a little inconsistent, I think.

Senator Lt.-Col. GOULD.—“British ships,” I think, was the phrase he used.

Senator STYLES.—This is what Senator Symon said the other day when he was speaking on this very question.

I am not going to stigmatize it in any way, but I hope it will be repealed. I am dealing with the difficulties created by this extraordinary and absurd—I was going to say disloyal, but I hardly like to use that term—I will say “imprudent” provision introduced into the Postal Act.

I am now going to quote from what I am sure some of my honorable friends would think was from a speech delivered by a labour member, but it is from a speech delivered by Senator Symon in the Senate in November 1901, in which he advocated not a white Australia, but a British Australia, so that he would exclude even white foreigners.

Senator DE LARGIE.—Was he electioneering?

Senator STYLES.—No; that charge is only made against the members of the Government by the free-trade party when they have nothing else to talk about. This is what he said—

We are nearly all of us agreed that Australia is peculiarly fitted to be the home of the British race. Speaking generally, we are agreed that if it is possible we should make Australia the resort and home of ourselves, of our children, and of all of the same blood who choose to come here, especially I would say of all of the same blood.

That statement was made by an honorable and learned senator who would not support the exclusion of the coloured men from the mail boats, but would exclude Germans and Frenchmen from Australia. My honorable friends in the labour corner do not go so far as he does, I am sure. He further said—

I am, and always have been, an advocate of keeping Australia—I would not limit it to Australians only—for those of British blood so far as we possibly can.

He does not say anything about British subjects there, but men of British blood like ourselves. It will be recollected that in 1896 a conference of the political and permanent heads of the six colonies of Australia and of New Zealand was held in Sydney, and from their report I propose to read an extract to show that the Government were quite warranted in taking up the attitude which they have done, and in inserting the provision excluding coloured aliens in the Post and Telegraph Act. It reads as follows:—

“This conference, having considered the reply of the London office to the stipulation of the Hobart conference with regard to the manning of the mail boats by white instead of coloured labour, recognises fully the force of the reason given by

the Imperial Government against insisting on the exclusion of coloured labour, viz., the necessity of discriminating between various classes of British subjects; but, in reply, would respectfully point out that by some steamship companies the labour of the contributing colonies is excluded from employment, and an invidious preference given to the labour of countries which do not contribute to the maintenance of the service. No injustice would thus be done by the stipulation that the labour of the countries subsidizing the service only should be employed. And, therefore, this conference is of opinion that the mails to and from Australia and Great Britain should be carried by ships manned with white crews only.

That resolution was telegraphed to London; a reply came back from the Postmaster-General, and then the president of the conference sent this telegram to London—

Much regret you decline to do anything re coloured labour. We are not in a position to call for tenders on our own account, and are therefore compelled to accede to your proposal.

This pronouncement on behalf of all the colonies should be listened to, especially as it was made so long back as 1896. I propose now to say a few words on a subject which will interest Senators Pearce, De Lurgie, and Staniforth Smith. It may be called the alleged "transcontinental" railway. It is not a transcontinental railway; it is only a railway from Kalgoorlie to Port Augusta. Before the colonies federated, Sir John Forrest gave the estimate of the cost of construction as £2,500,000; a few months later he raised the amount to £3,000,000; it is now stated at £5,000,000, and, no doubt, in a year or two it will be given as £6,000,000 or £7,000,000. At the present time the estimate is £5,000,000 if water can be found, and £6,200,000 if it cannot be found.

Senator PEARCE.—£5,200,000.

Senator STYLES.—I think that my honorable friend will find that my statement is correct when he refers to the report from which he quoted the other night. He then put the case for the construction of this railway very nicely and mildly, and did not ask us to commit ourselves to anything until a trial survey had been made. The first step which the Government should have taken before a shilling was spent, if they were going to do anything in this matter, was to get the legislative consent of South Australia. The Minister for Home Affairs has had a number of gentlemen traversing a part of the route, and he proposes to have a survey made. How does he know that South Australia

will agree to a survey being made? If I recollect aright, the Commonwealth cannot construct, or make a yard of railway in any State without the consent of that State given in the shape of an Act of Parliament.

Senator STANIFORTH SMITH.—South Australia may wish to know what the cost will be before she gives her consent.

Senator STYLES.—Then let South Australia ascertain the cost. I object to any money being spent on this scheme, although I may be called unfederal, unpatriotic, and narrow-minded. We are told that this railway will serve a national purpose; that is the ground on which we are asked to assent to its construction. Senator Pearce told us that if it is built, the English mails will reach Melbourne two days sooner than they now do. If the project comes before the Senate at a later stage, and the details are gone into, I shall show that it cannot possibly be so. Are we to spend several million pounds of the taxpayers' money merely to land the English mails here two days sooner than at present? Surely that is no great reason to justify this expenditure. I heard an honorable senator—I think it was Senator O'Keefe—interject that the railway would be a first-rate thing in case of war. Of what assistance would it be then? Senator Pearce has said that in Western Australia there are 62,000 men between the ages of 21 and 45 years. He will find, if he refers to the returns, that there are 70,000 men in that State between the ages of 20 and 50 years—men who could do some fighting for their country as citizen soldiers—and by the time this railway was built, there would be 100,000 men between those ages, supposing that its construction were begun to-morrow. Surely if 50,000 men were available they could repel any land force likely to be landed in Western Australia, especially when we remember that 70,000 or 80,000 Boers kept 200,000 Britishers at bay, so to speak, for two years, and the attacking troops had only half the distance to travel.

Senator PEARCE.—We shall not have an ammunition factory in each State.

Senator STYLES.—That is quite true, but I suppose that a supply of ammunition will be provided. An enemy's vessel would have to bring her ammunition; she would not manufacture her own supply, and we should provide our own supply. It is quite clear to me that this line is not required for

defence purposes, so far as a land force is concerned. It could not be used, I think, in the case of the bombardment of Fremantle. It would be of no service in that respect. You could not take guns and put them into the forts when the action began. It would not be a bit of good to Western Australia. She would be able to defend herself against any land force. The true defence for that State is good batteries, with good guns in them.

Senator PEARCE.—Does the honorable senator put his opinion against that of military experts?

Senator STYLES.—No, I am only expressing my opinion as a layman. But that is how the matter affects my mind, and I happen to have a vote in this Senate.

Senator PEARCE.—The military experts say the railway will be of value.

Senator STYLES.—I shall read what they say with a great deal of interest, but it seems to me that the only point that they have put forth up to the present is with reference to a naval attack, and a railway would not assist in meeting that. I shall be told that I am very unfederal in opposing the construction of the railway. But I am going to show that it is the men who support the line who are really unfederal. Who gave us the overland telegraph line? South Australia, with only 200,000 people, showed the way. South Australia now has 580 miles of railway north of Port Augusta, paid for out of her own pocket. She has altogether 840 miles of railway from Adelaide in the direction of Port Augusta paid for out of her own pocket.

Senator PEARCE.—The honorable senator means owed for.

Senator STANFORTH SMITH.—Paid for out of the Britisher's pocket.

Senator STYLES.—Of course, paid for out of borrowed money, as this Western Australian railway will be if it is built at all. No matter when it is built, it will be paid for out of borrowed money. I am only pointing out how unfair it would be to do damage to South Australia. She is at present building a harbor at a cost of half a million of money to accommodate ships that come to her shores. This expenditure has been incurred—millions of money over the railway, and another half-million for shipping accommodation—and the whole of it is to be thrown aside for the sake of this so-called transcontinental line. Then we are going to add insult to

injury by asking South Australia—if the line is to be paid for on a population basis—to pay nearly £500,000 to ruin herself.

Senator PEARCE.—Oh!

Senator STYLES.—That would be her share on a population basis, for she has about one-tenth of the total population. She is to be asked to pay £500,000 for a railway that will postpone the completion of her own north and south transcontinental railway indefinitely. If the railway now running to Oodnadatta was completed to Port Darwin, it would be possible to run a train from Adelaide to Port Darwin, so as to bring the English mails to the Eastern States in about eight or ten days less time than is now the case. We could connect Port Darwin with the trans-Siberian railway by steam-ships, and We could then save quite eight or ten days in our European mail service.

Senator DE LARGIE.—Does the honorable senator think that Western Australia should build the line herself and still keep so large a proportion of Victoria's population as she does now?

Senator STYLES.—My honorable friend, Senator Smith, told the people in the North-eastern district of Victoria, some time ago, that four out of every six men in Western Australia were Victorians. According to that statement Western Australia is merely a dependency of Victoria. What would become of Western Australia if you took the Victorians away? There would be no Western Australia left—no one to fight for.

Senator DE LARGIE.—Our State is Victoria's milch cow.

Senator STYLES.—I thought when I heard that statement, that the honorable senator had made a good point in favour of Victoria.

Senator BARRETT.—Victorians are making Western Australia.

Senator STYLES.—There is another matter—that of the federal capital. I do not think I should have said anything about it, except that I interjected while Senator Millen was speaking on the subject. I only wish to explain that the Commonwealth Bill of 1898, framed by the Convention, was rejected by New South Wales; then another Bill was framed by the Premiers of the six States, who had no mandate from the people, and no mandate from their respective Parliaments.

Senator MCGREGOR.—But the people condoned their offence.

Senator STYLES.—The Bill was placed before the people of Australia, and it was accepted by them. The people had to accept the whole of it or none. I suppose that the great bulk of the people preferred to accept it, even with that blot upon it—and it was a blot. This Parliament should have been allowed to decide where the capital was to be. But it is in the bargain that the capital shall be in New South Wales, and no one wants to get off from that bargain so far as I am aware. All I have to urge is that it shall remain in abeyance until such time as we have a greater population, so that there may be more people to bear the money loss which will be entailed in building this bush capital. Senator Pulsford this afternoon cried aloud about the grain duties, which, he said, had imposed taxation of about £500,000 upon the people for one year. Suppose it is true that those duties increased the price of grain to the consumer by £500,000 for one year. Senator Pulsford is in favour of the erection of the federal capital, which would compel the spending of £500,000 every year for many years—and this for the erection of a town which is not required. Five hundred thousand pounds, according to Senator Pulsford, is too much to be paid upon grain in one year, although the money goes into the Treasury; but £500,000 per annum is not too much to spend upon a capital that is not required at all! Last session many of my honorable friends opposite and myself were at one in refusing to sanction the expenditure of borrowed money on additions to post and telegraph offices throughout the Commonwealth. That resolution was a good one.

Senator STANFORTH SMITH.—But this is a great national work.

Senator STYLES.—It would be a great national blunder. The capital is not required for legislative, administrative, industrial, or defence purposes, and I hope to goodness that Parliament will not go any further than talk about it. It is in the Constitution that the capital shall be in New South Wales. That is a bargain. But there is something else in the Constitution—that the seat of government shall in the meanwhile be in Melbourne. It is only a question as to how long. What is a fair and reasonable thing, seeing that the people of Victoria have spent £50,000 upon a new Parliament House, handing over this building to the Federal Parliament; that they have

leased a new residence for the State Governor and handed over the large mansion on St. Kilda-road to the Governor-General; and that they have incurred lots of other expenses? Surely every fair-minded man will say that we should not “up stick and away” directly after Victoria has done all this. We have been told that New South Wales came into the Federation on account of this provision in the Constitution. I do not think so poorly of the people of that State as to believe that a matter like that would have brought them in. What induced them more than anything else to enter into the Federation was the prospect of Inter-State free-trade, which was something worth trying for. It was not for the sake of a few buildings being stuck somewhere in the back blocks that they came in. As a matter of fact, their own Premier is opposed to the building of the federal capital. He has spoken out and said—“I prefer that, as a matter of course, the capital should be in Sydney, but, failing that, it should be in Melbourne.” I understand that kind of talk. Sir John See has spoken like a shrewd, level-headed, business man. He would prefer to see the capital site question remain unsettled rather than spend some millions of money in the backblocks of New South Wales on works that are not required, and which will be a burden on the people for all time, whilst not increasing the wealth of Australia by a single pound, nor adding to the population of the Commonwealth by a single person. If the capital is erected it will simply be filled with people who will leave other parts of the Commonwealth to go and live there. They may as well remain in the States where they live at present as go there to make new homes.

Senator DE LARGIE.—Is the honorable senator going back on the promises he made at Bombala and elsewhere?

Senator STYLES.—I was not there. I had more discretion than to go trotting round there when it was raining hard. When I was at Orange I asked some people how much they thought we should have to pay if the capital were fixed at that place. One man to whom I spoke said, “Oh, not much!” I said “What do you call ‘much’?” He said, “Oh, £3,000,000!”—You can buy the whole town and enough land for the capital for about £3,000,000.”

Senator DRAKE.—Did you not say the capital was going to be in the bush?

Senator STYLES.—Yes ; and Orange is in the bush. It is about 200 miles from Sydney. If I remember rightly it is a bush town. I am aware that there are some honorable senators who do not know what the word "bush" means. It is called "in the country" nowadays. It used to be called "in the bush" when I was a boy. I have to refer to one other item, and then I have done. I allude to the proposed establishment of the High Court. I know no more about the subject than any other honorable senator knows, but my opinion is that the High Court is not required, because we are over-judged now. Victoria has six Supreme Court Judges. Sir Hartley Williams is about to retire on his pension, and the Government are not going to replace him. It is found that Victoria does not require six Judges. I doubt whether she wants five. We are very much over-judged, and it seems to me as a layman that the Supreme Courts of Australia could furnish a Bench when required at any time. All that has to be done is to give these men some little consideration for their extra work and to let them decide any question that arises, giving them the full powers of the Federal High Court. That would be a sensible thing to do. I am sorry that I shall have to oppose the Government in so many of these little matters. Of course we know that we who oppose them in the Senate cannot turn them out. We may damage them a little, but we cannot displace them. I certainly have no desire to displace the Barton Government. But, at the same time, I am not going slavishly to follow the Barton, or any other Government, in every detail.

Senator PEARCE.—But the honorable senator is going to knock out nearly all their policy?

Senator STYLES.—I have only dealt with three or four of the smaller items. The High Court is one that will entail an outlay of £30,000 or £40,000 a year.

Senator Sir WILLIAM ZEAL.—More like £60,000.

Senator STYLES.—If it is not required 60s. would be too much. If it is required let us pay the men well and properly.

Senator PEARCE.—What will it cost if we pay the State Judges to do the work?

Senator STYLES.—We might have to distribute two or three thousand pounds a year amongst them for hearing half-a-dozen cases?

It is a singular thing how unanimous the lawyers are in this matter. I should be sorry to insinuate that they are so eager because they see the prospect of more work to do ; but they seem to have a weakness in the direction of the manufacture of more courts. They say that there may be a dispute at any time between two States. Well, there has been a difference of opinion between South Australia and Victoria ever since I can recollect about a slip of country about 2 miles wide on the border between the two States. But there has been no quarrel about it.

Senator STANFORTH SMITH.—But they had no jurisdiction in each other's territory.

Senator STYLES.—There was such a thing as an appeal to the Privy Council if they had desired to appeal to it, but they have not done so. Those who have had the destinies of Victoria, South Australia, and New South Wales in their keeping for a generation, have never come to any serious disagreement about these matters, and I do not think that anything more serious is likely to arise between the people of the different States. They have all sprung from the British race, which is noted for its level-headedness. Napoleon described the British as a nation of shopkeepers, because they always look to see which side will pay best. There is no magnificent sentimentality about them, although, of course, there may be a little when they are on the stump at election time. I hope that the Government will not feel alarmed when I say that I am going to vote against all the measures that I have named. My vote will not do them very much damage, but I am not quite sure that they will get some of these matters through.

Senator STANFORTH SMITH (Western Australia).—During the debate on the address in reply, there has been a great deal of discussion with regard to the administration of Acts passed last session. It is not my intention to touch on any of those matters. I think that they have been very well discussed, and that the discussion has to a certain extent obscured some of the very important matters which we are asked to legislate upon during the present session. I think that some of the subjects are of such magnitude, and will be so far reaching in their effect, that even in the debate on the address in reply very considerable discussion is required in order that we may form opinions and arrive at a decision in regard

to them. The measures that we shall have to deal with this session are so numerous, and so important, that I am certain it will be quite impossible for us to do adequate justice to all of them during the five months at our disposal. Instead of endeavouring to make amends for their failure to call Parliament together at an earlier date, the Government are accentuating the difficulties under which we labour, by asking us to sit only two and a-half days a week. They ask us to meet practically for only eighteen or nineteen hours a week, although many of the important measures we are promised are of a very urgent nature.

Senator DRAKE.—That is for the commencement of the session.

Senator STANFORTH SMITH.—It is just as necessary that we should sit four days a week at the commencement of the session as that we should do so towards the close of the session. If all the measures outlined in the Governor-General's speech are to be legislated upon, there is danger of an endeavour being made to rush them through at the end of the session. Measures of such importance should not in any circumstances be rushed through. I can see no reason why such important measures as the Defence Bill and the Judiciary Bill should not be introduced right away. If the Defence Bill were introduced here, as it could be, and the Judiciary Bill introduced in another place, both could be discussed and dealt with without delay. Instead of that the Government propose that the Senate shall sit for two days and a half each week discussing trivial matters such as the standing orders and a Patents Bill, and practically marking time while waiting for another place. Why have we to wait for another place to deal with these measures? Simply because of the personal feeling of certain Ministers who desire to introduce their own Bills. The Senate is to be placed in a false position, and the whole business of the Commonwealth is to be delayed and interrupted because certain Ministers, from personal feelings, wish to introduce their own measures. I notice that two measures to which prominence was given last session, are not mentioned in any way in the Governor-General's speech. We had a committee appointed last session to report on the question of decimal coinage. That Committee held a great many sittings,

called a number of witnesses and furnished a very voluminous and excellent report. The Government, however, have evidently dropped the whole matter and do not intend to deal with it in any way this session.

Senator DRAKE.—Does the honorable senator wish us to deal this session with that matter as well as with all the other Bills mentioned in the Governor-General's speech?

Senator STANFORTH SMITH.—I was going to say that we should at the earliest opportunity substitute a decimal system of coinage for the archaic and obsolete methods at present in use. We shall not have sufficient time to discuss such a question this session; but I hope that the Government, if they happen to be in office next session—which is hardly probable—will bring in a measure to deal with it. Another matter to which no reference is made in the Governor-General's speech, is the question of old-age pensions. I believe that more than half of the members elected to this Parliament pledged themselves when on the hustings to support that necessary provision. They waxed very eloquent on the sufferings of aged people who had borne the heat and burden of the day, and who, when they had reached old-age, were left to penury and starvation. They gained much applause, and no doubt not a few votes, in consequence of their utterances on this question, but now the Government have dropped it. There is no mention of it in the Governor-General's speech, and honorable senators generally by a tacit accord have agreed not to mention the matter at all. We are told now that the cost of maintaining a system of old-age pensions would be so enormous that it is impossible to introduce a measure providing for it during the period covered by the "Braddon blot."

Senator DRAKE.—Who is the honorable senator referring to?

Senator STANFORTH SMITH.—Not to the Government's utterances, because they veil them in such a way that they commit themselves to absolutely nothing if they can help it. But there can be no doubt that the Government have dropped the proposal for an Old-age Pensions Bill.

Senator DRAKE.—In the first Governor-General's speech that matter was made subject to the financial condition of the Commonwealth.

Senator STANFORTH SMITH.—The "Braddon blot," as it is called, is the excuse

now put forward by the Government for shelving this matter. It is an excuse which they use to shield themselves from many attacks for sins of omission and commission. It is given as a reason for many broken promises on the part of the Government, and, in fact, it seems to me to be a very great source of comfort to them. It is like the little boy's definition of a lie—"a very present help in time of trouble." We are told that during the operation of the Braddon section it would be impossible to bring in a measure providing for old-age pensions—which would probably cost £1,000,000—because it would be necessary to raise £4,000,000 in order to make the requisite provision. But I would ask honorable senators to consider seriously whether that would be necessary. Last year, in addition to the three-fourths of the revenue which the Braddon section insists shall be returned to the various States, we handed over a surplus of £800,000.

Senator DRAKE.—I think the honorable senator wished, the other day, to use that surplus for post-offices.

Senator STANFORTH SMITH.—If the Government are not going to use it for this work it might as well be put to some other useful purpose. It is estimated that the surplus for the present financial year will amount to £1,200,000—that that sum will be handed back to the States over and above what they are entitled to receive under the Braddon section.

Senator DRAKE.—And they want it.

Senator PULSFORD.—They are entitled to the whole.

Senator STANFORTH SMITH.—It is not necessary that we should raise an additional £4,000,000 per annum in order to provide for old-age pensions. It is quite possible to institute a scheme and to pay for it without any additional taxation. The reply, of course, is that to do so would be to starve the revenue of the various States, and perhaps to leave some of them in an unfinancial position. I do not believe in money being raised through the Customs, except on articles of luxury and ostentation, and such things as spirits and narcotics; but, in my desire to redeem my promises on the hustings, I should be willing to vote for a duty on tea and kerosene imposed for the specific purpose of providing for old-age pensions. That would bring in £500,000 a year. I have already said that it is estimated that we shall have a surplus of

£1,200,000 for the present year, and that could be utilized.

Senator DE LARGIE.—Would not direct taxation be better?

Senator STANFORTH SMITH.—Both the Prime Minister and the leader of the Opposition have said that they are opposed to direct taxation, and, therefore, it is not now within the range of practical discussion. The cost of establishing a federal system of old-age pensions is estimated at £1,000,000, but it must be borne in mind that the people of New South Wales and Victoria have recognised their responsibilities and have instituted schemes of their own. They constitute two-thirds of the people of Australia, and thus the extra cost to Australia of an old-age pension scheme would be one-third of the total sum, or about £330,000. If honorable members of this Parliament are going to redeem the pledges which they made on the hustings, they should endeavour to institute this scheme which the majority of them promised.

Senator DRAKE.—We did not promise it, although the honorable senator may have done so.

Senator STANFORTH SMITH.—The majority of honorable members of both Houses pledged themselves to it.

Senator PEARCE.—My suggestion for a Government tobacco monopoly would provide the requisite funds.

Senator STANFORTH SMITH.—There are many means of providing the money if the Government were desirous of initiating the system. There are two measures outlined in the Governor-General's speech which are of special importance, because they not only affect the Commonwealth, but are of Imperial concern. I refer to the Naval Defence Bill and to a measure relating to preferential duties. These measures are of immense importance, because they practically essay to lay the foundation of an Imperial or Pan-Britannic Kriegsverein and an Imperial Zollverein. They demand very wide and very careful consideration. Proposals in regard to preferential trade, however, are not likely to be discussed this session, and therefore they warrant nothing more than passing comment. At the present time the British Ministers are undoubtedly coquetting with protection. I think that Great Britain would make a fatal mistake if she abandoned the policy which has been the chief factor in her magnificent expansion, and ever increasing wealth and power, and

I sincerely hope that Australia, at the next election, will return a Parliament pledged to a revenue Tariff which is the stepping stone to a proper free-trade policy. In the event of Great Britain declaring herself in favour of preferential trade with the colonies, and in the event of Australia deciding to continue a protectionist policy, it would be well worth considering, as a choice of two evils, whether it would not be in the interests of the people of Australia to fix lower duties in respect of British goods than those relating to foreign articles in order to obtain a corresponding advantage. In any event the matter is worthy of consideration. I sincerely hope that Australia will return to free-trade, and that Great Britain will not alter the course that has so greatly enhanced her prosperity. With regard to the naval subsidy, I am convinced that if the present proposals of the Government are carried out, they are bound to prove unsatisfactory, and can only be of a tentative character. They are opposed certainly to the desires and intentions of the people of Australia. The people of Australia do not wish to be dragged into the vortex of militarism, nor to pay large sums of money for other people to protect us. They do not desire to hand over considerable sums of money to be spent by a Parliament, over which they have no control. We have in Australia an army for local defence which I think is efficient, and which has acquitted itself well in other parts of the world. Is there any reason why we should not have a fleet of our own for local defence? The people of Australia will never take any real interest in naval affairs until they have a navy of their own, manned by Australians. The only way in which Australians can be induced to take an interest in naval matters is to have a fleet of their own manned by Australian people, and that is what we should do if we desire to follow in the footsteps of Great Britain in connexion with our naval policy. We have for ten years past been paying a subsidy aggregating over £1,000,000 sterling, and, so far, we have not had a single Australian trained in the fleet. It is impossible for us not to recognise the tremendous advantage which Australia possesses in being under the ægis of the British Navy. It is the most powerful navy in the world, and it is a very great advantage to Australia to have its protection;

Senator Staniforth Smith.

but it will be time enough for us to of contributing to that navy when Great Britain allows us, and Australia decide to accept, a voice in its control. In the meantime, it is better for us to establish a navy of our own for local defence, which will save us from the incursions of hostile cruisers which might do an immense amount of injury. In Canada, Sir Wilfred Laurier, a very able and patriotic statesman, has said that it would be impossible for the Canadian people to contribute sums of money to be allocated and spent by the Imperial Parliament, and for other people, to defend their coastal interests. He stated plainly, as I think Sir Edmund Barton should have done, that Canada could not approve of a desire set forth by Mr. Chamberlain, the perusal of the kaleidoscopic opinions given by naval experts on the subject before me, is bewildering to the mind of a layman. As long as a few years ago the Admiralty was unanimously in favour of an Australian navy—a local fleet. Sir William Jellicoe in 1879 wrote a minute to that effect. Peter Scratchley, who had been sent here to report upon the defences of Australia, wrote to the same effect in 1881. In 1885 the British Admiralty instructed Admiral Tryon to put forward a proposition on their behalf that the Australian colonies should purchase a fleet of their own in order to provide sufficient protection for the large floating trade on Australian waters. It was thus announced on behalf of the British Admiralty in 1885, that it was necessary in the interests of Australia and of the Empire, that Australia should purchase and own a fleet. Admiral Tryon advocated a naval sea-going force localized to the Australian seas, a force additional to that of the personnel and materiel of the fleet of the Empire provided for by the Parliament in London. Sir Henry Holland, speaking of the clause of the agreement in which it was provided that the squadrons should always remain in Australian waters, said—

The Imperial Government has now given its undertaking, and we consider that the knowledge of this fact—

that is, that the fleet must remain in Australian waters—

will distinctly reduce the risks of attempted aggression in Australian waters.

Instead of purchasing a fleet the colonies' Premiers agreed to an annual payment

5 per cent. on the cost of the squadron, and in 1887 an agreement was come to on those lines. The squadron was to consist of five vessels of the *Archer* type, and two torpedo boats. That is the agreement which is still in force. It was suggested by the British Admiralty and laid before the colonial Premiers by Admiral Tryon, and will remain in force until 1905. Now we are told by naval authorities and by voluminous press writers that the very scheme instituted by the British Admiralty means "a short-sighted craze for local defence," and "a foolish doctrine."

Senator PLAYFORD.—And the ships are now obsolete.

Senator STANIFORTH SMITH.—The bargain that we made with the British was not carried out. Guns of the calibre for which we stipulated were not put into the vessels. The whole agreement has been a very lop-sided one, and it has not been a good one from an Australian point of view, because the vessels are not effective against modern armed cruisers of great speed with very heavy guns.

Senator DRAKE.—That would always happen.

Senator STANIFORTH SMITH.—The fleet for which we are at present contributing a subsidy is admitted to be practically a farce. It is well worth our while to note that whilst all the naval authorities in Great Britain have turned a complete somersault, and now state that it is a foolish absurdity for us to talk of having a navy for Australian defence, they adopt a different principle with regard to Great Britain. They have a Channel squadron, a Home squadron, and they are now instituting a North Sea squadron, whilst they have in addition armed cruisers which are not allowed to go more than 70 miles from the coast in the South of England. Let us suppose that the British Prime Minister, or the naval authorities, sent these fleets in time of war to some foreign place on an aggressive expedition and left the British coast bare, do honorable senators think that any British Ministry who consented to such a thing would last a week? Such a course of action would be abhorrent to the British people. Yet the Admiralty, whilst recognizing the necessity for having a fleet, or several fleets, continually patrolling the shores of Great Britain refer to it as being absolutely unnecessary, foolish, and a "short-sighted craze for local defence" when we

propose the same protection for Australia. How can these statements be reconciled? Fifteen years ago they advocated that we should take steps in the direction of having an Australian fleet, and now they say that that is all wrong, though in the case of Great Britain they still insist upon coastal defence by special fleets, which are not allowed to leave the coast. In 1905 the existing naval agreement will come to an end, and I think it is far better, and far more in the interests of Australia and of the Empire, that the Australian people, if they cannot purchase them, should hire four or five fast armed cruisers from Great Britain. According to Captain Cresswell, such vessels of 2,000 or 3,000 tons, with heavy ordnance, could be got for about £150,000 each.

Senator DRAKE.—That would cost a lot more money.

Senator STANIFORTH SMITH.—The existing agreement does not come to an end till 1905, and it is proposed to increase the subsidy. If the proposal to increase the subsidy were not agreed to, possibly some money might be put by towards the purchase of cruisers.

Senator PLAYFORD.—They would be obsolete in a few years—that is the trouble.

Senator STANIFORTH SMITH.—It seems always to be laid down as an axiom by opponents of an Australian navy, that Australian boats would become obsolete in a few years; whereas everyone knows that the boats of other navies do not become obsolete in fifteen years.

Senator PLAYFORD.—The *Archer* type is obsolete now.

Senator PEARCE.—What about the *Protector*?

Senator PLAYFORD.—She is obsolete now.

Senator STANIFORTH SMITH.—She has been reported upon as being seaworthy and up to date for particular work, and she is I think nineteen years old. If we had four or five swift armed cruisers Australians would take an interest in naval affairs. But under present conditions when they know that they have to hand over a certain amount of money to another Parliament to spend, and have to pay other people to defend them the Australian people do not, and will not take any interest in naval matters. I say that it is in the interests of

Australia and all concerned that the Australian Parliament should adopt a policy which Australians can approve instead of adopting a tentative policy which can only be a source of discord and ill-will.

Senator PLAYFORD.—We shall be getting men trained in the meantime.

Senator STANIFORTH SMITH.—Several honorable senators have spoken with regard to the construction of the transcontinental railway, and those who have spoken against the project have shown such an utter want of grasp of the large principles which underlie that question that it is necessary for me to very shortly state the facts of the case. It is admitted by all people, I think, that Western Australia came into the Federation in the belief that the result of the union would be the construction of the transcontinental line. I would go further than that, and say that that belief was justified. If we had not the actual promise, we had the implied promise of nearly all the leading statesmen of Australia, of those who took part in the various conferences and conventions, that it would be built if we entered the union. We also had the assurance of the leading statesmen of South Australia, some of whom are now the very ones who are the most bitter in their opposition.

Senator MCGREGOR.—Who are they?

Senator STANIFORTH SMITH.—Mr. Solomon is one of them. Writing to Sir John Forrest, Mr. Kingston said—

Replying to your letter of 22nd inst., South Australia has already intimated favour of federal undertaking of railway connecting east and west.

In a further communication he said—

The federal construction of this railway is, in our opinion, entirely the best means of carrying out this great Australian undertaking.

Senator GLASSEY.—Was not that written ten years ago?

Senator STANIFORTH SMITH.—It does not matter if it was written ten years ago or only yesterday; the principles are exactly the same now as they were then. It was written, before the referendum was taken, by the Premier of South Australia to the Premier of Western Australia, and in that letter Mr. Kingston conveyed the opinion to his Cabinet.

Senator BEST.—Does the honorable senator say that Western Australia entered the Federation on the understanding that that project was to be carried out?

Senator STANIFORTH SMITH.—the tacit understanding that it would be done. There was not a leader or any else in Australia who said one word against the project, although it was largely discussed before the federal referendum was taken.

Senator HIGGS.—If that is so, the people of Western Australia are a most sensible people, because they have a free Tariff of their own.

Senator STANIFORTH SMITH.—The Tariff was made, not by Western Australia but by Sir John Forrest, a member of the Commonwealth Government.

Senator BEST.—But still that was only term of the bargain.

Senator STANIFORTH SMITH.—That was this implied contract—that the transcontinental railway would be built. Continuing Mr. Kingston, in his letter to Sir John Forrest, said—

We hope it will not be long before Western Australia and South Australia are co-operating in the Parliament of the Commonwealth to look into this about.

When Mr. Holder was Premier of South Australia he gave a promise to the same effect. If there had been any doubt in the minds of the people of Western Australia that this railway would be built, a different vote would have been given, that is recognised by the Commonwealth Government. What do they say in Sir John Forrest's speech which was addressed to this Parliament?

Isolation was the chief obstacle to the adoption of the Federal Constitution by Western Australia, until the hope of closer connexion influenced the people of the West to risk the threatened perils of the threatened political union of the continent, which their vote at the referendum did much to complete.

There is an admission that we entered the Federation in the hope that that project would be carried out. If we want a federation—a federation in spirit as well as in act—I ask honorable senators, is it possible to consummate that federation when we have a portion of the people of Australia living on the eastern littoral, and a portion of them living on the western littoral, divided by thousands of miles of uninhabited country? At the present time it is just as difficult for us to get to the eastern States as it is for us to get to India or for the people of the eastern States to get to New Zealand.

Senator GLASSEY.—Does the honorable senator favour the floating of a loan of £5,000,000 to build that line?

Senator STANIFORTH SMITH. — I favour the construction of the line at whatever cost. Some persons aver that the ground dividing the west from the east is sandy waste desert, but it is nothing of the sort. They ask, Why is not the country inhabited? When you have 3,000,000 or 4,000,000 persons in a continent nearly the size of Europe, you cannot inhabit all the land, although a great deal of it is very good land.

Senator BEST. — Is not the real question whether it is fit for habitation?

Senator STANIFORTH SMITH. — I shall endeavour to satisfy my critical friend even on that point. If we want a closer union, a truer federation, we must have that railway communication. There is too great a separation between the people of the east and the people of the west for them to generate that federal sentiment which should permeate us if we are to become a great nation. We want to increase the community of interest; we want to facilitate trade and commerce, and draw the people more closely together so that we may feel that oneness which should be felt under a federal system. If we desire to make the Federation a success we ought to look at all these matters, not from a parochial stand-point, not from the stand-point of the various States, but from an Australian stand-point. I have heard speeches in the Senate, and read the reports of speeches in the other House, the authors of which have undoubtedly shown a parochial feeling, not on this question only, but on many other questions, and I as a federalist have regretted it exceedingly. When a measure has been under discussion I could tell before certain members rose what their views were; because it did not suit the State which they represented. There is too much of that feeling exhibited in the Senate and also in the other House, and if it is to be continued then the Federation will not be the success which we hope and desire it shall be. Now, we have the selection of the federal capital site to consider. The federal capital will be of no benefit to Western Australia. The selection of a site will have to be made, I hope, this session. The Constitution says that the capital shall ultimately be in New South Wales, but it also says that for the present it shall be in Melbourne. The intention

and the spirit of the Constitution is that we should use reasonable haste in selecting the site in New South Wales, but the Act does not insist upon our going there for the next one hundred years. Many honorable senators who have spoken have said—for instance, Senator Styles, who preceded me, said—“There is no hurry for us to go there. The Act does not force us to go. Let us stay in Melbourne for the present.” The spirit of the Act, and the spirit of the federal contract, is that we should go to New South Wales with all reasonable haste—at any rate within a few years from the present time. That was the intention of the Constitution which many honorable senators have endeavoured to flout. Although it would suit me better to stay in Melbourne, I intend to vote for the selection of the site, and I hope that it will be made this session. Again, take the question of the bounty on sugar grown with white labour. The question is asked by the Ministry—Are the people of Australia willing to contribute *per capita* in order to pay the rebate on sugar grown with white labour? Senator Symon said that if this is done, this bounty of a few thousand pounds will injure the federal feeling in South Australia. It will be an expense to Western Australia as well as to South Australia to substitute the bounty system for the present system, but I am prepared to say, on behalf of the people of Western Australia, that we are quite willing to bear our share of the burden imposed upon us as the result of obtaining a “White Australia” policy. We have said to the people of Queensland—“You shall not have coloured labour.” We have increased their cost of sugar production; and as a compensation we have voted for a duty on sugar, and we have allowed them a rebate of £2 if their sugar is grown with white labour. We do not want a “white” Australia only so long as it does not cost us anything, but we are quite willing to bear our share of any burden which is imposed upon us in order to attain that great end. There is, too, the question of communication with Tasmania. If the representatives of that State can show us that it is necessary in the federal interests, at a reasonable price, to improve that communication, I shall be perfectly willing to vote with them, because I recognise that we must look at these matters from an Australian point of view. Many honorable senators, not consciously, but

unconsciously, are adopting a very parochial spirit in discussing these great questions which concern the interests of the Federation, and which should serve to draw people together in a true federal spirit. Let us look at the question of the transcontinental railway from another aspect. We are going to discuss at great length this session, our military and naval defences. This line is one of the most important factors in the defence of Australia. It forms a portion of the defence scheme which was the origin and basis, I believe, of the federal compact. Reporting in 1889 on the military forces and defences of Australia, Major-General Edwards said :—

No general defence of Australia can be undertaken unless distant parts are connected with the more populous colonies in the south and east of the continent. . . . If an enemy were established in Western Australia you would be powerless to act against him. . . . The interests of the whole continent therefore demand that railways to connect Western Australia with other colonies should be made as soon as possible. . . . If an enemy were established in either Western Australia or Port Darwin you would be powerless to act against him. Their isolation is therefore a menace to the rest of Australia.

In his report on the defences of Australia Major-General Sir Bevan Edwards said—

It is hoped that the contemplated extension of the railway communication between South Australia and Western Australia may be accomplished at an early date, as without such extension Western Australia is always liable to isolation in time of war.

These are the opinions of competent military men who have been reporting on the defence of Australia, and they both state that it is absolutely necessary in the interests of defence that the States should be connected by railway communication. We are talking of spending £200,000 a year on the navy and about £600,000 a year on the military defences ; and surely it is just as well to consider that point of view as one factor in the necessity for constructing the line. We have heard a great deal about the sterility of the country through which this line will pass from people who have never been over it, who know nothing about it, and who have not taken the trouble to read the reports of the experts. Honorable senators who have spoken against this scheme have been, I cannot say eloquent, but at any rate voluble, when they have come to the question of the sterility of the route. They speak of sandy wastes, of

Senator Staniforth Smith.

desert country, of the awful work of constructing the line through such a fearful, treeless, waterless waste as that part of Western Australia is. They seem to be especially voluble when speaking about something about which they do not know much. They are somewhat like Mark Twain, who once said that if he had to deliver a lecture, and was allowed to choose his own subject, he would choose astronomy, because he knew nothing about it, and there was more room for the exercise of his imagination. We have the report of a member of the Institute of Civil Engineers, Mr. Muir, who has been through Western Australia ; who has been over every inch of the country to be traversed by the line, and has reported fully upon it. He knows what the country is like between Kalgoorlie and Port Augusta which this proposed railway will cross. He says :—

For the first 100 miles from Kalgoorlie we passed through a salmon-gum forest. The timber is good and plentiful, and suitable for mining purposes. It would be impossible for me to approximate the width of this forest, but it certainly cannot be less than 50 miles wide, and, for all I know to the contrary, it may be considerably more.

Then he says—

To the north, near the 31st parallel of latitude, the country is more open. In fact, from the South Australian border for 250 miles in a westerly direction, it is one large open plain of limestone formation, fairly well grassed throughout.

So that from the South Australian border for 250 miles towards Kalgoorlie we have open rolling downs and well grassed country. Then Mr. Muir makes this statement :—

Taken as a whole, this stretch of country is one of the finest I have seen in Australia. With water—which doubtless could be obtained if properly prospected for—it is admirably adapted for grazing purposes, and will, without doubt, be taken up some day from end to end.

Here is a report from a man, who states, unless he is telling a deliberate untruth, that the country is splendid pastoral country, well grassed, and, in fact, some of the best country he has seen in Australia. He tells us that there are some 10,000,000 acres of well-grassed country. There is no surface water, and that has led some people astray. The rainfall is fair, but the ground is of such a loose and friable character that the water sinks right through it.

Senator BEST.—That is only 250 miles out of 1,200.

Senator STANFORTH SMITH.—But in that 250 miles you have practically gone half the distance, so far as concerns the Western Australian portion of the line. More than half of it is in South Australia. Mr. Muir goes on to say—

Apart from the facilities that would be afforded to railway construction, and the maintenance of the railway service when completed, by artesian water being struck on this waterless tract of country, it would be of incalculable profit to the State in another direction. At present there are millions of acres of splendid pastoral land lying idle in this portion of the State, solely because water has not been conserved. Once let it be known that artesian water has been discovered, and what is now nothing better than a waste would be transformed, in a very short space of time, into one of the most important stock-raising centres in our State.

Then he goes on, with regard to the cost of construction—

The construction works for the railway will be very light, and will be, practically, the laying down of a surface line for the whole length between Kalgoorlie and the border.

That is another very important point. With regard to the question of artesian water, Mr. Muir admits that what we require is an artesian supply. He points out that if we had artesian water this country would hold a very large population. Now Mr. Gibbs Maitland, who has been a Government geologist in various States of Australia, and who has the reputation of being a thoroughly sound man, has reported upon this matter, and states that the whole of the ground from the South Australian border to within 100 miles of Kalgoorlie is artesian or sub-artesian in character. I was speaking some time ago to Professor Gregory, of the Melbourne University, who is probably one of the best geologists who ever came to Australia. He has made a special study of the artesian water supplies of Australia, and he told me that there was no doubt in his mind that the whole of the country between the South Australia border and Kalgoorlie was artesian. These two reports are worthy of all the credence we can give to them. We have had boring operations carried on at Madura on the Great Australian Bight by a party who went 60 miles inland, and they struck stock water at a comparatively low depth, and plenty of it. Near the coast on the South Australian side, they have been boring and have found water along the stock route.

Senator GLASSEY.—Suppose you have artesian wells, but no grass—you could not feed the stock.

Senator STANFORTH SMITH.—But we have plenty of grass there, as I have already shown. We have a very fair rainfall, but the water sinks into the ground. There is no surface water. I have read from Mr. Muir's report that for 250 miles he saw some of the finest grass country he ever saw in Australia. We have also the report of the commission appointed by the Federal Government with regard to this scheme, and it is interesting as showing their view of the cost and of the probable revenue. The line *via* Tarcoola would be 1,100 miles long. The first cost of construction, to admit of highest speed, rails 70 lbs. to the yard, gauge 4ft. 8½in., would be £4,305,956. The Eucla branch and wharf—which I do not know are necessary—would cost £165,000. Contingencies at 10 per cent. would come to £447,095; interest during construction, £172,132; total, £5,090,183. We have had three estimates made—one by Mr. O'Connor, Engineer in Chief of Western Australian lines, one from Mr. Muir, and this one which I have just quoted, and which is the highest estimate given. Therefore we shall be right in saying that this sum is, at any rate, the maximum cost. But since then they have gone into the matter more fully, and have inspected various places. They have seen reason to reduce their estimated cost of construction. So that in any calculation which we make, or any consideration which we give to this matter, we can well say that the cost of the line will be under £5,000,000. Now, what about the revenue? They say that the annual revenue will be £205,860; working expenses, and interest at 3½ per cent. would be £292,556, showing a loss at a start of £86,696 a year. That is the cost which we are asking Australia to incur for this federal railway. It is worth it, not only from the federal and military point of view, but also from the commercial aspect. The experts appointed by the Federal Government tell us that the cost at the very inception would be £86,000 a year, a loss less than the amount we are paying as a subsidy to get our European mails a little earlier. But there is an important point which I wish honorable senators to notice. They give an estimate of the revenue in ten years time. They estimate that the revenue then will be £411,720; working expenses,

£210,000; interest, £178,156; total, £388,156, showing a net profit at the end of ten years' time of £23,564 a year.

Senator HIGGS.—That is like Mark Twain's lecture on astronomy!

Senator STANIFORTH SMITH.—My honorable friend would take exception to the Decalogue if he takes exception to the reports of the leading engineers of the various States, who have gone very carefully into these matters.

Senator HIGGS.—Talk of the exercise of the imagination!

Senator STANIFORTH SMITH.—My honorable friend is the best exemplification we can have of that. There will also be a saving of two days in the mail service consequent upon the opening of this line. Then the telegraphic communication will be improved. The report states that the telegraph communication could be rendered more secure at small capital cost by making use of the railway telegraph line. The effect both in South Australia and Western Australia will be the opening up of new tracts of country for mining and pastoral development and the improvement of the revenue on existing lines in South Australia. That is the view of the leading experts of the whole of the States. Then, it is clear that there must be a considerable traffic on this line. When we consider that it will affect a population of a quarter of a million of people on one side of the continent by bringing them into communication with three and a half millions of people on the other side, it is evident that there must be a considerable amount of traffic. It has generally been stated that this line will affect Western Australia principally; but I contend that it will benefit South Australia and the other States far more than it will benefit Western Australia. At the present time the richest gold-field in Australia is Kalgoorlie.

Senator MCGREGOR.—No, Arltunga!

Senator STANIFORTH SMITH.—That is richest in imagination only! If the people of South Australia and the eastern States have direct communication with a place like Kalgoorlie, is not that of commercial advantage to them? What an advantage was it to South Australia to have railway communication to Broken Hill! Would it not also be a benefit to them to have communication with 60,000 people on the gold-fields of Western Australia?

Senator HIGGS.—Western Australia put up a Tariff against the other States.

Senator STANIFORTH SMITH.—That will be all over by the time this railway is constructed. If a gold-field like Kalgoorlie had broken out at Kimberley in the north-west of Western Australia, and situate 1,000 miles from Perth, the Government of that State would not have hesitated to build a line there because it would have been a payable commercial undertaking. And with these 60,000 people within a couple of days' journey from Adelaide, there would be an immense traffic on the trans-continental line. There would be a traffic in live stock and goods apart altogether from the carriage of mails and passengers.

Senator DOBSON.—I think the trading would be mutual, but the line would open up all the honorable senator's beautiful land.

Senator STANIFORTH SMITH.—I am glad that the honorable and learned senator admits that it is beautiful land. Light has gradually penetrated my honorable and learned friend's mind in regard to this subject. Mr. Muir reports that a great deal of auriferous country is passed through, and there is no reason why a very rich gold-field should not be found along the route.

Senator HIGGS.—The honorable senator is altogether too hopeful.

Senator STANIFORTH SMITH.—My honorable friend has had no experience of gold mining, and therefore he thinks that all the gold-fields in Australia have been discovered. He never made a greater mistake. There are probably more undiscovered gold-fields in Australia than have yet been found.

Senator HIGGS.—But we generally find them before we build a railway to them.

Senator PEARCE.—Kalgoorlie was not discovered when the line to Coolgardie was built.

Senator STANIFORTH SMITH.—This is what Mr. O'Connor reports—

The railway from Kalgoorlie to Adelaide would be much cheaper than by the sea route, estimating the railway fare at 1d. per mile first class and six-tenths of a penny second class. The first class rail fare from Kalgoorlie to Adelaide would be £5 13s. 3d., and by any of the ocean liners £10 18s.; by rail second class £3 8s., by boat £8 0s. 10d.

That estimate, of course, includes the boat fare and the rail up to the gold-field. Mr. O'Connor's report continues—

As the immigration from the eastern States to Western Australia is mostly to the gold-fields, and

as this amounts to thousands a month, that in itself is an enormous revenue. The consumption of meat on the eastern gold-field at present averages 200 bullocks and about 2,000 sheep a week, and it is estimated that a large proportion of this would go by the overland railway. The railway freight on a bullock from Port Augusta to Kalgoorlie, in full truck loads at existing railway rates, would be £3 4s. 6d., while from Adelaide to Kalgoorlie by sea the cost would be £5 3s. 6d.

It is thus laid down that at the existing railway rates it would be cheaper to send stock from the eastern States to the gold-fields by rail than by sea. As we obtain a large quantity of stock from the eastern States, it must be seen that the line would earn a very large revenue in respect of freightage. I unhesitatingly assert that the Government should immediately have a survey of the line made and bring in a Bill for its construction as soon as possible. They are adopting a hesitating attitude in regard to the matter. They insert a paragraph relating to it in the Governor-General's speech at the beginning of each session, and they go to Western Australia and give glowing accounts of what they propose to do, but unless they do something definite before the next election there will not be much chance of a single representative from Western Australia supporting them. The Government, without committing themselves even in regard to the construction of the line, should at any rate have a survey made, and thus secure an accurate idea of the cost. They should also obtain the fullest particulars as to what the freightage would be. The matter should not be considered purely from a commercial point of view. The Commission, consisting of the leading engineers of each State appointed by the Government, have said that there would be a loss of £80,000 a year at the start, but that that would be followed at the end of ten years by a profit of £23,000 per annum. Are the people of Australia willing to make a sacrifice to that extent in order to carry out defence recommendations made by the leading generals who have visited Australia and reported on the subject, and in order to bring the people of the east and west of Australia more closely together in their commercial relations. I repeat that the members of the Commonwealth Parliament should regard this matter from an Australian point of view. They should ask themselves—"Is it in the interest of Australia that this line should be built?" I ask them only to do that, but I am afraid that unconsciously they regard

matters of this kind merely from the point of view of their own State. They ask themselves the question—"Will it benefit Victoria or New South Wales," or some other State which they represent, and if it will not they vote against it, just as some of them say they will vote against the sugar bonus because it does not benefit their individual State. There are other matters which I proposed to touch upon, but I have already taken up more time than I intended to occupy, and I shall defer my remarks on those subjects until the measures in question come up for discussion.

Senator HIGGS (Queensland).—I did not intend to say anything this evening, but the constant reiteration of the word "Customs" this afternoon brought up a number of old memories, and made me feel inclined to say a word or two in defence of the Minister for Trade and Customs, if, indeed, that defence is necessary. Before I pass on to the matter of the Customs administration, I wish to say that I think that the arrangements made for the opening of Parliament were inadequate. I consider it a disgrace that the members of the Federal Ministry should have been compelled to stand in the passage leading to the chamber while the Governor-General's speech was being read. As we number only 36, there should be ample room for us on the front benches, and the members of the House of Representatives might very well be invited on such occasions to take up the unoccupied seats in this chamber. I do not see anything in such a course which would lower our dignity. On the contrary, I think it might add to our influence, and certainly it would bring about a much better feeling between the two Houses. To make honorable members of another place stand outside the chamber itself on such an occasion—as if this were a ground sacred to the members of the Senate—is to make them appear like a lot of poor relations. They certainly cannot be regarded in that way. Like ourselves, they are representative men, and although, perhaps, on account of our larger constituencies we may consider ourselves slightly more responsible to the people than they are, I venture to think that in their opinion they are equal to us in every respect. Although the matter is only a small one, it has certainly created some friction which might very well be remedied. As one has great scope in dealing with the address in reply, I wish also to refer to *Hansard*. I

hope that during this session the proceedings of the Senate will be reported verbatim. I know that owing to the length of the last session, which extended over some seventeen months, there was certainly reason for curtailing the reports in view of the 16,000 pages or more over which they extended. But the present session will not last more than four or five months, and the Commonwealth can well afford to pay for the expense of a verbatim report. As for myself, I do not think that I receive fair treatment at the hands of the press, and therefore I look to *Hansard* to protect me. Some of my speeches have been described in the most opprobrious terms. It was said on one occasion that I inflicted on the Senate "two hours of drivel." Thus it will be seen that *Hansard* is my only protection against libels of the kind. I hope that the staff will be able to give us verbatim reports of our proceedings during the present session. With regard to the Governor-General's speech and the items therein, I take exception to Senator Dobson's attitude on the question of conciliation and arbitration. The honorable and learned senator's speech was a very eloquent one. If one were permitted to make extracts from it he would certainly find in it sentences expressing great sympathy with the working classes; but if we take the honorable and learned senator's conclusions on the question of arbitration it would hardly be possible to find a stronger opponent of those very working classes than he is.

Senator DOBSON.—All I urged was that we should wait and see how the New South Wales and New Zealand Acts work.

Senator HIGGS.—The honorable and learned senator referred to the operation of the Conciliation and Arbitration Act in New Zealand, and quoted one or two instances in which great dissatisfaction had been expressed by employers and by members of trade unions. Some one interjected at the time that it was possible to find defects in every Act of Parliament. Cases of hardship can be found in connexion with the administration of every Act, and if ever the honorable and learned senator's Divorce Bill becomes law he will prove to be something more than human if it can be administered without being challenged. I have here the report of an interview published in the *Melbourne Herald*, with Sir Joseph Ward, a prominent member of the New Zealand Government.

In referring to New Zealand and its perilous state, Mr. Ward had some reason to make in connexion with conciliation and arbitration. The following is an extract from the report—

How have you found the conciliation and arbitration courts work?

"Very well indeed. Occasionally of course there is a little friction, but this is not any great matter. It is to be found in reference to the decisions of the ordinary courts of law."

Has there been any alteration whatever in reference to the constitution or methods of the conciliation and arbitration courts since the members of the Victorian Factories Commission visited New Zealand about twelve months ago?

"No alteration of any kind has been made in the law. It has worked very satisfactorily throughout the whole colony."

Mention is then made of the fact that Mr. Seddon had been reported as having spoken unfavorably in reference to a Supreme Court Judge presiding, and on that point Mr. Ward said—

"Yes. The way that arose was this: A comment had been made by those who were affected by an award made by the court. Mr. Seddon then made the statement that it was undesirable that the judgment of a Supreme Court Judge should be criticised in a way that was complimentary to the dignity of the Supreme Court Bench. But the Premier has made a statement since, that it is not contemplated to make any change."

He proceeds—

"All I can say is that not only the workers but some of the big industrial concerns in New Zealand express themselves strongly in favour of the existing system. Personally, I have no objection whatever that no change will be made as regards a Supreme Court Judge presiding. That is one of the strong points. The question is whether it is the likeliest machine that will help to keep peace between employer and worker? I think we have the machine now, and I will be very interested to see how you get along in Victoria with the recommendations of the commission that have been adopted. You can take it for granted that in New Zealand both sides went into the question very deeply before any scheme was considered to be workable, and it is also certain that it was any weak spot in the system of arbitration and conciliation courts it would have been covered long ere this, and the courts would get the support that they undoubtedly receive."

There is the opinion of a prominent member of the New Zealand Government in regard to these arbitration courts, and we except the one or two instances on which dissatisfaction has been expressed, and consider the overwhelming balance in favour of the system of arbitration and conciliation in force in New Zealand, and come to the conclusion that it would

very good thing for us in Australia to have something of the kind. While I am speaking about New Zealand, I should like to say that that country is one which has more labour legislation than any other Australian State.

Senator PEARCE.—If not any other part of the world.

Senator HIGGS.—“If not any other part of the world,” as my honorable friend says. Ever since the time of the late John Ballance, labour legislation has been introduced and passed and added to in that State, and so far from having the result, which some good people in Victoria anticipate, of driving capital out of the country, the capital invested in the country has been increased, the wages of the workers have been increased, and their hours of labour have been shortened. Touching the question of the naval defence of Australia, I shall briefly say that while I am very grateful to the Barton Administration for carrying out the wishes of the people as expressed in the return of members of both Houses, I think that if they go on as they have been doing during the last few months, they will get into serious trouble. I regard the agreement signed by Sir Edmund Barton as a great mistake.

Senator PEARCE.—It was not signed.

Senator HIGGS.—It was signed subject to ratification by Parliament; but if I remember rightly, Sir Edmund Barton gave the Parliament to understand that it would not be signed until Parliament was consulted.

Senator STANFORTH SMITH.—The right honorable gentleman was told to commit himself to nothing.

Senator HIGGS.—However, I think a very great mistake was made. The Prime Minister of Australia should have taken the same stand as the Premier of Canada. Honorable senators may talk about the advantages we derive from the defence of these coasts by the mother country, but let us remember what was said by the late Chief Justice Higinbotham of Victoria—that any danger to Australia in time of war will arise from our connexion with the old country. We are in a position of splendid isolation, and though some honorable senators may say that it is a good bargain for us to agree to pay £200,000 increased subsidy, I personally think that it will be money thrown away. There is such a vast sum at present invested by English capitalists in Australia,

and they derive such magnificent incomes from their investments, that they are not going in any way to neglect to defend that property.

Senator DOBSON.—That is a patriotic argument.

Senator HIGGS.—We are quite willing to defend ourselves; but I take it that the public of the Commonwealth, if they understand the matter, are not willing to pay £200,000 as a tax to assist the War department of the old country. If we are to spend the money, let us spend it on a force of our own, and let us keep control of it. But to pay £200,000 as a subsidy for vessels which may be sent away from here at the very time when they may be wanted seems to me to be a foolish proceeding. At a later stage, when the matter comes up for discussion, I shall do my best to oppose the ratification of the proposed agreement. I should like honorable senators who are in favour of this subsidy to say from whom they expect attack? Is there any particular nation on the face of the earth at the present time that they expect is going to attack Australia?

Senator PLAYFORD.—We cannot say these things in public, but we can imagine that if England said she would not protect us, we might have Australia taken possession of by some other power.

Senator HIGGS.—Senator Playford fears attack if the other nations of the world get the impression that we are no longer under the ægis of the old country. The honorable senator must not forget that there are other people besides British people settling in this country. What about the Canadians, the Americans, the French, and the 100,000 Germans who have found homes in this country?

Senator STANFORTH SMITH.—They would co-operate with the Fatherland.

Senator HIGGS.—Certainly they would co-operate with the Fatherland, supposing Italy came here to attack us, an unheard-of thing—something which I think can only be imagined by somebody who has militarism on the brain. I feel satisfied, and the opinion is held by military experts whose names I shall give to the Senate later on, that our very isolation would prevent us from being attacked by any nation.

Senator CHARLESTON.—We are not so very far distant from the eastern countries.

Senator HIGGS.—Another matter in connexion with which the Federal Government has made a mistake is that of the agreement with the Eastern Extension Cable Company. It is all very well for the Postmaster-General to tell us that certain agreements were entered into, by individual States, that they were practically perpetual, and that this particular agreement has been forced upon the Commonwealth by a member of the New South Wales Government, who signed some agreement with the Eastern Extension Company, without consulting the Parliament of New South Wales. To enter into an agreement such as is proposed by the Federal Government seems to me to be most unbusiness-like. Does the Postmaster-General think for a moment that he and his department will be able successfully to compete with the enterprising business men of the Eastern Extension Company for the business to be done with cablegrams in Australia?

Senator PLAYFORD.—That means that the Government cannot carry on a business as well as a private company?

Senator HIGGS.—It means that they cannot carry it on in the manner in which the Eastern Extension Company carry it on.

Senator KEATING.—Not when they give that company all the concessions which have been given them.

Senator HIGGS.—They agreed with the company to charge a certain price per word, but do they think that the Eastern Extension Company, whose representative some time ago said that they had £800,000 profits in a reserve fund put away to fight the Pacific cable—do they think that those gentlemen are going to act in a high-minded and honorable way?

Senator STANFORTH SMITH.—They have also repaired fleets and laid down cable lines out of profits.

Senator HIGGS.—Is there anything in the agreement to prevent the Eastern Extension Company making rebates to their customers on the stipulated price of 3s. per word?

Senator DRAKE.—Yes; because they have to charge those rates.

Senator HIGGS.—How does the honorable and learned senator know that they will not make reductions to their customers?

Senator DRAKE.—That would not be charging the rate.

Senator HIGGS.—How does the honorable and learned senator propose to find out whether or not they are doing that kind of thing?

Senator KEATING.—And what of the number of individuals who have a life right to send free messages over their lines?

Senator PLAYFORD.—We cannot get to the East or to South Africa with our Pacific cable, and we are therefore bound to deal with this company.

Senator HIGGS.—This company fought the Pacific cable successfully for twenty years. And how did they fight it, but with the large profits they were able to make from the prices they charged for cables?

Senator KEATING.—And from the big subsidies they were getting.

Senator HIGGS.—The Eastern Extension Company was most unscrupulous in its methods. It is a company whose methods of dealing with visitors from Australia to the old country is, I am told, palatial. It receives the Australian, and treats him right royally. It even goes so far as to grant him, for life, the right to send cables free, in order that the interests of the Eastern Extension Company may be fostered in Australia.

Senator PLAYFORD.—I never heard of it when I was in London, and I was as much in touch with the Eastern Extension Company as anybody.

Senator HIGGS.—The very fact that the representative of the company said in London—"We have £800,000 with which to fight the Pacific cable" should apprise honorable senators of their methods.

Senator PLAYFORD.—I do not believe that was ever said, and the honorable senator cannot produce evidence of it.

Senator HIGGS.—I shall tell honorable senators why I cannot do so at the present time. When these States succeeded, in spite of the Eastern Extension Company, in getting the Pacific cable, I thought the battle was over, and I destroyed the material I had connected with the affairs of the Eastern Extension Company. When I went to Queensland recently I tried to get some more, and I was informed that the documents were in a place in which they were not available to me. Now we find that the Barton Government has gone so far as to enter into an agreement in which

it has surrendered itself and the Commonwealth to the company.

Senator DRAKE.—No, that is not so.

Senator HIGGS.—They have agreed to a charge of a certain sum per word when they ought to have known the unscrupulous character of the men who manage this company. They have proved themselves to be unscrupulous in the past, and if they had not been unscrupulous they would never have fought the State owned Pacific cable for so many years. They could not have fought it so successfully for twenty years if they had not been unscrupulous.

Senator PLAYFORD.—Considering that Mr. Sandford Fleming broached the matter in 1894 I cannot see where the twenty years comes in.

Senator HIGGS.—Senator Playford does not know everything.

Senator PLAYFORD.—He knows that.

Senator HIGGS.—The honorable senator has been Premier of South Australia, and has had the administration of Customs there, he has also been to the old country, where he taught the people a good deal that they never knew before, but I can appeal to the Postmaster-General to say whether the Pacific cable has not been on the board for twenty years. This agreement is one of the things which are leading the Barton Administration to destruction. When we place our policy before the people, and are given a mandate, we are all right, and that is evidenced by the passing of the Adult Suffrage Act, the Pacific Island Labourers Act, the Immigration Restriction Act, and other measures of that kind. But when we get away from the public, and without a mandate transact business which is not in keeping with their wishes, as shown by the support given to the Pacific cable, we are going on the wrong tack. I regret that I have to make these remarks, because so far as I know no other Government has had the privilege, and I believe the pleasure, to introduce so many measures of great benefit to the people of the nation in such a short period. Now with regard to the success of the white Australia policy as carried out by the Government, I am very glad to be able to say that in Queensland that success has exceeded our most sanguine anticipations. Thousands of cane-growers have registered to produce cane by white labour, and, contrary to the dismal forebodings of Senators Pulsford and

Fraser that the people of the Commonwealth would have to pay about £1,000,000 for this sentimental aim of ours, they are now getting sugar cheaper than they did before federation. I have received several letters which bear out that statement. A large firm in this city named Moran and Cato, with 40 or 50 branch stores, write in these terms:—

Herein we beg to submit information as to price sugar required in yours of 13th inst.

In 1890—2½d. per lb., 12 lbs. 2s. 6d., 13s. 9d. per 70 lb. bag, 22s. per cwt.

In 1893—2½d. per lb., 12 lbs. 2s. 3d., 12s. 10d. per 70 lb. bag, 20s. 6d. per cwt.

I then asked what class of sugar was being sold at those prices, and to that question I received this answer—

In reply to yours of 20th inst., we beg to inform you that the sugar referred to in ours of the 19th inst. is of the quality known as 1A, and is the best sugar ordinarily used by householders.

From Messrs. Anthony Hordern and Sons, of Sydney, I received a letter, in which they regretted that they could not supply me with the price of sugar during those two years, because it was then, as it is now, a fluctuating quantity. But from the secretary of the Balmain Co-operative Society I received a letter stating that sugar was sold in Sydney at 2d. per lb., and with tea at 1½d. per lb. His letter is as follows:—

Our retail price for all these sugars is 2½d. per lb., and is the same as is charged in all the principal shops in Sydney, but local shopkeepers have always made a cutting line of sugar, and have been selling at 2d. per lb., or with tea at 1½d. per lb.

I wish to ask Senator Pulsford, and those who believe with him that the price of sugar was going to be higher, how it is that the grocers in Sydney are charging 2½d. per lb. while the grocers in Melbourne are charging 2½d. per lb. I suppose the excuse made in Sydney, that it is owing to the Tariff, is more likely to appeal to the general householder. Senator Pulsford had a great deal to say about the administration of the Customs department. He complained of the Minister prosecuting a number of good people when he might have acted in another way. The Customs Act has been described by the Board of Customs in the old country as a model Act, and I think that the Minister is only endeavouring to administer the Act as it should be administered. Let us understand what are his powers. He may institute prosecutions against importers who are guilty of wrong-doing, or he may

hold an inquiry. The first section dealing with prosecutions reads as follows:—

Customs prosecutions may be instituted in the name of the Minister by action, information, or other appropriate proceeding—

(a) In the High Court of Australia; or

(b) In the Supreme Court of any State;

and when the prosecution is for a pecuniary penalty not exceeding £500, or the excess is abandoned, the Customs prosecution may be instituted in the name of the collector in

(c) Any County Court, District Court, Local Court, or Court of summary jurisdiction.

With regard to the inquiry, section 265 says—

If any dispute shall arise between any officer and any person with reference to any contravention of this Act, the Minister may, in manner prescribed, with the written consent of such person, inquire into and determine the dispute, and shall have power by order, which shall forthwith be published in the *Gazette*, to impose, enforce, mitigate, or remit any penalty or forfeiture, which he shall determine shall have been incurred.

Section 267 says—

The Minister in holding an inquiry under this part of this Act shall hold such inquiry in public, and may—

(a) Summon the parties and any witnesses before him.

(b) Take evidence on oath.

Those who are objecting to the administration of the law ask, why does not the Minister hold inquiries? They have charged him with going beyond his duty—with being a despot or an autocrat, simply because he declines to take upon his own shoulders the hearing of these cases, and simply says to the parties—"Go before a Judge of the Supreme Court, or before a magistrate, and have your case tried in a court of law. Do not ask me to try it in my office. I refuse to try it." He, however, sends these people to the police court, and the case is tried there. I ask those honorable senators who are complaining of his administration if they can cite a prosecution instituted by the Minister which has been dismissed. My opinion is that the general public of Queensland are extremely well pleased with his action. Senator Pulsford to-day cited the case of a man with a Bible and the case of a man with a barrel of fat; but I should like to know whether he has not heard of cases where all kinds of artifice have been used to smuggle in goods. I venture to say that if Senator Playford would take the trouble to speak he could tell us some of the tricks adopted by

Senator Higgs.

smugglers in bringing contraband articles. I believe that in the New South Wales Treasury there is a quantity of gold which nobody has been game to claim, and which was discovered in a cask of tallow at the Lucknow mines. The Customs officers had every reason, I think, to inquire into the case of the cask of fat. The Minister is a very much maligned man, and it is not right that the side of the objectors to his administration should get into *Hansard* without something being said on his behalf.

Senator CHARLESTON.—He has said a lot on behalf of himself to-day.

Senator HIGGS.—I am very glad to hear that he has. He may not have referred to an incident in connexion with Queensland. On the 10th August, 1901, there appeared in the *Brisbane Courier* an article with this heading in large black type—

Customs leakages. The warehousemen complain. Unfair influence of official laxity.

Remember that, please.

Senator CHARLESTON.—It was mentioned by Mr. Kingston.

Senator HIGGS.—There are certain honorable senators who have a higher appreciation of their duty than others have. Some roam all over the building; others sit here and do their duty. If I had been roaming around, perhaps I might have heard this quoted. I shall not go into the matter as fully as I understand it has been gone into elsewhere, but I wish to point out that there was a deputation which waited on the Treasurer of Queensland. The following firms were represented:—Messrs. Stewart and Hemmant, D. and W. Murray, R. Fraser and Co., R. Reid and Co., R. Armour and Co., Mr. A. M. Kirkland, and Mr. Robertson. It was pointed out to the Treasurer that there were great leakages in connexion with the Customs. The Customs department was at this time being administered by Mr. Kingston, and this deputation pointed out that there were great leakages on the part of officers, and that they hoped that the Treasurer of Queensland would take some action to induce the Minister to cause a closer scrutiny to be made. I will briefly quote the opinion of one member of the deputation—Mr. Stewart—as given in the *Brisbane Courier* of 3rd August, 1901. Mr. Stewart, we are told, asserted—

That for some years past heavy leakages have occurred which might have been averted with

the exercise of ordinary care, and which have led to a very material diminution in the revenue. In fact, Mr. Stewart avers that the amount thus allowed to slip through the fingers of the Customs authorities would have been more than sufficient to make good the financial difficulty which now exists. By means of false invoices, Mr. Stewart states, there have been systematic frauds worked upon the Customs department in the past, and they are still being carried on. His firm has more than once submitted, not only to the Collector of Customs, but to the Treasury, proofs of the dishonesty which is being practised, though, strange to say, the warnings have been unheeded.

Mr. Stewart went on to say that he believed that the loss of Customs revenue during three years in the softgoods trade alone amounted to not less than £250,000. As a result of the visit of the deputation, Mr. Cribb, the Treasurer, wrote down to the Minister for Trade and Customs that there was no doubt good cause for complaint, and urged the Minister to instruct his officers to be more careful. The Minister at once sent up an inspector—Mr. Mason—who conducted his inquiries in a most impartial way, and as the Minister himself would have conducted them had he been doing the work. Mr. Mason discovered certain things, and some of the members of this deputation was very much surprised at what followed. Indeed, their action reminds me very much of a story I once heard about my honorable friend, Senator McGregor. Many years ago, when in Victoria, Senator McGregor was in the habit of travelling on the railway lines. In order that he might not be bothered about finding a second-class carriage, he bought a first-class ticket, and got into the first carriage he came across. On one occasion, when he was in his working attire, he got into a first-class carriage where there were two well-dressed young men. As soon as he put in an appearance these two young men called the guard and asked that he might be removed. The guard, jumping at conclusions—as many of us do—said to Senator McGregor—“Come out of that; you are in the wrong car.” Senator McGregor said—“No, I won't come out; I am all right here.” “Well,” said the guard, “show me your ticket.” Senator McGregor said—“You say to me, according to the regulations, ‘Tickets, please,’ and I will show it to you.” He showed his ticket to the guard, and of course the guard saw that it was all right, and was going away, when Senator McGregor called him back and said—“Having looked at my ticket, would

you be kind enough to look at the tickets of these two gentlemen?” The guard did so, and it was then discovered that these two well-dressed young men in the first-class carriage had second-class tickets. This deputation in Brisbane, or some of the members of it, who went to the Treasurer of Queensland, wanted the Minister for Trade and Customs to inspect the other fellow's invoices, but not to inspect any of theirs. When the Customs officer inspected the invoices of some of these firms, he discovered, as I dare say many of us already know, many irregularities. The firm of Robert Reid and Co., for one, was found to have indulged in a number of what might be called, morally speaking, “second-class” invoices. The case occupied some twenty days in hearing in Brisbane, and the firm was found guilty on all points, fined £50, and had to pay the costs, which, it is generally understood, amounted to some £8,000.

Senator PLAYFORD.—And were found guilty of fraud.

Senator HIGGS.—Yes; and if they had been prosecuted as some other people have been prosecuted for conspiracy, the evidence would have put all the members of the firm in gaol. Senator Pulsford, it appears to me, wants some distinction to be made. I admire the Minister for Trade and Customs for bringing every offender up before the bar and letting him stand his trial, irrespective of his position. I saw in Victoria the other day where a dairyman was fined because there was about a tablespoonful of water in half-a-pint of milk. The dairyman said—“I did not put the water there; it was put in by one of my assistants.” But the man was fined all the same, and he had to appear at the police court with the common order of delinquents—the person who steals, the person who gets drunk, and so forth. I have not seen any account of a deputation of milkmen waiting upon the authorities, and asking that a special court should be appointed for them, so that they should not be asked to mix up with smugglers and others who have to be tried. Some people want the Minister to bring before the court the person who has very little influence in the community, and to allow the influential persons—the richer ones—to be dealt with in some back parlour. I think I cannot do better than give an extract from a leading

article in the *Ballarat Courier* of the 26th May. The case is very well put there from our stand-point—

A certain class of superior persons would have this sort of differentiation between persons accused of defrauding the Customs. The Minister—"Who is this reported? Thomas Snooks. Is he anybody?" Officer—"No, sir; only in a small way of business. He has no friends in power!" The Minister—"Send him to the courts;" and Thomas Snooks is sent and duly exposed to public gaze as a man who tried to defraud the Customs, and was bowled out by the astute Customs officers. Minister—"Who is this? Robert Reid? Not the Minister of Education for Victoria, surely; not a former Minister of Customs for that State?" The clerk—"Yes, sir, the same; but it is only a mistake, sir; sent a young lad to pass the entries; meant a few thousands on their side, sir; but evidently only a mistake." Minister—"Ah, we must be careful. Take a cab at once; go to the honorable gentleman's office, ask to see him alone, and then invite him to come and see me at once. It will never do to exhibit a man of his influence and standing in the court. Quite a mistake, of course." Clerk departs and returns with the gentleman. Minister—"Oh Mr. Reid, so sorry to trouble you but—" Mr. Reid—"I am very busy, and could wish you had not wasted my time. The thing is a mistake of course." The Minister—"Yes, I just wanted to hear that from yourself. Quite an unavoidable error. Have a glass of wine and a cigar—I've a very good cigar; never pay duty, you know. Ha! ha!" A little later.—The Minister—"Yes; so sorry to trouble you. Good morning." The visitor—"Good morning;" and the veracious journals of the day would relate how an error had been made by some officious Custom-house clerk who stupidly wanted to regard a small inaccuracy in a highly-respected merchant's entries as a fault deserving the attention of the Minister, and would end their paragraphs with—"We understand the officious clerk is to be reduced a grade."

Now, sir, some honorable senators have said that they hope there will be some alteration in the administration of the Customs. I hope there will not be; and if ever it happens that any Minister for Customs departs from the policy laid down by Mr. Kingston he will certainly find me an opponent. Another proposal was made by an honorable senator in this chamber to alter that procedure, and that was to revert to the old order of things that existed in Victoria when the Minister, in his private office, used to settle disputes. We have heard of a case of a merchant being fined £1,000 when, in the opinion of those who knew most about the case, he ought to have been fined £5,000; and the man who was fined afterwards invited the Minister to his house, and the Minister dined there, after fining the merchant—clearly showing that

Senator Higgs.

the man considered himself very lucky getting off at so low a price. I hope there will be no reversion to that order of things. Senator Pulsford and those who with him have their own opinion; but I incline to the view that the very increase shown over the estimated revenue within the Commonwealth as derived from the Tariff is due, very largely in consequence of the fact that the importers of smuggled goods in the past now pay duty. I do not think that many of these importers felt very guilty in smuggling goods. Some of them considered that it was a fair thing to do in the ordinary course of trade. They knew very well that their neighbour was doing on business in the same line on the opposite side of the street was possibly importing goods at a low figure and under-cutting them, and they tried to follow his example. Now I believe they are all paying on the one footing. If they make false entries, or try in any way to avoid payment of the proper duty, the Customs authorities are likely to prosecute them, and very few of them will endeavour to do so. The whole general public of the Commonwealth will thus be benefited in every respect. From what I know of it, I believe that the Postal administration is being carried out very well by our honorable and learned friend, the Postmaster-General. The case of the boy Martin, which was referred to some evenings ago by Senator Neild, is only a trivial one. I have seen the papers, and I am satisfied that the boy whose services were dispensed with could have expected no other treatment. To my mind, there is sufficient evidence to prove that he was a boy who was not a credit to the service.

Senator BARRETT.—Rather precocious.
Senator HIGGS.—He was evidently precocious for his age, very inquisitive, very neglectful of his duty. Perhaps the lesson he has received will be a very good thing for him in after life. I do not think that any injustice was done; on the contrary, I consider that the department was quite within its rights. Sometimes a severe punishment to discharge an employé; I think that suspension is very much the better method. But in the present instance the boy seems to have been repeatedly guilty of wrong-doing, and, in regard to the discipline of the department, there seems to have been no other course open to the authorities than to get rid of him.

Senator DRAKE.—That was the recommendation of the board of inquiry appointed under the Statute.

Senator HIGGS.—With regard to what the honorable senator said about trying an offender twice, I would point out that the second trial was evidently necessary and justifiable when asked for by an official of the department. It was due to the department that that inquiry was held, and I do not see that any injustice whatever was done to the boy by further inquiry into his case. There is only one other item to which I desire to refer.

Senator DE LARGIE.—What about the six hatters?

Senator HIGGS.—I understood that the case of the six hatters was to form the basis of a vote of censure on the Barton Administration. I cannot understand why the leader of the Opposition in another place, Mr. G. H. Reid, who, I regret to learn from a press report, is in the employ of the Employers' Federation of Australia, has not had the courage to move that vote of censure. I saw in the *Ballarat Courier* a few days ago a statement that when an appeal was made for funds to carry on some federal elections—they wanted some £20,000—it was stated that the Employers' Federation had all they could do to find Mr. Reid's expenses. I hope I am not giving utterance to anything which is not true. I should be very sorry to do so. A report of a speech which I made some time ago, and in which I referred to Mr Reid, was given in such a way that it conveyed an erroneous impression regarding him. I very much regret that the report appeared in that form, and I should regret to give utterance to anything that would be a misstatement concerning him or any other man. But a report certainly appeared in the *Ballarat Courier*, setting forth that, according to one speaker, the Employer's Federation had all they could do to find enough to pay Mr. Reid's expenses.

Senator DE LARGIE.—They could not assist this political fund because they had to raise Mr. Reid's expenses.

Senator PULSFORD.—I suppose the honorable senator has a strong suspicion as to the way in which that was brought about?

Senator DE LARGIE.—The statement appeared in the press.

Senator PULSFORD.—But one can get anything he wants in some sections of the press.

Senator HIGGS.—There is a song which I heard at the theatre the other evening that exactly fits this matter—

It's only what I've been told you know

I don't know whether it's true,

But just as it was told to me

I tells it unto you.

Senator PULSFORD.—I understand the honorable senator exactly.

Senator HIGGS.—The honorable senator misunderstands my motive.

Senator PULSFORD.—I understand it perfectly.

Senator HIGGS.—The honorable senator should have been present to hear what the representatives of Queensland had to say regarding the Customs administration. He would have been much more edified than he was by listening to anything about the leader of the Opposition in another place. Touching the six hatters, we have no objection to our own fellow workers in the old country coming to Australia. But let them come here unfettered in any way by agreements; let them come and learn the conditions under which men labour here, and, having done so, let them make their agreements if they desire to do so. The Prime Minister carried out the law. I admire him for it, and I hope that the law will never be altered in this respect. Of course I know that Senator Pulsford would not only admit men under contract, but would open the doors of this country to all the Hindoos and all the coloured men and women of India, whom he regards as our brothers and sisters. Those of us who support the action of the Prime Minister stand on a different footing altogether. Those who are in favour of the section under which the employer who introduced these hatters was required to give an explanation, desire to keep Australia for the white races. They say it is better for the white races, and for the world as a whole, that Australia should be preserved in this way, and I hope that there will be no alteration of the Act. I shall refer this evening to only one other item, and that is the proposed legislation in connexion with New Guinea. I sincerely regret that a Queensland statesman should have ever been induced to annex New Guinea. I think it involves a great waste of money, and that it will prove a danger in the future. This reaching out for more territory when we have such a lot of unsettled territory is like the selfish way in which many good

people throughout Australia act when they get the chance. Very good land is cut up in Queensland, and a farmer goes out and takes up 160 acres. Then he sees a selection near him comprising another 160 acres, and he reaches out to grasp that. He has not cultivated, nor half cultivated, the first block before he obtains the second one, and in this way he goes on until he has obtained perhaps 640 acres. A good many other people do the same thing, with the result that settlement is retarded, and the farmers themselves have burdens to carry which are a drawback to them all their lives. In view of the fact that we have such a vast area of country unsettled and fit for settlement, it appears to me to be bordering on the ridiculous for us to go right away to New Guinea and to try and establish settlement there. We shall be fortunate indeed if New Guinea does not bring us into trouble at some future time. I wish we could rid ourselves of the whole place.

Senator STANFORTH SMITH.—Why did not the honorable senator raise that objection when we were discussing it? He raised no objection then.

Senator HIGGS.—The honorable senator cannot remember everything. If he turns to *Hansard* he will find that he has done me an injustice. I said then what I have said in regard to the New Hebrides, and what I shall say relative to all our attempts to establish an Australian Empire before we have settled our own great continent.

Senator DE LARGIE.—Has the honorable senator already gone back on republicanism?

Senator HIGGS.—I have not gone back on my belief in a republic. As the honorable senator has mentioned that matter, I, at the same time, wish him to understand that I have a great deal of sympathy with republican institutions. I am perfectly loyal. I shall be loyal to the King of England while he is King of England—loyal to the Crown—but if it is ever within my power to influence the public in favour of republican institutions, I shall do what I can in that direction.

Senator PULSFORD.—That is loyalty.

Senator HIGGS.—Certainly it is. I repeat that I am loyal, and shall be loyal, to the King of England while the people of England allow him to remain King; but in my opinion it would be far better for the people of England, and far better for the people of Australia,

if there were a republic in both countries. I am looking forward to the time when it will be possible in Australia, and in England, too, for the poorest child of the poorest parents to work his way up to the highest position in the land if he has the requisite ability. I should like to know whether Senator Pulsford can see anything objectionable in that desire. At all events, I do not. I hold these views, and if the people of Queensland are not satisfied that I, as one of their representatives, should do so, they will be able to make a change when the time comes. I trust that wherever I am, and whatever position I occupy as a public man, I shall always have the courage to give expression to my public sentiments, whatever they may be.

Senator PLAYFORD (South Australia).—It was not my intention to address the Senate during the debate on the address in reply, because, as a rule, I look upon such a debate as being practically a waste of time, unless there is something serious to complain of upon which the Ministry are attacked strongly and vigorously, and there is something to answer. Most of the questions dealt with in the Governor-General's opening speech have to come before us eventually in Bills, which will have to be dealt with in detail. The only persons who gain by a debate on the address in reply are the members of a clever Ministry who, hearing what members of Parliament generally say during the debate, gauge what measures are likely to receive considerable support, and what measures are likely to receive little or no support. If they are wise they adopt this plan: Those measures which are likely to receive the greatest amount of support are put first upon the notice-paper and are dealt with, but those to which considerable objection has been taken, and against which the chances are that they will not be carried, are kept low down on the paper and become at the end of the session what are known amongst politicians as "the slaughtered innocents."

Senator MCGREGOR.—The honorable senator seems to know the game.

Senator PLAYFORD.—But I could not sit still after listening to the speech of Senator Higgs and his references to the Eastern Extension Company. The honorable senator no doubt speaks what he believes to be true, but I can assure him that he makes a very great mistake when he talks about the

conduct of the Eastern Extension Company with regard to the Pacific cable being in any way unscrupulous. I know the heads of the Eastern Extension Company. I knew the late Sir John Pender well. He was a man to whom the Empire owed a great deal, because after the first break-down of the cable between England and America, he and Mr. Thomson, who was afterwards made Lord Kelvin, put their hands into their pockets, and between them they did all they possibly could, and eventually succeeded, in laying down the second cable. They did more for telegraphic communication between the Empire and the various parts of the world than any other men I know. Sir John Pender was a most honorable, upright, and straightforward man. So far as the Pacific cable was concerned, he opposed it undoubtedly in the interests of his own company, and quite right, too. That is what Senator Higgs would have done had he been in his position. But he did so in a manly, straightforward manner. I also know the Marquis of Tweeddale, the present chairman of the company, and Mr. Hussy, the secretary. While I was Agent General for South Australia I knew that our interests, and the interests of the Eastern Extension Company were the same, as we had a line across South Australia to Port Darwin connected with the company's cables at Banjoewangie. We were interested with the company in securing that as much business as possible should pass over our line. In my opinion, we in South Australia were much too kind-hearted and considerate to the rest of Australia in dealing with that line, because from the time that overland line was constructed to Port Darwin until about 1896 we lost between £300,000 and £400,000. That money went in some cases, of course, into the pockets of our own people, who used the line; but the very great bulk of it went into the pockets of merchants and others in the other Australian colonies, who used the line.

Senator MCGREGOR.—Did the Eastern Extension Company lose much like that?

Senator PLAYFORD.—No; they did not lose.

Senator KEATING.—They never lose.

Senator MCGREGOR.—Then why should South Australia have lost?

Senator PLAYFORD.—We should not have lost, and it was a great mistake on our part to make the reductions we did in

the charges for carrying messages over the line. We knew that there was a considerable amount of jealousy aroused, especially in Queensland, over the construction of that line. The people of that State thought they would get the line through their territory, and because it happened that the line was constructed in our territory, they always opposed it, and said all the nasty and disagreeable things they could possibly say of it. I can, therefore, thoroughly understand that Senator Higgs, who hails from that banana-land, has heard all sorts of statements made and never contradicted, which he believes to be gospel, and which are not gospel at all. It is because of this that the honorable senator has made the statements to which we have just listened. I opposed the Pacific cable at the conference held at Ottawa in 1894, in the interests of my own State. I opposed it in London during the whole of the time I was there as Agent-General, in the interests of my State. I considered that, as we had a line of cable connecting with Banjoewangie, which connected us with all the Eastern countries, Japan, China, and India, and that as we had another connecting us with Africa, there was no room for a further cable, and that its construction would undoubtedly involve us in a considerable loss, because the only trade which such a cable could get would be from Canada, America, and possibly from a part of Europe. What has been the result? The result has been exactly what I foretold, and we have suffered a loss of £90,000 on the first year's business.

Senator KEATING.—We had no cable to Africa, when the honorable senator opposed the Pacific cable.

Senator PLAYFORD.—No, but before the Pacific cable was absolutely agreed upon we had a cable to Africa, which had been promised for years by the Eastern Extension Company. The English Government required a cable to South Africa, which they did not desire should touch upon the foreign possessions along the western coast of Africa, as other cables touched upon French and German colonies on the African coast. They resolved to take a cable from close to Lands End right on to Gibraltar, from there to the Island of Ascension, thence to the Island of St. Helena, thence to Cape Colony and Simon's Bay, across from there to Durban, and then they had not far to go to Mauritius. From there

it was to go to Keeling Island, and from Keeling Island to Western Australia. The British Government, after the original troubles in South Africa, found that it would be desirable to have a direct line to South Africa, and the Eastern Extension Company agreed to lay it. We knew for years and years that there was going to be a connexion brought about in that way. I shall not go further into that subject, but I say with regard to Sir John Pender and others, that they acted most honorably. They did no underground tricks, but what every man looking after his own interest would do, what Senator Higgs would have done in the same position, and what every intelligent man would do in the circumstances. With regard to the arrangement made by the Postmaster-General to allow the company to open offices in the Commonwealth, all I have to say is that four States, Western Australia, South Australia, New South Wales, and Tasmania had previously agreed to allow them to open offices, and to allow them to open offices for all time.

Senator DRAKE.—That is so.

Senator PLAYFORD.—What the Postmaster-General has done is to make an agreement under which they are allowed to open offices in the other two States as well. The old agreements with the States to which I have specially referred are to be set aside, and there is to be a new agreement with all the States, lasting only for twelve years, at the end of which time fresh arrangements can be made. No matter what we did, we could not prevent the company having offices opened in the States to which I have referred, including as they do some of the principal States, the mother State, the important State of South Australia, and the important State of Western Australia, which will be a very big State within a very few years, and will possibly beat some of the other States which are now of more importance. When that is considered, I think it must be admitted that the Postmaster-General has made an excellent arrangement with the Eastern Extension Company. Now, I have something else to say about Queensland, the State which Senator Higgs represents. I have something to say about the sugar duty and the rebates thereon. I have to say that, speaking of my own State of South Australia, I think it is a scandalous shame that we should be called upon to pay one penny towards the rebate upon sugar

grown by white labour in Queensland. years past most of the States, and tically all with the exception of Queens have been true to the idea of a Australia. Some of them, and espe South Australia, at considerable lo themselves, kept the yellow and the man out. Queensland did nothing o sort. She allowed them to come in, used them for the growth of sugar. it is proposed that we should try a as possible to ease the sugar cu tors down, and agree to give the rebate on sugar grown by white la Surely it was never intended that States which subjected themselves considerable loss in keeping out the y man and the black man, should now their hands into their pockets to he pay Queensland, which State was not to the sentiment of a white Australia? us take the case of South Australi admit that we allowed a certain num Chinamen to come in to make the ra to the auriferous fields near Port Da It was a railway of 120 miles in length the question was raised whether whi coloured labour should be employed in construction.

Senator Higgs.—Who was Premier of South Australia then?

Senator PLAYFORD.—Sir John I have heard it said that I was conc in this business, and I have also hea said that my old comrade, Charles Can Kingston, was a party to it. But we opposed the action of the Governme giving the tender to Miller Bros., o understanding that they should be all to use what labour they liked. So Mr. Kingston is concerned, I can say no man in the whole of the Austr States has been more true and consi in his advocacy of a white Austr and in this matter a considerable amou injustice has been done us by the circu of so evil a report. Immediately after construction of that line a law was p in South Australia to prevent any Chinamen coming in. We saw the mi we had made. A considerable secti the South Australian Parliament l upon it as a mistake at the time. minority then became a majority, and soon afterwards they brought in a B stop that kind of thing in the fu What has been the result? The resu been that practically ever since we

lost from £50,000 to £100,000 a year. We have lost also in another way by the policy pursued. For instance, when I was in London as Agent-General for South Australia, a gentleman well known in the financial world there and a man of considerable means came to me and said—"Now, Mr. Playford, we intend to form a chartered company to take over the Northern Territory from you. We will pay the whole of the money you have spent upon it in hard cash"—We had spent practically £3,000,000—"We will take the territory over from you and form a chartered company." It was something like the Matabeleland Company of which we have heard so much, and of which the late Cecil Rhodes was the head. I said to this gentleman—"Put your offer in writing. But there is one point to be considered: What about labour?" He said—"We must have a free hand as regards labour. You sell the territory to us and we shall deal with the Imperial Government as regards labour. We must have absolutely a free hand as regards labour." My old colleague, Mr. Kingston, was Premier at the time, and I told this gentleman—"I expect you will not get it." I wrote a letter to Mr. Kingston in which I told him that there would not be the slightest trouble in South Australia getting rid of the Northern Territory, that the chartered company was booming, and there would be no trouble in floating the whole thing in London. The only point was as to whether he would allow them a free hand in the matter of labour conditions. I also said that, looking at the interests, not of South Australia alone, but of the whole of Australia, although we were a small colony, and could by this arrangement get rid of the whole of our liabilities, including the continual liability of about £100,000 a year, we could not make a more fatal mistake than to allow of the influx of a coloured population to that Territory. I pointed out that they would settle there and breed there, and that though they might not trouble us so long as we lived, they would eventually become a menace to which the trouble of the negro in the United States would be a mere flea-bite. I said—"If you agree to the proposal you send me one word," and I gave him a code word. If he disagreed he was to send me another word. Very soon after Mr. Kingston got my letter, a Cabinet meeting was held, the Cabinet said "No," and that was the reply I received. Here we

are, then, in this position in South Australia, that we have shown that we believe in a white Australia to our financial loss. At the same time, we do not believe in putting our hands into our pockets to help Queensland, which has not shown her belief in it at all, which has never suffered any financial loss in the matter, but which now, in accordance with the policy of the Government, deliberately comes forward and says—"Oh, you pay your share amounting to £5,500," when I contend that we ought not to be required to put our hands into our pockets at all. If there is a State which ought to be exempted from such an imposition it is undoubtedly South Australia, which has suffered quite enough for doing all she possibly could to keep Australia white.

Senator STANFORTH SMITH.—South Australia has a bigger proportion of coloured aliens in her Northern Territory than has Queensland.

Senator PLAYFORD.—We have 2,000 of them altogether. I wish to say a few words about the creation of the High Court. This Parliament ought to be specially economical, because all the States, with one or two exceptions, have suffered severely from the drought. It will take some years before these States can recover, and during that time we ought to do all we possibly can to return to their Treasurers, through the Customs, as large a sum as possible, so as to prevent the imposition of unnecessary taxation. I shall always be found voting on the side of economy where it is wise and judicious; but when I come to the cost of a High Court I am met with this position, that it is absolutely necessary. It is suggested that the Chief Justices of the States should be asked to constitute the High Court—they would not undertake this duty without being paid for their services—and that this arrangement should last for a few years, or for a number of years, as the case might be. I do not like a makeshift of that kind. If we are going to establish a High Court, and its creation is absolutely necessary, it had better be constituted on the lines of the Supreme Court of the United States than be composed of the Chief Justices of the States. It does not follow at all that no Chief Justice of a State would be appointed to the High Court Bench. No man can serve two masters, and the Chief Justice of

a State, no matter how he might try to be fair, just, and honorable, as I have no doubt every one of them would be if appointed, might have some little inclination to favour the State which he served as against the Commonwealth. It is far better that there should be no room for any suspicion. It is far better that we should have our own independent Judges. The only question to be considered is whether the amount which it is proposed to pay for their services is not excessive, and whether the expenses in connexion with the court cannot be cut down to a reasonable extent, always remembering that we must have efficiency. I shall be one of those who will assist to cut down the expenses if it is shown that it can be reasonably done. Coming to the question of the naval subsidy, Senator Higgs has said that he believes in the formation of an Australian Navy. I, too, believe that it would be a great deal better for Australia if we had a navy. But we are not in the position of those who sang in England a few years ago—"We have the ships, we have the men, we have the money, too." We have not the trained men; we have not the ships; and it appears to me that we have not the money. We cannot afford to buy a fleet at the present time, and to go into the London money market for that purpose would, I believe, be a great mistake. The Imperial Government certainly protects us. If we were dissevered from the old country, and the Imperial Government gave it out to the world that they took not the slightest interest in Australia or its concerns, I wonder where we should be with the yellow man. We might be in rather a tight fix with the yellow man in the northern part of the Commonwealth. I shall not pursue that line of thought, because I cannot imagine the time will ever come when we shall be severed from the old country, and shall belong to the wonderful republic which Senator Higgs has alluded to so feelingly. Of all the forms of government which I have been able to read about; of all the forms of government which have ever existed in this world, the one which is most satisfactory and least troublesome to the people, the one which causes the least friction to the people, and which is practically the least expensive, is undoubtedly a constitutional monarchy. In the new naval agreement provision is made for training

our men, and, after all, that is one of the most important points to be considered. We need to get the trained men before we secure the ships. To get the ships before we train the men is like a man getting a wife before he buys a house. At the present time, and for the present, which is stipulated, it is eminently desirable that we should enter into an agreement, and pay this exceedingly small sum to Great Britain. Considering the neighbouring colony of New Zealand has entered into the spirit of the thing, may as well follow her example, pay her share of the subsidy, and get our men trained; and then, when possibly we may be in a more prosperous position than we are now, we may talk about buying ships to be manned with the men we have trained if we can only find the money. At the present time, however, it is premature to talk of buying ships. We shall do nothing in that direction if we refuse to pay this subsidy. It would be meaningless for our part not to make some contribution to the mother country, which certainly protects us, and would protect us against any hostile force no matter from what quarter it might come. I am highly amused at my honorable friends from Western Australia referring to what they call the transcontinental railway. I have never heard of a railway to run along a coast being called a transcontinental railway. The general understanding of a transcontinental railway is that it is one to run from the coast on one side of the continent to the coast on the other side. But our honorable friends from Western Australia—that is, of sin, sorrow, and sand—will insist on using this high sounding phrase of "transcontinental railway." I believe that they will carry their point from the very fact that the people will not understand after all it is only a railway to run along the coast. I have some knowledge of the territory in South Australia; from having seen some of the land a second, from talking with those who have gone over the route of the line; and, from having, when Commissioner of Crown Lands, sent out an expedition to report on the Nullarbor Plains. The fact is that on the border line of Western Australia and South Australia there is an immense area of well-grassed land. The puzzle is that it grows good but is not well-grassed. It is one immen-

crystalline limestone formation in which all the water runs away, in which you cannot make a dam until you get to some granite outcrop. I thought that we might be able to get artesian water. When I was in office I suppose I spent over £5,000, and I believe that South Australia has spent from £10,000 to £20,000 to that end. We sank to a depth of 3,000 feet, but we never got artesian water. We got water to flow up a considerable height in the case of the tubing, and when it was pumped up it was always found to be stock water which could not be used for engines. It appears to me that our experience on the Nullarbor Plains will be repeated elsewhere along the route of the line. The country, with the exception of a slip round Port Augusta, right away to Kalgoorlie, with the exception of a slip round Eucla, has never been taken up by the pioneering squatters. If they could have made dams they would have taken up the land. If they could have got wells they would have taken up the land. It has not been taken up, not because it has not food for stock, but simply because it is waterless. For the whole distance from Port Augusta, except near that port, to Kalgoorlie, the railway would not pick up one ton of freight on the one hand, or one passenger, practically, on the other hand. It would never pay. The absurdity of the proposal to adopt the 4ft. 8½in. gauge is apparent, when it is mentioned that the railway from Perth to Coolgardie, in Western Australia, as well as the railway from Terowie to Port Augusta, in South Australia, is built on the 3ft. 6in. gauge. To connect those two railways with a line built on the 4ft. 8½in. gauge would be the very height of absurdity. Over this plain country there would be no big cuttings to be made. There would be no trouble in making a railway. It could be made very cheaply—practically on the surface. With a 3ft. 6in. gauge a train could travel at the rate of 50 miles an hour, in a straight run, without the slightest difficulty. That rate would be quite fast enough for any purpose, especially as there would be no passengers to be picked up, and the whole distance could be run without many stoppages. There is only one ground on which its construction can be defended. If it is required for defence purposes, then the rest of the community might put their hands into their pockets to the tune of say £50,000 or

£100,000 per annum to make up the loss which would be occasioned. They might find that sum every year for defence purposes, just as we find the money to insure our buildings against fire. But for no other reason can its construction be advocated in fairness to the rest of the community. As it is not to come before us in a definite form this session, I shall not pursue the subject any further. Another point which has not been touched upon here or elsewhere, so far as I know, is the creation of the Inter-State Commission. I question very much whether it is wanted at the present time. I do not know what questions we have to bother about, except the Murray River question, which may have to be dealt with by the High Court, and possibly by the Privy Council eventually.

Senator PEARCE.—How about the railway freights on the South Australian railways?

Senator PLAYFORD.—I know of no trouble between South Australia and Victoria at the present time. There used to be a little trouble, and there may be some now, but any difficulty could be overcome by constituting the Inter-State Commission of the chief managers of the State railways, and it might not be necessary to pay those gentlemen very much for their services. I do not believe that there is any necessity at the present time for an Inter-State Commission, although possibly one may be necessary in the future. I shall wait to hear what are the arguments in favour of its establishment. If it can be shown that by means of an unjust tariff the railways of one State are competing unfairly with those of neighbouring States, and that it necessitates the appointment of an Inter-State Commission, of course I shall be prepared to vote in that direction. But unless that justification can be shown I am not prepared to saddle the community with a very large annual expense for a commission which, when appointed, would have little or no work to do. A great deal has been said about the Customs administration. I do not propose to go into this question at any length. I had the pleasure of listening to my old colleague, the Minister for Trade and Customs, to-day, when he wiped the floor of the other House pretty well with his opponents in his usually vigorous style. I know that there is no more honorable or straightforward man than

Mr. Charles Cameron Kingston. He will do what he believes to be absolutely right, and in the interests of the public. He is not at all given to taking advantage of anybody. He has not a "down" upon anybody. One individual said on one occasion that it was in consequence of the Minister having some special dislike to him that certain action was taken. I know that that statement is absolutely false. If anything, he is a good deal too fond of forgiving his enemies; and he has forgiven some which it would have been a good deal better for him if he had not forgiven. But be that as it may, I listened carefully to a great many of Senator Pulsford's statements. There is one case of which he made a great song. It is that of a sailor who came ashore in Sydney with some silk and a bible, and who was very improperly, according to Senator Pulsford, interfered with by a Customs officer. Sir, he was very properly interfered with. People are not allowed to bring on shore silk, which is a highly dutiable commodity, without giving notice to the Customs officers, and those officers did right in arresting the man. The only point I have any doubt about is as to whether they might not have said to him—"You say you are going to post the silk and the bible by parcels post to New Zealand, and that it was given to you in London for that purpose. Come along to the post-office and let us see you post it and put the direction upon it, and we will let you go." Something of that sort might have been done to see if the man had any *bona fides*. But you must not allow these people to come ashore with dutiable commodities without paying duty. I know how tobacco and cigars and all sorts of dutiable goods are smuggled in this way by ships' officers. My honorable friend, Senator Charleston, who is an engineer, was once on board a steamer that regularly ran into San Francisco, and he can tell many curious stories of how years ago ships' officers used to smuggle things in, and divide the spoils amongst themselves. We have to watch them very closely. With regard to the promised Bill for the establishment of a Court of Conciliation and Arbitration, I shall heartily support it. I believe it is a proper step to take. If there is a trouble with labour extending beyond the borders of any one State, and affecting two at least, it becomes pretty serious, and it is a great deal better to save

Senator Playford.

all bother than to allow serious strikes to take place, causing severe injury to the public. No one has said anything about the High Commissioner in London. I say that the appointment of a High Commissioner is absolutely premature. You want no High Commissioner in London until you float a loan there. If the Treasurer is going to float a loan, he should have a High Commissioner there, who should certainly do the inscription of our stock. These States have lost hundreds upon hundreds of thousands of pounds because they did not do the inscription of the stock for themselves. For several years in the State of Victoria—and also in the State of New South Wales—the Government was paying £500 per million to various banks for inscribing their stock. We in South Australia were doing the same, paying the firm of Glynn, Mills, and Co. I took up the work when I became Agent-General for South Australia, and did it myself. I did it in the first year for £105 per million, and on the next occasion for £85 10s. per million. I dare say that it is now being done for less than £80 per million. The sum I saved in that way for South Australia was two or three thousand pounds a year while I was Agent-General. The agents in London for the Crown colonies have undertaken the inscription of stock from the very time of the passing of the original Inscription of Stock Bill, and this work only costs the Crown colonies about £90 per million. I think that Messrs. Ommanney and Blake were the Crown agents when I was at Home, and they told me that they had done the work for the Crown colonies from the very inception, and had saved those colonies a very large sum of money. Therefore, I say that our High Commissioner must start with the inscription of our Commonwealth stock for the first federal loan floated in London. And that first loan ought to be a decent-sized loan—certainly not less than a million. The idea of the Treasurer floating a loan of £500,000 was a mere pettifoggish thing—it was ridiculous. You must not float in London, for the Commonwealth, less than a million, at least—a couple of millions would be better. Then you can test the market to see what your stocks are quoted at on the Exchange. You can see what their value is as compared with all other colonial stocks, and be able to tell whether you will save any money by consolidating your

State loans. You cannot tell that before, because you do not know what your stocks will be worth. When your federal loan gets among the Stock Exchange quotations and people are dealing with your stock, and working upon it, and there have been a great many transactions in connexion with it, and other states of things exist, and you can compare the quotations from day to day from the Stock Exchange, so that you can see the difference between the Commonwealth loans and State loans, you can say whether the Commonwealth can take over State debts in payment for the premises which have been transferred to it by the States. We shall then be able to say that at a certain price we can float on the London market at a certain figure, and can save a certain amount of interest on the transaction, which will be very beneficial to the Commonwealth and the States. But until you have floated a Commonwealth loan in London, you cannot talk about consolidating stocks. A great many of the people who talk about consolidating State stocks, have not the remotest idea of the trouble there is in reference to the matter. You fancy that you can get people who have got stocks belonging to an individual State to give up their stocks in return for Commonwealth stocks or bonds, and you think that you are going to gain a lot of money by the transaction. As a matter of fact, you are going to gain nothing by it practically. People will want more than an equivalent. The colony of New Zealand tried that years ago. They formerly had provincial Governments. Those provincial Governments issued loans. The interest on these loans ranged from 7 per cent. to 5 per cent. Then they had established a central Government, and the central Government offered to the people who had the provincial bonds—and, therefore, only the security of the provinces—the security of the whole of New Zealand. But they had the biggest trouble in the world to get the people to give up their provincial stock. They offered a 4 per cent. stock, and in one instance that I know of they had to pay £136 for a £100 bond to get people to come in. There was one of the 7 per cent. loans which they tried to consolidate at 4 per cent. They got about £15,000,000, I think. But there was a considerable number of stock-holders who would not come in under any circumstances. The result of that transaction—although it

appeared at first sight that because of the difference in interest between 7 per cent. and 4 per cent., it was a good thing for New Zealand—was, as I said to the Agent-General for New Zealand before I left, a total loss to that country. I said to him, "Many of those loans of yours would have run out in due course, when you could have borrowed the money again at 3 or 3½ per cent. You have saddled yourselves with 4 per cent., and, because of the amount you have paid to redeem the old stocks, with a vastly increased debt. You are paying a higher rate of interest than you would have paid if you had let those stocks run out." I wrote a long report upon this subject to Sir Frederick Holder, now the Speaker of the House of Representatives, and who was then the Treasurer of South Australia. Although we had a number of 6 per cent. and 5 per cent. bonds, and also a lot of 4 per cent. bonds, and although we were then borrowing at 3½ per cent.—we could not borrow at that rate now—I told him that I would not advise him to attempt to consolidate our stocks, because the people in London who held our bonds would just say—"It is all very well; we have got those bonds which are worth so much in the market; if you want to buy them from us you must give us that money and something else to induce us to give up the bonds." Because an equivalent amount to what they could have obtained in the open market would not have induced them to part with the bonds. They would have nothing to do with an offer of that kind. You must give them more than an exact equivalent; and every penny you give them beyond that equivalent is so much loss to you. It will be clear from this, I hope, that this consolidated stock business is not so easy as a great many people have been led to believe from what has appeared in the newspapers. There is only one other point to which I wish to refer, and that is the federal capital. I say that, in common justice to New South Wales, we ought to settle that question as soon as we possibly can. We have agreed to an Act of Parliament, and we are bound to abide by its terms. I see that an attempt is being made in some of the newspapers to have the matter reconsidered—to have another referendum, and to obtain the decision that either Sydney or Melbourne shall be the established capital of the Commonwealth.

Any such attempt ought to fail. We have agreed to the Constitution, and are bound to our agreement; and the sooner—in common fairness to the people of New South Wales—we settle the matter the better. But at the same time I am not prepared to spend any money for some time to come. We must be in a far better position financially before we can afford to build the capital. I do not believe that we can spend a small sum and put up with cheap and nasty buildings. That would be a great mistake. If we are going to lodge our people in wooden shanties—which probably will be burnt down if we do—it will be a great mistake. We must do the work decently, but we must wait until we have the money to do it with. But, in justice to New South Wales, we should tell that State what position we have fixed upon, because she is keeping out of the market lands that are ready for settlement. She is keeping out of the market those sites which have been favorably reported on by Mr. Oliver and others; and we should not retard her progress by delaying the selection of the site question any longer than is necessary. As to the preferential trade business, we have heard the speech of Senator Symon. His imagination ran riot in that portion of his address in which he taxed Mr. Chamberlain with having brought this subject forward as an electioneering dodge—as something sprung upon the people of England as a surprise. I can tell honorable senators that so far as Mr. Chamberlain is concerned, he has had this idea in mind for a good many years, and has not kept it to himself. When I was in London in 1897 or 1898, there was a big meeting of Chambers of Commerce, at which Canada was represented, and members of the Associated Chambers of Commerce of such large centres as Liverpool and Glasgow were present. Mr. Chamberlain, on that occasion, reviewed the whole situation, and left no doubt upon the minds of those who listened to him that personally he was in favour of establishing some system of preferential trade within the borders of the Empire. He had no special scheme to advocate at that time, and he spoke with very great caution, as befitted a man occupying the important position he then held. But he left no doubt upon the minds of those who could read between the lines that his feelings undoubtedly were in favour of preferential trade within the Empire. I may add that

Senator Playford.

I had a conversation with Mr. Chamberlain on the subject. When I saw him he had some idea—as Rosebery also had—of a Zollverein under which there would be trade between various parts of the Empire and a Tariff against the outside world. I told Mr. Chamberlain that so far as my State was concerned—and I believe I could speak for the various Australasian States as well—we could not agree to anything of that sort. It would ruin our manufactures and we should not be able to get from the Tariff on goods which come from outside sources sufficient money to meet our wants. If we were prepared to do anything at all it would be on a give-and-take principle. I said “It will put an extra duty on foreign wool. South Australia will give you preference over some foreign manufactures. If you put a duty on wool you may say it is a tax on raw material, but on manufactured material, which is re-exported, of course you can remit the duty. You might tax on wheat, butter, fruits, and a number of many lines with which we could supply you while we might meet you with a preferential trade in other directions in which we could supply us. But, certainly, free trade between Great Britain and the various parts of the Empire, with protection against the outside world, would not suit us under the present circumstances.” I look upon the question as being, at the present time, in a nebulous state. It may rise eventually upon some great planet—into some shining star—but it is in a nebulous state at the present moment; and, until we hear something more definite as to what Mr. Chamberlain proposes to do—what preferences he is going to give, upon what particular articles he is going to give it, and what he shall be asked to be prepared to give in return—we need not seriously discuss it. Personally, however, I look at it as being a good thing, because it will not merely bind the people of this country together by bonds of sympathy—it will bind them by stronger bonds—bonds of interest; and if our mutual interests can be joined by some of this sort the bonds of Empire will be much stronger factors than they are at the present time.

Debate (on motion by Senator McGowan) adjourned.

House of Representatives.

Wednesday, 3 June, 1903.

Mr. SPEAKER took the chair at 2.30 p.m., and read prayers.

PERSONAL EXPLANATION.

Mr. DEAKIN.—To make a personal explanation, I wish to call attention to a statement made by the honorable member for North Sydney on Thursday last. He is reported to have said—

I know that when the division came on—

The division upon the tea duty—

the honorable member for Eden-Monaro was looking for the Attorney-General, because that Minister had left the House in the face of an important division without pairing.

It is possible that the honorable member for Eden-Monaro was looking for me, and that I was not in the chamber, but I have reason to remember, because of the surprise which occurred in connexion with the division, and because I have since consulted my diary, that I was within the precincts of the chamber from the commencement to the close of the sitting. I have not the least doubt that the honorable member for North Sydney made the statement in good faith in consequence of something which he heard. I am concerned only with the fact that I was in the building during the whole evening, and did not leave until after the division was taken. I was paired for the division to oblige a member of the Opposition.

Mr. THOMSON.—As a matter of personal explanation, and in reply to the Attorney-General, I wish to say that it is a duty and a pleasure to accept his statement unreservedly. What I said was in reply to an unexpected interjection, and it might be excusable if, under such circumstances, I did not speak with the close accuracy which might have been expected had I made a deliberate statement. I do not put my explanation upon that ground, however. I had ample justification for the statement, for on the night of the division upon the tea duty, and shortly before the division took place, the Government Whip—the honorable member for Eden-Monaro—stated that the Attorney-General had left the House and had not paired. He then

endeavoured to obtain a pair for him, and put down the name of a representative of New South Wales, who at the time was absent from Victoria. I objected to the name being used, because the honorable member to whom it belonged had told me in a recent conversation that he was in favour of the duty upon tea, and another pair was found. The Government Whip was certainly seeking a pair for the Attorney-General, although, I accept the statement of the latter, and that he was within the precincts of the House. I could support my statement as to the seeking for a pair by the testimony of other honorable members if I chose to bring them into the question, but I do not feel justified in doing so. I am quite satisfied to leave the matter where it is, and stop at the statement of facts within my own knowledge.

Mr. AUSTIN CHAPMAN.—With reference to the statements made by the Attorney-General and the honorable member for North Sydney, the fact that the division alluded to was taken nearly twelve months ago makes it impossible for anyone to be very clear as to what members were or were not within the precincts of the House at the time.

Mr. SPEAKER.—It is impossible to allow a debate to take place upon a personal explanation. The Attorney-General was within his rights in making such an explanation, but I am not sure that the honorable member for North Sydney was in order in following him, and I am certain that the honorable member for Eden-Monaro will not be in order in proceeding to discuss the matter further.

RELIEF TO THE CROTTY MINERS.

Mr. O'MALLEY.—In view of the fact that the Commonwealth Constitution is similar to that of the United States of America, and that the American Congress voted £200,000 for the relief of the victims of the Mount Pelee disaster, and that now at Crotty, in Tasmania, over 1,000 people are almost destitute because of the amalgamation of two mines there, will the Prime Minister place upon the Estimates the sum of £10,000 to assist those pioneers?

Sir EDMUND BARTON.—I am under the distinct impression that it is not within the power of the Commonwealth Parliament to vote money for such a purpose. The honorable member speaks in a good cause, and I shall give the matter further consideration; but I hope that what I say now

will not be supposed for one instant to be an intimation that I think that what he asks will be granted.

FEDERAL ELECTORAL ROLLS.

Mr. BROWN.—With reference to the alleged omissions from the Federal electoral rolls, I wish to ask the Minister for Home Affairs if he proposes to take steps to have the names of electors who are said to have been left off enrolled prior to the boundaries of the State divisions being finally decided upon?

Sir WILLIAM LYNE.—I have already taken what action is possible. The lists of names—which are really the rolls—have been printed in New South Wales, and I hope to have them exhibited at every post-office in the State within the next day or two. I believe that they are to be sent out to-day or to-morrow. I have also inserted notices in the press, pointing out the discrepancies to which the honorable member alludes, and asking electors to inspect the rolls and to send in their names to the officer in Sydney if they find that they have been omitted.

GENERAL ELECTIONS.

Mr. POYNTON. — Will the Prime Minister indicate to the House what measures he considers are of such importance as to warrant the prolongation of the session until such a time as will make it impossible to hold the elections to this House and to the Senate upon the same day?

Sir EDMUND BARTON.—In all courtesy to the honorable member, I do not feel called upon to make a Ministerial explanation on the subject at this stage. There will be a proper occasion for a Ministerial explanation as to the course of business.

ELECTORAL ACT AMENDMENT.

Mr. McDONALD.—Have the Government decided whether they will introduce a Bill to amend that provision of the Electoral Act which prevents State members from contesting federal seats?

Sir EDMUND BARTON.—Steps were taken in some of the Parliaments of the States to prevent federal members from seeking election to the State Parliament, and when the Electoral Bill was before this House a provision was inserted in it making State members ineligible as candidates for the Federal Legislature. The whole matter involves a wide question of

policy, and I am not at present prepared to say that the Government will consent to any amendment in the law, but the matter will be taken into consideration at an early date.

Mr. JOSEPH COOK.—And heads counted.

Sir EDMUND BARTON.—No. To count heads is the peculiar province of the Opposition.

PERMANENT STANDING ORDERS.

Mr. CONROY.—I wish to ask the Prime Minister when the adoption of the new standing orders, prepared last session, is likely to be moved?

Sir EDMUND BARTON.—I have not discovered any such great difference between the standing orders provisionally adopted and those which have been prepared by the Standing Orders Committee—although the latter are, in some respects, an improvement on the former—as will warrant me in a session like the present, in taking up the time that I can see would be occupied in their discussion by putting them before honorable members.

COMMONWEALTH POSTAGE STAMP.

Mr. CLARKE asked the Prime Minister, *upon notice*—

1. Whether the Government has yet considered the desirability of introducing an uniform Commonwealth postage stamp.

2. If so, what is the result of such deliberations.

3. If not, will he consider the matter as soon as possible.

SIR EDMUND BARTON.—The answers to the honorable member's questions are as follow :—

(1) Yes, so far as the Commonwealth postage stamp can be made uniform during the book-keeping period.

(2 & 3) A decision will shortly be arrived at and made public.

RIFLE CLUB REGULATIONS.

Mr. FISHER asked the Minister of Defence, *upon notice*—

1. When the new regulations re rifle clubs are likely to be issued?

2. Whether any of the new rifles are to be issued to rifle clubs?

3. Whether it is his intention to increase the price of ammunition to members of rifle clubs?

4. Why it is that requisitions for passes over Queensland railways may not be signed by the nearest Defence Force officer, as was the case prior to federation?

Sir JOHN FORREST.—The answers to the honorable member's questions are as follow :—

1. At an early date.
2. Yes, when available.
3. Not at present.
4. Inquiry is being made into the matter.

GOVERNOR-GENERAL'S SPEECH : ADDRESS IN REPLY.

Debate resumed from 2nd June (*vide* page 384), on motion by Mr. L. E. GROOM—

That the following address in reply to the Governor-General's opening speech be now adopted :—

MAY IT PLEASE YOUR EXCELLENCY—

We, the House of Representatives of the Parliament of the Commonwealth of Australia in Parliament assembled, beg to express our loyalty to our Most Gracious Sovereign, and to thank Your Excellency for the speech which you have been pleased to address to Parliament.

Mr. BRUCE SMITH (Parkes).—I should have been very willing under ordinary circumstances to co-operate with other honorable members in saving the time of Parliament by curtailing this debate, even to the extent of refraining from making any observations, were it not that I feel that although the leader of the Opposition has not tabled any motion in the nature of a challenge to the Government, I could not, in view of my duty to my constituents and in self-respect to myself, forego making certain observations upon the administration of the Government since the conclusion of last session, and upon the Ministerial programme contained in the speech of the Governor-General. I feel sure that every one who heard the speech delivered last night by the honorable member for Wentworth must feel that the most serious and most damning case was made out against the Minister for Trade and Customs as the direct administrator of his department, and against the Government as a whole. Ministers have not denied the challenge of the honorable member that they have all individually taken exception to their colleague's administration, and yet have allowed him to continue in his control of the Customs, to the detriment and discredit of the Commonwealth. Any one who reads that speech must admit that the Ministry stand committed for trial before the bar of public opinion. I desire in the first place to deal with one

or two questions of administration, and I shall afterwards direct my attention briefly to the programme put forward by the Government. In the first place it is to be noted that when Parliament prorogued the Prime Minister had not returned from England. It will be recollected that a number of honorable members of the Opposition, myself in particular, had taken most marked exception to what I have never had any hesitation in characterizing as an immoral breach of political obligation on the part of the Prime Minister in connexion with his Maitland manifesto. I do not wish to go over the old ground again, although some honorable members on this side of the House have thought it desirable, but I desire to repeat my belief that quite outside of the tactics of politics, for which I am prepared after twenty years of political experience to make great allowances, the Prime Minister has by his action forfeited all claim to respect. Great as was my admiration for the Prime Minister, and willing as I was to stand by him and help him to consummate the great scheme of federation, I say now, and I shall say to the end of the chapter, that he went right beyond the bounds of political allowance with regard to party movements, and committed a great moral delinquency in deceiving the people of New South Wales in regard to the Tariff. It is all very well to say that the fiscal question should not be raised in New South Wales to-day. I admit that if the Maitland manifesto had been carried out in its letter and spirit, we, as a party, would have no right to disturb the commercial and industrial affairs of the Commonwealth by again bringing that question before the people; but when we can prove out of the mouth of a member of the Government, that the Maitland manifesto was intended as, and was taken to be, an assurance to the people of Australia—because Maitland was, so to speak, the Mount Sinai of the Commonwealth—that the fiscal question was not to be raised, and that, therefore, it ought to be put aside as irrelevant to the election, the charge goes home in such a way that it cannot be refuted. I need only refer to the statements reiterated by the Vice-President of the Executive Council that we ought not to allow the wretched fiscal issue to enter into our consideration, but choose the best men, not from the fiscal point of view, but in every other sense of the word

to take part in the great and responsible work of carrying on the business of the Commonwealth. If further proof were wanted of the impression that was created by the Prime Minister's speech, is it not contained in the memorable event which took place in this Chamber when the honorable member for Kooyong, the honorable member for the Grampians, and the honorable member for Flinders, who were intimate friends of the Government and sat on the Government benches, speaking in pathetic terms, told us that they had been deceived by the Prime Minister and the Government, and that, in order to put their protest into the most definite and dramatic form, they would cross the House and sit in opposition? Does it need any torrent of language to bring the position home to the minds of the public? I started upon my federal career with a fixed determination to help in the carrying through of the great work of federation, but when, after believing for years in the high ideals which the Prime Minister, above all men in Australia, had put before the public as to our future national life, I find him stooping down from his pedestal of perfection to act the groundling in political life, how can I repose any further confidence in him? I shall continue to lose confidence in him. I have watched to see how far he has realized his own high standard of political idealism. The Prime Minister proceeded to Great Britain as a kind of emissary from the Australian people, to represent them at what may be looked upon as an initial form of Imperial Council, which may in future years determine the destinies of the Empire, of which we are a part. I watched to see how far he would show himself fit to occupy that high position. We all remember—and it has a bearing upon our present day politics—reading his utterances as reported in the English newspapers from time to time. It has been claimed as a subject for credit that he spoke frequently at great functions, and that he never in the whole course of his circuit of representation committed Australia to a single opinion. I submit that this reflects no great credit upon him, because, although he was not authorized to commit this Parliament to any particular measure touching the interests of the Empire or the Commonwealth, he had full authority to express his own opinion as to what ought to be done. We find, however, that from first to last there was a series of swollen speeches,

speeches full of swollen Imperialism, regarding what ought to be done in the interests of the Empire, in absolute forgetfulness of the fact that the policy of his own Government was calculated to completely undermine the union of the Empire. What could one think? I was reminded of the process adopted by some enterprising butchers when they want to sell veal. They blow it out for exhibition in their shop windows. That seems to me to afford a forcible illustration of the kind of utterance we had from the right honorable gentleman. His speeches were redolent of Imperialism of the most swollen character, as if he had not a thought for that insignificant corner of the world called Australia. The Empire was to be everything, and yet the right honorable gentleman had brought forward a programme under which the subjects of his own King were absolutely barred from passing from one part of the Empire to another. Afterwards we find him actually stooping, in deference to the socialistic party in this country, to shut out for days together men of his own flesh and blood coming from the very country in which these swollen utterances of his were delivered. We are told that under the provisions of the Immigration Restriction Act the Prime Minister's hands were tied, but the section which it is said prevented him from exercising a discretion, and which should not have been passed, was accepted in the most mild and meek manner by the Attorney-General without reference to the Government, because the honorable member for Bland had suggested it.

MR. KINGSTON.—Was the honorable and learned member in the House at that time?

MR. BRUCE SMITH.—No; but I have read *Hansard* with great care, and I know exactly what took place. The leader of the labour party rose and said—"I have an amendment to make," and the Attorney-General said—"I should like to hear it." He did hear it, and it was accepted, and was passed into law. It has been said that once that section was passed the Prime Minister had nothing to do but to carry out its provisions; but what does the section provide? That no man who has been contracted for shall land in the Commonwealth unless the Prime Minister has first of all ascertained that he is required for the industrial purposes of the Commonwealth.

I have paraphrased the section of the Act, but that really is the effect of it. It was aimed at keeping out large bodies of men, who might be contracted for in other countries, and brought out under engagement against the interests of the working classes already here. It was quite open to the Government to say that they would be no party to such a provision. They might have said that they were entirely at one with the socialistic party in preventing men from being brought here under contract at rates of pay below those current here, and it would have been an easy matter for them to hold as null and void every contract which had been entered into in other parts of the world. Taking the section as it stands, however, the Prime Minister is made the arbitrator as to whether men, who are brought out here under engagement, are required in the country. Required by whom—by Mr. Anderson, or by the workmen? Was it ever intended by Parliament that the Prime Minister should, on every occasion that a man or a number of men happened to be landed here under contract, be constituted a kind of Royal commission to make an inquiry into the economic circumstances of the trade affected? That is what the Prime Minister undertook to accomplish. He undertook to solve the problem without making any inquiry of a widespread character. Thus these English artisans were detained for six days in a sort of moral quarantine whilst the Prime Minister formed an opinion as to whether half-a-dozen additional hatters were required amongst 4,000,000 of people. For the right honorable gentleman to adopt such an attitude after his grandiloquent utterances upon Imperial affairs in London was a fall for which no parallel is to be found in the history of public men. I have no desire to speak generally of the prohibition imposed upon the advent of black labour to this country. I merely say that that circumstance alone points to the right honorable gentleman in his speeches in London having played the hypocrite to a nicety before the British people. He may or may not have meant all that his utterances implied. It is much more charitable to suppose that he went to England and made his speeches with these provincial notions in his mind than that he made them in good faith, and upon his return suddenly fell from the lofty position which

he had occupied. In this connexion it is worthy of note that quite recently the Government actually blocked the advent to the Commonwealth of three natives of a country which Australia very much desired should enter the Federation—I refer to New Zealand.

Sir EDMUND BARTON.—Does the honorable and learned member say that we attempted to block those men?

Mr. BRUCE SMITH.—I say that they were blocked.

Sir EDMUND BARTON.—It is absolutely untrue.

Mr. SPEAKER.—I must ask the Prime Minister to withdraw that expression.

Sir EDMUND BARTON.—I do not accuse the honorable and learned member of untruth, but I say that the statement which he made, wherever he got it from, is an untrue one. I do not in any way accuse the honorable and learned member of untruth.

Mr. SPEAKER.—I am quite sure that the Prime Minister will set the House a good example by withdrawing the expression.

Sir EDMUND BARTON.—If you, sir, think that I ought to withdraw it in the face of what I have said I do so unreservedly. Perhaps I may be allowed to say, however, that the expression was not aimed at my honorable and learned friend, but at those who make such statements wherever they are to be found—probably abroad.

Mr. BRUCE SMITH.—I quite reciprocate the Prime Minister's desire that we should not indulge in any personal altercation upon a question of this sort. I do not say that the right honorable gentleman blocked these men by physical force, but the administration of the Government certainly blocked them.

Sir EDMUND BARTON.—Has the honorable and learned member seen the papers bearing upon the subject?

Mr. BRUCE SMITH.—I have seen the papers, and it is from them that I gained my information. I repeat that three natives of New Zealand are living in this country only upon condition that they remain here for a limited time to assist in a particular entertainment. Good God! to what a state of things have we come in Australia when, on the eve of entering into a great partnership with the British Empire for Imperial purposes, the natives of a country close to our shores, and with which we have sought a

local partnership, are permitted to enter the Commonwealth only upon condition that they do not permanently remain here. In my early days I may have formed altogether too high ideals of public life and public men. I may have built up expectations in regard to State and Commonwealth politics that the big men of Australia would gradually come to the front, and that the leaders of the people would endeavour to conduct the affairs of this great country upon lines which reflected credit upon us as a State, and upon the Empire to which we belong. But can decadence, can personal declension, have a finer illustration than is afforded by the spectacle of the Prime Minister of the Commonwealth preaching this Empire ideal in England, and returning to Australia to carry out a policy of wretched, miserable parochialism that would be unworthy of the smallest South American republic? I admit that I have formed too high ideals, and that, after twenty years of political experience, I shall have to lower the standard which I had set up. When I see important questions treated in this way—when I see our fellow beings—members of our own nationality, treated in this fashion, how, I ask, can a man like Mr. Chamberlain, if he knew the facts, hope that we shall sacrifice our miserable local ambitions to fall in with his great Imperial scheme? So far, he has only visited a Crown colony, and he does not appreciate the character of the public men with whom we have to deal when he imagines that we are ready to cast aside our local affairs and rise to the level of the Imperial policy which he pictured in his recent speech. So much for the general administration of this country. I come now to the question of the Customs administration. Although I have had many years experience in different phases of commerce, I do not intend to enumerate all the cases of Customs persecution—I do not hesitate to describe them as such—which have taken place under the régime of the present Government. I have heard of many instances of hardship some of which are stronger than those which have been placed before the House. When the Customs Bill was under consideration I remember that I was one of the first to draw attention to the clause in it which reversed the old time-honoured provision that a British citizen was presumed to be innocent of any crime until he was proved guilty. I commented strongly and frequently upon that principle,

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and received satisfaction only when the House was assured by the Minister of Trade and Customs, in the most merciful language, that although this arbitrary law was being placed in his hands it would be exercised with discretion, and that justice would be tempered with mercy. What has been the result? The right honorable gentleman is reported in the *British Australasian* as stated by the honorable member for Wentworth in the speech which he made last night—to have admitted his regret that the great bulk of the merchants of Australia are honorable men who give a credit to Australia and to the Empire. Yet, although a similar provision was contained in the Victorian Tariff Act of 1866, when its Customs laws were changed, no one in the history of that State has ever heard of any series of persecutions which approached in hardship those which have occurred under the Commonwealth administration during the last twenty years. I do not object to any provision for the detection and punishment of dishonesty. I have no sympathy—and I know nothing about the work of the Customs department—with merchants who attempt to defraud the revenue. I do not object to offenders in cases in which blank invoices are brought to this country for fraudulent purposes being punished, not by fine, but by absolute imprisonment. What I do object against is the fact, which was commented upon with so much eloquence by the honorable member for Wentworth last evening, that hundreds of highly reputable merchants have been hauled before the police courts, drunkards and criminals, compelled to stand there—sometimes hours—until they could be charged, and fined £5 for having committed a miserable error which the prosecution of the Government has admitted did not contain an element of fraud. What is the effect of such administration? Its effect is to put the rogue upon an equality with the honest man. Not merely is a member of this great and honorable class of the community treated as a rogue, but the honest man, who ought to be punished by imprisonment, is practically consoled by being reminded that hundreds of reputable merchants are upon an equality with him. In addition to the insult which has been offered to the mercantile classes of Australia, the Government have offered an incentive to crime in that they have made less heinous and objectionable. It is

the circumstance that there has been no such case in the Customs administration of this country a man admittedly of very high ability in his own walk of life, and no knowledge of commercial practices, I ought to know to the contrary, the fact may be a very excellent advocate of the law in his own State, but I say unhesitatingly that it was a mistake to intrust a gentleman of his calibre and training with the mercantile operations of Australia, and that he could not possibly have acquired any knowledge of value concerning mercantile practices. To me it is perfectly clear that a man who has had years of command and legal experience, that the right gentleman entered upon the work of the department in the full conviction that the mercantile classes of Australia were a particularly principled individuals who were at no time to rob the poor man by evading the law of duty upon their goods. No one could have listened to his deliverances upon the Customs Bill and the Customs Tariff without feeling that he entertained the highest respect for the law, and that he was called upon to make proclamation against a class which was cunning to a degree, and that he was a distinguished policeman or detective appointed by the Commonwealth to catch

MR. DONALD.—He was right.

MR. RUCE SMITH. — The honorable member for Southern Melbourne knows less of commercial affairs than does the little boy who is the Minister for Trade and Customs.

MR. DONALD. — But I know something of common honesty.

MR. RUCE SMITH. — If that is the question, which the right honorable gentleman asked upon undertaking the administration of the Customs department—

MR. KINGSTON. — Is the honorable member referring to any particular case of mine?

MR. RUCE SMITH.—No. If I were to go from the utterances of the Minister, I should not be able to catch my train, as I intend doing, to-day. I have other occupations besides politics, and I am pleased that I have ; I should be able to depend on the latter. What I say is that it is not the attitude in which to appear before the mercantile classes of this country. It has been the result of all this administration? Honorable members ought, in their earnestness, to ask themselves whether

in the whole of the two years during which the right honorable gentleman has been at the head of the Customs administration of Australia one substantial case of fraud has ever been brought against any member of the mercantile community. I know that the Minister will mention the Queensland case, and, no doubt, that is a case for which he may take some credit. It was a very complicated case, and whether or not the offence was driven home to the head of the firm I am not prepared to say. But if we compare the administration during the last two years and a half with £32,000,000 of imports per annum, what have we as the result of this wild and savage administration? People have been prosecuted for a series of petty errors, so clearly errors that the Crown Prosecutor has over and over again had to admit in court that there was no charge of fraud. Yet, in these cases, it was asked that a fine of £5 should be imposed, and, without it being realized what it meant to the heads of great firms who have enjoyed an unblemished reputation for perhaps half a century—from a time when the Minister himself was in knickerbockers—these firms have been brought into police courts and subjected to this humiliation. The Minister may depend that the people of the Commonwealth will not forget his administration. There is no doubt that when the Government next appeal to the people for an indorsement of their administration, the effect will be felt—perhaps silently—but it will astonish Ministers as showing how what may appear to be little things lead to great results. I now pass to one other matter under the head of administration. We all remember that when the Customs Bill was under discussion, we understood that a distinction was to be made between sugar grown by black labour and sugar grown by white labour. It was perfectly clear to me—though there may have been some subtle language used—that the intention was that every ton of sugar should pay an excise duty of £3, but that where it was grown by English or white labour there should be a rebate of £2. We find, however, that thousands of tons of sugar which have not been grown by white labour but by black labour—the mere harvesting being done by white labour—have earned this rebate over and over again. Although I do not like the law, when a law is once made I like to see it honestly administered. But we find that in the case of hundreds of

thousands of tons of sugar the rebate has been allowed, although, as I say, only the harvesting has been done by white labour?

Mr. CONROY.—Does the honorable and learned member make the charge that the rebate has been allowed to people not entitled to it?

Mr. BRUCE SMITH.—I say that the rebate has been allowed to people who are not entitled to it, and the matter has been commented on in the columns of the *Times*, from which I get my information. That is an act of administration which ought not to be tolerated. If we make a law, no matter how objectionable, it should be carried out; but I say that in this relation the law has not been carried out, because side by side with the drastic provisions on which I have commented, we had an undertaking from the Minister that this enactment would be used only in case of actual fraud.

Mr. KINGSTON.—The honorable and learned member never had anything of the sort, and I defy him to point it out.

Mr. BRUCE SMITH.—I now pass to the Government programme contained in the speech of His Excellency. My first observation is that the speech, in its very opening, contains a remark of a very prominent character, which I say is unjust towards the free-traders of Australia. The paragraph of His Excellency's speech to which I refer begins thus—

It was found impossible, by reason of the exhaustive discussion of the Federal Tariff, to deal with any but the most urgent of the proposals then brought before you, and renewed demands must now be made on your industry and patriotism before the Commonwealth machinery can be deemed complete.

I ask any members on this or any side of the House to put fairly to themselves the question—What was the cause of nearly two-thirds of last session being occupied over the Tariff? We have had a boast in the interval, by the Prime Minister and by the Minister for Home Affairs, that the present Tariff is a fair compromise. But where does that lead us? Does it not lead to the conclusion that it took twelve months of protest and debate on the part of the Opposition in order to produce a fair compromise?

Mr. MAUGER.—The Tariff, as introduced, was a fair compromise.

Mr. BRUCE SMITH.—I am not talking of what the honorable member for Melbourne Ports may think. I am talking of

what the Prime Minister has said. I am further talking of what the Minister for Home Affairs has said, and the claim made by these right honorable gentlemen is that the present Tariff is a fair compromise. Why did it take twelve months of hard fighting on the part of the free-traders to produce a fair compromise? Was it not because of the notable breach of faith by the Prime Minister—a breach of faith which the members of the Opposition and the people of the country who support them protested against? Were these twelve months not occupied in trying to bring the Government to a recognition of the promise which was made at Maitland? It is true that we did not succeed, though we obtained recognition to a certain extent. It is certain, however, that the question will be raised at the next general election. The leader of the Opposition has given due notice to the people of the country that it will be raised. Are the Government not in a logical *cui-de-sac* when I put this question to them, protectionists as they may be—Why should it have taken twelve months to get this Tariff, except for the fact that it was, when introduced, not a fair compromise? It was only by twelve months' protest and debate that it was put in the condition now boasted of by the Prime Minister. There is another aspect of His Excellency's speech to which I would like to refer. It will be remembered that when the original programme of the Government was put forward, the people of Australia were told that there was to be an old-age pension scheme. I quite recognise that that was merely the political cheese for the trap—that it was merely the old practice of offering the bundle of political carrots in order to attract the unthinking portion of the population. But now that two years have passed away, the Government had dropped this particular bait, and the matter of old-age pensions is not mentioned. But the question was not dropped until it was pointed out to the members of the Government that such pensions were impossible, for the reason that it would be necessary to raise £2 in taxation for every 10s. required. We find the speech of His Excellency, which is the programme of the Government, full of padding. Half of the speech, at least, promises measures which even the least intelligent member of the Government must know to be a farce. There is an endeavour to catch the crowd,

and persuade them that after all the Government is a liberal Government, because it promises 20 or 30 measures in the near future. We see here pursued the same old practice of—I am now talking of State politics, and of practices which I thought would be abandoned in the federal atmosphere—proposing everything it is possible to conceive, in the hope that some day the opponents of the Government may adopt the programme, and lay themselves open to the charge of stealing their proposals. No one who knows the Constitution, and who read the original programme of the Government with care, can have failed to see that every conceivable legislative measure was crammed into it, whether or not there was the means of carrying it out, in the hope that the Government might hereafter be able to accuse the Opposition of taking part of that programme. That is a very old trick in State politics—an old trick in the lower grade of politics—but it was adopted at the beginning by the Federal Government, and is repeated now. Who can say, for instance, that the Inter-State railway to Western Australia is likely to be carried out during the reign of this Government or of this Parliament?

Mr. CROUCH.—We should like to have it.

Mr. BRUCE SMITH.—We should all like to go to heaven, but whether or not we shall all get there is another matter.

Sir JOHN FORREST.—The leader of the Opposition said that he would carry the work out at once.

Mr. BRUCE SMITH.—Who can say that the question of rings and trusts, which presents one of the greatest problems of the present day, will be taken into serious thought by the present Government during their term of office? Who can suppose for a moment that the enactment of the navigation laws—which are modestly put down in His Excellency's speech as a matter in regard to which the Government are not sanguine—will be seriously attempted by this Government? Who can suppose for a moment that banking laws for all Australia will receive serious consideration? Who can suppose that the Bonus Bill will this session be the subject of any serious effort on the part of the Government? I have a very low opinion of the faculty of the Government for estimating public feeling, but I do not think their faculty is low enough to induce them to try another

and a third fall in regard to the Bonus Bill. Who can suppose for a moment that the question of preferential trade will be introduced by the Government? This reminds me of the extraordinarily paradoxical attitude of the Prime Minister. The right honorable gentleman took part in a discussion in Great Britain with the Premiers of the other dependencies on this subject of preferential trade, and he gave an assurance that he would make a proposal to his Parliament with a view to its adoption. Where is that proposal? A long cablegram was sent, no doubt at the expense of the Commonwealth, to Mr. Chamberlain, informing that gentleman how much the Prime Minister of the Commonwealth approved of this magnificent Imperial scheme of preferential trade.

Sir EDMUND BARTON.—The honorable and learned member was not present when I denied that I had sent any telegram to Mr. Chamberlain, and when I said that the telegram was sent by a press agency after an interview with myself. The telegram was sent entirely at the cost of the press agency.

Mr. BRUCE SMITH.—That only refers to the cost of the cablegram.

Sir EDMUND BARTON.—There was no telegram sent by me to Mr. Chamberlain. The honorable and learned member's remarks are full of misstatements.

Mr. BRUCE SMITH.—Will the Prime Minister deny that the words contained in the telegram were from an interview with him, and that they involve his own personal opinion on the question?

Sir EDMUND BARTON.—Exactly; that is so.

Mr. BRUCE SMITH.—Then the dilemma is just as important or just as fatal to the Prime Minister. What does it matter whether the £10 or £20 which this cablegram cost was paid by the press agency or by the Commonwealth, whether it was addressed to Mr. Chamberlain directly or to the British press, so that he might see it? I ask what sentiment or opinion it expresses on the part of the Prime Minister? And I couple it with the assurance to Mr. Chamberlain in England that he had the support of the Prime Minister. But now the right honorable gentleman has counted noses. He is aware of the reception which the proposal is likely to get in this Chamber, and he has therefore quietly left it alone. It is quite possible that his assurances when in London as to

his intention to introduce the matter to the notice of the Commonwealth Parliament may have given Mr. Chamberlain some hope that he would meet with that reciprocity which we are told to-day he looks upon as indispensable to his scheme; but he has now learned through the press that in the speech of the Governor-General, which contains the Government policy, the matter is one which has been left to the sweet by-and-by. So we have the announcement made by this man, who now stands at the very apex of the British Government, that he cannot go on with the scheme unless he has the sympathy and reciprocity of the British colonies. But he has not got it. He finds that the Australian statesman who faithfully promised to recommend the scheme to his Parliament, and who inspired the telegram which went to the English people to show that he is in favour of it, has not the political courage to introduce it in this Chamber. We are coming to a pretty state of things in Australian politics, when the head and front of our political life goes to England like a great ambassador, and leads the people and statesmen there to believe that we are prepared to join in this great Imperial policy, to rise to this great Imperial height, and, when he comes back, is afraid to introduce the subject to Parliament. The measures which I have mentioned are mere padding, not in the sense that there is no merit in them, but because they have been crammed into the Government programme with no possibility of realization. Just as a miserable tradesman will dress his shop window with empty biscuit tins, or cigar boxes, to make a show to impress his customers, the Government, to impress the public, not to impress the members of this House, place a number of empty promises in their programme, merely to be able to point to the large stock of legislative measures of a practical character they say they are going to pass. In addition to those I have mentioned, we have the Eastern Extension Telegraph Company's agreement, legislation upon the banking laws, and legislation in regard to preferential trade and the conversion of State debts. Out of twenty proposals which are solemnly put forward as if they were really part of a practical scheme of legislation which the Ministry intend to introduce, ten are palpably impossible of realization this session. The Government, however, think that in this way they can

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mislead the people of the country. I like now to say a word or two in measures which I think are of a character. I take first that which, in my mind, is of the most importance. It is the mere choice of a capital site, which is so important, but I consider it of the most important to the whole Commonwealth, and of the greatest importance to the wealth that its Parliament should have. If any one of the State capitals. If I were meeting in Sydney, I would be as much in the arrangement as I am to our meeting in Melbourne. As the representative of another State, I have seen the great disadvantage which is done to the interests of the Commonwealth by having its power placed immediately under the criticism of the press. I have seen, too, the effect of the present arrangement upon the attention of honorable members. While the States which I come is entitled to a representation of something like one-seventh of the total of Victoria, the actual attendance of honorable members last session gave Victoria a representation of something like one-fifth more than that of New South Wales. Is the capital kept in Melbourne? Is it because of the action of Victorian members that nothing has been done. But the Minister for Home Affairs and the various leagues know that within half-an-hour of the Victorian supporter can be rung up by telephone and brought here to vote in a matter while it takes the representatives of the other States, such as Western Australia, who have to come thousands of miles to reach Melbourne, days and weeks to get here. It is a crying disgrace to the honorable member's department that the capital question has not been decided further.

Mr. BAMFORD.—Where is the reason for building a capital to come from?

Mr. BRUCE SMITH.—I deprive the States of statements which have been made in regard to expenditure of millions of money necessary to create a federal capital, because I believe that £50,000,000 do all that will be required for the coming time; but I am averse to the idea of the Parliament of Australia being placed of the State capitals, where it is largely influenced by the local politics of the State where its members are placed in position that one State gets a large proportional representation than it should have while another State is proportionally under-represented. What has occurred

to years to justify the delay in the question? What has been done at that time to settle it? Two years ago the Government were given of a full and most able report of the sites in New South Wales which has been submitted for consideration. All that has happened since is that there have been two excursions to the sites, in which a limited number of members of both Houses took part. I said, Mr. Bruce Smith, that the visits of honorable members to the sites would be useless, and I gave an illustration to show why they would be useless. One cannot by a cursory view of any site judge of its fitness. Take the matter of the water supply. A party of members visited the sites on a very bad day, and the people of the district were so struck with the unfairness of the Government's judgment upon the suitability of the site that they have since protested the day upon which honorable members visited it was not a fair day by which to judge.

Now, if the weather, which we cannot live in, cannot be judged by a cursory view over one, two, or half-a-dozen days, how can an opinion worthy of being formed of the water supply of the district, its accessibility, or the character of the soil, which is a matter for chemical analysis, be formed by the cursory visit of a few members to go there with every comfort and convenience? The arrangement was a failure from the beginning to end. Put that aside, and what has been done in the last two and a half years? A commission was appointed of gentlemen taken from the United States, whose president, Mr. Bruce Smith, a very capable architect, when seen from the point of view of the Government of his own State, and in comparison with Mr. Oliver, is not a fit person to represent the Government of the Commonwealth. A conclusion on the matter. So far as the Government is concerned, absolutely nothing has been done for a period of two and a half years. No one can help drawing but one conclusion from this delay, and that is, that the policy of the Government is a protectionist policy. It is to their interest to set their backs to a move from undoubtedly the protectionist corner of Australia, and to remain there until they are forced out of it by a charge of dynamite. This policy, which affects the whole body of the Commonwealth, has been going on from week to week, from

month to month, and from year to year, without any attempt on the part of the Government to settle it. Then the question of conciliation and arbitration is mentioned in the speech. As a free-trader, I do not want to be suspected of taking a bigoted, individualistic view of that question. Personally I expect no good from it ultimately; but it is a question which involves so many aspects that I have always been prepared to hear all that could be said on its behalf, to consider the opinions of all outside authorities upon it, and even to go the length of watching with great care its actual operation in countries like New Zealand and New South Wales. These reasons carry great weight with me, quite apart from the actual merits of the question looked at economically. The working classes of the United States and the British workmen will have none of it.

Mr. MAUGER.—Why?

Mr. BRUCE SMITH.—Because they do not like it. We are now ascertaining what certain large nations of workmen think of these questions, and it is a suggestive, if not a conclusive, fact that in a country which is essentially a commercial and industrial community, having a population of 80,000,000 people, the workmen will have none of it.

Mr. MAUGER.—They give their reasons for not accepting it.

Mr. BRUCE SMITH.—Within the last few months, a very valuable commission, composed of 23 trades unionists, was sent from England to the United States to ascertain how far and in what respects the conditions of the workmen of the United States differed from those of the workmen of Great Britain. In an edition of the *Times* issued a few weeks ago, there is a most interesting summary of the evidence taken, and of the report of the commission, under the heading "Relations between Employer and Employé—Boards of Conciliation." A Mr. Mosely was charged with the conduct of the commission.

Mr. O'MALLEY.—He paid its expenses.

Mr. BRUCE SMITH.—Yes, and he is regarded by the *Times* as a most able and competent guide for the 23 trades unionists, who were selected as representatives of the more important industries of Great Britain. They were taken in November and December of last year on a tour of the United States, that they might have an opportunity

to see for themselves something of American industrial methods, and of the relations between capital and labour in America. In a two-page summary of the result of that commission, published by the *London Times*, I do not find a word about compulsory arbitration. There are, however, some very significant remarks, which show that the United States workmen assume towards employers of labour an attitude entirely different from that taken by the working classes of Australia. One of the delegates says—

There was a time in our trades union movement when a jingo spirit was dominant. Saner methods now prevail.

I would commend that to the working men of this country. The 23 trade unionists who formed the commission must have had a distinct bias in favour of the working classes, but we find this very significant statement by Mr. Mosely—

In many trades a joint committee of employers and employes meet periodically to settle rates for piece-work by mutual consent, and if such an arrangement were adopted all round I am sure it would be found beneficial: and this is what is practically done in all American industries.

Mr. Cox, one of the members of the commission, remarks—

In wages disputes and the relations between employers and workmen's organizations they have much to learn from us. It would be helpful if a committee of the leading trades' union leaders were to come over and make a personal investigation into our trade union methods and their relationship with the employer sections. There was a time in our own trade union movements when the jingo spirit was dominant. Saner methods now prevail, and a strike over a wage question is the exception rather than the rule.

I do not make my observations upon this question without having great experience to guide me. I was one of the two originators in Victoria of the Employers' Union of Australia. I was president of the Employers' Union of Australia during the whole of the time I lived in Victoria. I was one of a body, composed of representatives of the Trades Hall of Melbourne and of the Employers' Union, who drafted a constitution for a voluntary board of conciliation between employers and workmen. I have sat in the Trades Hall, Melbourne, as president of the Employers' Union and as president of the Conciliation Board, and I have, together with the workmen of Melbourne, settled on the most amicable lines quarrel after

Mr. Bruce Smith.

quarrel between employers and employees. Without any legislation whatever, only the exhibition of a fair and liberal spirit between employer and employee have witnessed the amicable settlement of what promised to be some of the bitter industrial struggles in Victoria. From my experience I have gained a great knowledge of unionists and of employers, which is not altogether useless to me. I am endeavouring to think out this question, and with such experience, backed by years of economical reading, I am sure to be the same thing that I have described. It will be done to-day if only the jingo spirit was not so dominant in this young country. It has disappeared from the United States and from Great Britain, and when it appears from this country, and the workmen recognise that capital is, after all, in the same relation to the workman as the plough to the farmer—the means by which he carries on his work—they will see that instead of treating capital as an antagonistic element which should be kept out of the country, it should be treated upon as a friend to be courted, invited to stay and try its hand in furthering the interests of the community. It is no days for compulsion in anything to appear. It must be taken as an essential part of the political economy that capital is as the shyest of game. It can be won not upon wings, but upon cable and wire. It may also be laid down with equal certainty that capital will never stay where it does not receive the best treatment. The best treatment is the most conciliatory and the fairest attitude towards it. If this is the fact why should the jingo spirit be displayed? Cannot our men see that in showing this spirit they are merely discouraging the growth of new capital, and encouraging the departure of old capital from the country, and so forcing themselves to return to the principles and elementary forms of production? The capitalist puts his money into a business, admittedly in order that he may receive a reward for the use of it in the form of profit. The workmen of Australia say to the capitalist—"It is your capital we have put into this business, but we are not going to allow you to manage it. We are going to appoint a board—it may be called a Wage or Arbitration Court—to determine the wages which you shall pay to your

We know that you can go to other countries, such as the United States and Canada, and there find employment for your capital, but you happen to be in Australia and your draft for £1,000 is here. We therefore ask you to put that money into an industrial undertaking, and we shall manage it for you. We shall decide the rates of pay to be given to your workmen, the number of apprentices which you shall have, and the number of hours which your workmen shall be called upon to work. All these things will be decided by three men." Now, who are these men? Not great industrial masters who have had years of experience. In New South Wales one of them is a Judge of the Supreme Court—a lawyer—possibly, a man who has no more notion of practical commerce than has a clergyman. I am not referring to the sitting President of the Arbitration Court in New South Wales, because it so happens that that gentleman had some storekeeping experience before he went to the bar. I am speaking of what may happen.

Mr. FOWLER.—Is it a fact that the Arbitration Court manages the business? Is it not true that it simply decides questions of justice between the two parties?

Mr. BRUCE SMITH.—I say that it determines the rates of wages to be paid, and the honorable member will admit that this must prove a very important factor in determining the prosperity of a business. The Arbitration Court also determines how many apprentices the employer shall be allowed to train for carrying on the industry, and also the number of hours for which the workmen shall be employed. In fact, it would be difficult to name a single feature in the conduct of a business which does not come within the province of the court. Let me give an instance. In the southern coal mining districts of New South Wales, only within the last six months, a mine manager found himself called upon to dismiss a certain number of hands. The question then arose whether he was the proper person to determine which of his hands were of least use to him, and which it was most desirable to retain. The question was brought before the Arbitration Court of New South Wales, which solemnly declared that the manager of the mine must, perforce, discharge the men last employed.

Mr. SPENCE.—That is the general custom.

Mr. BRUCE SMITH.—What would become of our general commerce under such conditions? Who is to have the management of our businesses? I am pointing out what will be the effect upon the management of business when capital is supplied by an experienced individual, and when the management is taken out of his hands, and left to a body of men who may have no knowledge of business. I am giving instances of the comprehensive way in which the management of a concern is taken out of the hands of the owner of the capital, by the decision of the Arbitration Court, that, although an employer may consider that A and B are the least competent men in his employment, he must not discharge them, but must choose from others, because they were the last taken on.

Sir WILLIAM McMILLAN.—Even though matters of life and death may be involved, as in the case referred to.

Mr. BRUCE SMITH.—Yes. Although an employer may consider that certain men have been careless, and are not as competent as others to conduct their work with safety to their fellow employes, the court has said that the men who were last employed must be first discharged. Would any honorable member who is not steeped in bias say that that is not practically managing the whole business of the capitalist for him, whilst requiring him to supply the wherewithal to carry it on. I ask honorable members who are very much attracted by the compulsory arbitration scheme to first of all admit that capital cannot be controlled, that it can come or go at will. Unless we are going to pass a law laying an embargo upon all capital that comes into the country, the capitalist is free to take away his capital or leave it with us. We want it here. We cannot carry on our mines, or our shipping trade, or our manufactories without it. We can do nothing but scrape the earth with our fingers unless we have capital, because even a spade or a plough represents capital. With a full experience of trades unions and their methods, and of employers generally, I assert most positively that it is suicidal for the working classes of any country to take up an attitude of antagonism towards capital, it is calculated to cause those who have money to invest it in other parts of the world where they are treated more fairly and more in accordance with the traditions of British commerce.

Mr. FOWLER.—Should there not be a spirit of reciprocity between the two parties?

Mr. BRUCE SMITH.—Yes, I think there should be. We cannot look to the experience in Great Britain or the United States without finding that where employers have accumulated great wealth, they have displayed the utmost magnanimity, and the same spirit will be evinced all over the world under similar conditions. The moment, however, that the working classes adopt a jingo attitude towards their employers, the breeches pockets of the latter are buttoned up, and they say—"You shall have your pound of flesh, but no more." I have watched the progress of industrial movements very carefully, and I can see the jingo spirit everywhere in Australia. We saw it displayed during the last great strike in Victoria. The jingo spirit will never generate in the employer those kindly feelings which lead to the expenditure of money in providing for the comfort and happiness of employes. When, however, that spirit disappears from Australia, as it has done from England and the United States, and we have a voluntary system of conciliation, such as has been adopted elsewhere, there will be a sort of millennium in industrial matters. It seems to me a very feasible and practicable millennium, in which the employer and employe will shake hands, as I have seen them do in the Melbourne Trades Hall, and become the best of friends. But I have also observed—and this is part of Victorian history—that as soon as the president or secretary of a union abandoned their jingoistic attitude, and adopted a more moderate tone towards their employers than did their predecessors, they ceased to satisfy the younger jingo spirits of the next generation, and their places were filled by some much more intractable individuals. Thus this feeling of antagonism was perpetuated.

Mr. MAUGER.—Surely that cannot be the case when the officers of the unions change every twelve months.

Mr. BRUCE SMITH.—During the term that I have mentioned the most harmonious relations existed, and even the Melbourne *Age* declared that I had been the greatest menace to the working classes of this country. But so far did I engender a feeling of good-will in this State that upon leaving it I carried with me one of the most complimentary letters from the president and

secretary of the Trades Hall that a man could carry—a letter stating that I had brought about a better feeling between the two classes than had ever existed before. Although Arbitration Acts are in existence in New Zealand, New South Wales, and Western Australia, honorable members are aware that quite recently, at a large meeting of trades unionists held in the first-named State, the Act was denounced as the greatest legislative curse which they had ever known. Those very words appear in the report of the proceedings published by the daily newspapers; and so strong was the feeling of trades unionists in regard to several decisions, that Mr. Seddon informed them that unless they exercised greater care they would break up the whole institution. We have the further testimony that quite recently in Western Australia the Chamber of Commerce passed a resolution, the effect of which was that as its members were compelled to tolerate an arbitration board for a certain period, and to pay the artificially high wages which it produced, they did not see why the whole of the Commonwealth should not submit to the same ordeal.

Mr. FOWLER.—That was the Chamber of Manufactures.

Mr. BRUCE SMITH.—Its members wished the system to be extended to other States, not because of its beneficence, but because they had to tolerate its effects in artificially raising wages. If the result of such legislation in Western Australia is to artificially raise wages, thereby placing the employers of that State in an unfair position, what would be the effect of similar legislation upon Australia in its relations with the outside world?

Mr. FOWLER.—There are distinct signs of progress in Western Australia.

Mr. BRUCE SMITH.—But it is still problematical whether that State will retain the capital which has hitherto been invested there. When we remember that this question is undoubtedly in its experimental stage, we ought to pause. I find that the New Zealand correspondent of *The Times*, in a letter which is referred to in a leading article, says—

Meantime it is patent to any impartial observer that there is a considerable amount of dissatisfaction with the working of the Arbitration Act, and once more the question may be asked—"If these things are done in the green tree, what may be expected in the dry?"

h I am not prepared to commit my-
any definite statement as to the
effect of this measure, the fact
would practically compel the in-
who provides the capital for any
to submit the management of his
to a board, whose members have no
y with him, induces the conclusion
he proposed legislation be enacted
will cease to flow into the country
ay that it has done, and much that
y here will depart. I heard of a
ident the other day in regard to
which is worth repeating, especially
n vouch for its truth. A repre-
e of the company which manu-
such splendid woollen goods in
ealand visited this State soon
Tariff was passed. He had autho-
look around Victoria, and ascer-
it were possible to embark
0 in a similar industry here. Whilst
attention was directed to the exist-
vages boards, which are equivalent
bitration Court of New Zealand. A
t after commencing his inquiries, in
a question put by a friend, he used
olite language—"Not one damned
will be sunk in the industry in this

MAUGER.—Yet he has to submit to
eration Court in New Zealand.

BRUCE SMITH.—That is so ; but
the £100,000 will be invested in
aland I do not know. I repeat
norable members ought to pause
tempting to extend this system to
e of Australia. I know that the
a is to make it applicable only to
al disputes extending beyond the
any one State ; but I hold that we
vell defer the consideration of it
ascertain whether the operation of
measures in New Zealand, New
Wales, and Western Australia can
rded as a success. Passing from
estion, I come to that of the
ate Commission Bill. Most honor-
members must be surprised to
at, notwithstanding all the pro-
de by the Government regarding
iciency of the Bill submitted to Par-
last session, they have tardily ad-
hat it was wrongly conceived in that
ions were made applicable to ocean-
amers. They now confess that it was
attempt a sort of inquisition into the

financial arrangements of the different com-
panies whose steamers ply between other coun-
tries and Australia. The objectionable pro-
visions referred to have now been eliminated
from the Bill. In this connexion I feel some-
what complimented that a little production
of my own, which was republished by the
Shipping Federation of Australia, pointed
out the enormity of those proposals. The
idea that, in order to guarantee the equitable
adjustment of freights between the different
States, we should have arrogated to ourselves
the right to control such great companies as the
Messageries Maritimes, the P. and O., and
Orient, and to pry into the whole of their
financial conditions, was a preposterous one.
Those provisions have now been abolished,
and the measure, I apprehend, will come
forward in a somewhat similar form to that
adopted in the United States. No one can
question the wisdom of seeing that no means
of carriage between one State and another
is allowed to exist which would have the
effect of neutralizing that absolute free-
trade which we wish to establish. If the
Bill, when it is submitted, is true to the
principles which I have indicated, instead
of opposing it, I shall do my best to assist
the Government in passing it into law. At
this stage I do not wish to deal with the
question of preferential trade. I have com-
mented upon the fact that the Prime Minis-
ter had promised to submit some proposals
to us in this connexion. I think that they
ought to have been submitted. The Ministry,
however, having resolved to keep them back,
I should have been very glad indeed
to have heard a speech upon the subject
from the Prime Minister. My opinion is
that by adopting preferential trade rela-
tions with the mother country, instead of
binding ourselves to it by means of stronger
cords, we should have made use of a
mechanical contrivance which would have
been irksome. The ties which bind us to
the mother country are those of blood,
affection, and common interests, and these
considerations are more elastic than would
be any written agreement at which we
could arrive. Mr. Chamberlain's attempt
to introduce this system, however wise it may
be upon high Imperial grounds, was quite
premature as regards these States. We must
remember that, so far, the Secretary of State
has visited only what are practically Crown
colonies, namely, the South African States.
He has not had any experience of
States like our own, where we have fiscal

arrangements peculiar to ourselves, and which are not alterable at a moment's notice. I suppose that he was not aware that under our Constitution we were bound during the next seven and a-half years to carry on all the work of the Commonwealth Government and to provide the States with sufficient revenue for the maintenance of many of their institutions through the Customs department. Had he realized that twelve months or more were occupied in enabling members of this Parliament to agree to a so-called fair fiscal compromise, he would have understood the practical impossibility of the people of the Commonwealth re-opening the Tariff question at a moment's notice with the idea of settling it in two different columns—one for the British people, and one for foreign countries. I hold that the electors of Australia are too busy to rise to these great Imperial considerations at the present day. The change must come in a settled community, where there is a large majority of people of leisure. Then local affairs can for a moment be put aside, and great Imperial aspirations can be looked into and considered. To suppose that we can shut our eyes to the necessities that arise out of the Braddon clause; that we can sit down at a moment's notice and settle our Tariff in a double column to suit the British Empire on the one hand and foreign countries on the other; to assume that we expect Great Britain to change her fiscal policy and tax the whole of her foods to realize this aspiration, is ridiculous. I formed the opinion days and weeks ago, and I hold that opinion to-day, that the primary purpose of this proposal was that Mr. Chamberlain might offer a menace to the people of countries like Germany, who are trifling with the British people in regard to their Tariffs, and, secondly, that there should be a political move in anticipation of the next general election. When we see the landed classes of England offered a sop in the shape of protective duties on foods, which means an enhanced value to their lands, and the working classes offered an unconditional old-age pensions scheme, we can readily believe that Mr. Chamberlain considers he has laid the bait for the two great extremes of British society, and that he deems them sufficient to secure the success of the present Government at the next general election, which we may depend would have come much sooner if the bait had been taken,

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and if the people had responded to the call made on them. The scheme of Mr. Chamberlain is impracticable, and the Prime Minister of the Commonwealth and his Government think so. I am willing to indorse that view of the Government, but at the same time I think it is a great pity for Australia that the Prime Minister should have inspired a cablegram which seems to confirm the assurance he previously gave to Mr. Chamberlain that the people were with him, and that a sympathetic response might be relied on if the proposal were adopted by other parts of the British Empire. I have already said that the reference to the Inter-State railway to Western Australia is a part of the padding in the speech of His Excellency, and most honorable members will admit that I am right. I have seen the report of the gentlemen who visited Western Australia in connexion with this proposed railway, and I have spoken to some of them; but taking the report itself, what does it amount to? Months ago, when discussing the question, I said that such a railway would cost £6,000,000; and the report shows that, although the gentlemen to whom I have referred have never been on the line of railway except as approaching it from the great Australian Bight, and although they know nothing of the later capabilities of the route—they do not know to-day whether water will be found on any part of the line of railway—they, without that knowledge, and after making what is necessarily a wild estimate of the possible trade across this great continent, estimate the cost at about £5,500,000. We all know what estimates are when they are made in the dark, and this estimate is confessedly made in the dark. On the face of it this is an interim report made on the most meagre and insufficient data. There has been no survey, but if the Government are sufficiently impressed with the preliminary report of the commission to justify a further report, and if the further report is satisfactory, there may be entered on a survey which I am told, on good authority, will take years to make.

Mr. FOWLER.—No.

Mr. BRUCE SMITH.—Such a survey would certainly take two or three years.

Mr. FOWLER.—A couple of years.

Sir JOHN FORREST.—That depends on how many men are engaged on the survey.

Mr. BRUCE SMITH.—The Minister for Defence is a man for whom I have the most profound respect, but I am afraid he has what Emerson calls “an inflammation on his mind,” and it is this Inter-State railway. We all remember the drastic way in which the Minister for Defence threatened to break up the Government and the Commonwealth if this railway were not constructed. That of course was done in the spirit of Gilbert and Sullivan, because we know that such a line is an impossibility.

Mr. FOWLER.—Starting simultaneously from each end, the survey could be made in a year easily.

Mr. ERÜCE SMITH.—I admit that in the future this railway may be constructed ; but to speak of it as required for defence purposes is to advocate it on its weakest ground.

Mr. FOWLER.—Military authorities regard the line as necessary to defence.

Mr. BRUCE SMITH.—In order to construct a railway capable of carrying troops across, what I shall not call a desert for fear of offending the Minister for Defence——

AN HONORABLE MEMBER.—Call it waterless country.

Mr. BRUCE SMITH.—In order to construct a railway across waterless country for a distance of something like 2,000 miles——

Sir JOHN FORREST.—No ; no.

Mr. BRUCE SMITH.—I am taking the whole distance from Fremantle to Adelaide, and I say that to use the defence argument in favour of its immediate construction is to put the question on its weakest and most laughable ground. There is no doubt that in the future a railway to Western Australia, like a railway connecting Adelaide with the Northern Territory, or a line from Bourke across to the north-western corner of Australia, may be constructed. But it is of no use for the Government to play with the Western Australian people by pretending that this Inter-State railway is really within the domain of practical politics.

Mr. FOWLER.—The right honorable member for East Sydney says that the line is within the domain of practical politics.

Mr. BRUCE SMITH.—In my opinion, the right honorable member for East Sydney is no authority on such a question. The right honorable member, when he expressed the opinion, was a guest of the Western Australian people, and we all know that it

is one of the conventions to say pleasant things to one's hostess or host, even if we stretch the truth a little.

Mr. FOWLER.—Western Australia will not forget the expression of opinion.

Mr. BRUCE SMITH.—I am sure that none of the honorable members for Western Australia regard the promise of the Government as a serious one. However glibly, with their tongues in their cheeks, they talk to their constituents about the time when the great west shall become connected with the great east, they know in their hearts that such an undertaking is for future years. It is for that reason, I say, that the reference to the Inter-State railway is a piece of padding in the speech of His Excellency the Governor General. I do not want to go on at much greater length, but I should like to say a word about the mail contract. We are told that great companies like the P. and O. and the Orient companies are to be compelled, if they are to retain their present subsidies, to change their black labour to white labour. I can quite understand, although I cannot altogether sympathize with the desire to keep Australia pure. That is an aspiration as to which I may keep my tongue in my cheek ; but for electioneering purposes it is a very fine cry. We have now measures designed to preserve a white Australia, and I hope we shall be all the better for our racial purity ; but it is proposed to take a step further in a direction which no man can call practical. It is ridiculous for us to say—“We are not content to keep Australia free—not only from alien races, but from our fellow subjects in other parts of the Empire—we must also insist on our shores not being contaminated by a steamer with black men aboard.” Is that not a most degrading sop to the wildest socialism of Australia ? Why do we not say that we will not use anything touched by black hands ? Why not, just as Mahomedans do in regard to Christians, refuse to touch a plate from which an alien has eaten ? Why not go to these wild extremes ? These great steamship lines do not depend on Australia for their great profits.

Mr. THOMAS.—Does Australia depend on them ?

Mr. BRUCE SMITH.—No ; but we must depend on somebody to run our mails, and it is a question whether this cry for racial purity is going to be carried to such an extent that we shall be compelled to pay £200,000 or £300,000, or perhaps only £100,000, more

in order to prevent any steamer coming to our ports with black men in the fore-castle.

Sir WILLIAM McMILLAN.—This matter does not affect our racial purity.

Mr. G. B. EDWARDS.—The law was not passed on the ground of racial purity.

Mr. BRUCE SMITH.—On what ground was it passed?

Mr. G. B. EDWARDS.—On the ground of getting British ships manned by British seamen.

Mr. BRUCE SMITH.—Are British ships now manned by British men? If the honorable member for South Sydney will look up any recognised authority, he will find that a large proportion of the mercantile marine of England is manned by Germans, Danes, Swedes, Norwegians, and Scandinavians generally. That only shows that the British ship-owner has to run his ships on the most economical lines in competition with those of other countries. It means that the great national asset of England, her mercantile shipping, of which we are never tired of boasting, must, if the conditions are unfair, go to the wall, and the marines of other countries be allowed to dominate us.

Mr. G. B. EDWARDS.—White labour on these vessels is advocated by some of the most influential newspapers in England.

Mr. BRUCE SMITH.—That may be so, but I do not think much of the advocacy of newspapers; it is usually coloured by subscribers and the editors' motives.

Mr. KINGSTON.—And by advertisements.

Mr. BRUCE SMITH.—And by advertisements. The success of the merchant shipping of England depends on its being able to compete with other countries, and carry on its work with a moderate profit. We know that if instead of using foreign sailors, who seem to suit better and do the work for less wages, ship-owners were compelled to take Englishmen at higher rates of pay, it would mean that on one side of the balance-sheet there would be a much larger debit than there is at present. That increased debit must mean that the ship-owners cannot compete with foreign ship-owners, and that the latter must finally dominate the shipping interests of the world. Do we want that? Is our desire to avoid contamination and to see ships manned wholly by white men so strong that we are prepared to pay £100,000 or £200,000 a year more to the mail steamers? Are we satisfied to see English shipping go to the wall in competition

with the shipping of other countries? Are we satisfied to see the carrying trade in the hands of German and French steamers, which are subsidized to three or four times the extent of the P. and O. or Orient steamers?

Mr. FOWLER.—The German and French steamers are manned wholly by Germans and Frenchmen.

Mr. BRUCE SMITH.—Very likely; but I am talking of the business aspect of the question. Let ships be manned by pure Germans, pure Frenchmen, or pure Japanese; but it must be remembered they come here in competition with British ships. We propose now not only to subsidize British shipping companies, but to place an incubus on them, and render their position more difficult than before. I may, of course, be wrong in the views I take. I know I am out of touch upon many of the great problems of the day with ninety-nine hundredths of honorable members, but this I can bear with the utmost good nature. I know that in many cases I beat the wind in this Chamber, and I sometimes feel like a child crying in the wilderness; but I think I do sometimes strike a key-note which may send home an honorable member who will think that at least I mean what I say, and that there is, may be, some truth and genuineness in the suggestions I make.

HONORABLE MEMBERS.—Hear, hear.

Mr. BRUCE SMITH.—I would like to say, in order to put the other side of the shield, that I shall have the utmost pleasure in supporting the High Court Bill. I do not know whether honorable members think that after the speeches of the kind I make, there is much chance of any return being made to me for my support. I think not; at any rate I do not want any return. I shall give my hearty support to the proposed increased contribution to the naval defences of the Empire. I cannot get over the great looming fact that Great Britain spreads her protecting wings over us, as she does over all parts of the Empire, and that she spends annually about £32,000,000 on her navy. Great Britain has a population of about 40,000,000, and the annual expenditure upon the British navy is about £34,500,000. If we take the white population of the Empire outside Great Britain at about 13,000,000, it will be seen that it is, roughly speaking, one-third of the population of Great Britain itself. Now, if we recognise that the Imperial navy, whatever may be

the purposes of England, has the effect of guaranteeing the safety of our shipping, as well as that of England, to us and to every other part of the Empire, and of enabling us to live in quietness, without the fear of invasion by any one of the many peoples whom we by our legislation so openly insult, we must admit that our contribution should approach in some way a fair proportion according to population. But hitherto we have contributed only £120,000 a year, and it is now proposed that we shall contribute £200,000 a year, which is, roughly speaking, only one-fifteenth of what our contribution should be according to population.

Mr. CONROY.—But we have no voice in determining questions of peace or war.

Mr. BRUCE SMITH.—If it is contended that there should be no contribution without representation, or that the contribution must be in proportion to representation, I ask what would be our proportion of representation according to contribution? On our present contribution we should have only one representative in the House of Commons. But the views expressed by the representatives of Australia at the great Imperial consultations which are held from time to time, and at which both the head of the Government and the leader of the Opposition have within the last few years been present, exercise a far greater influence in the councils of the Empire than would be exercised by our proportional representation in the House of Commons. Why, then, should we quibble upon the question of representation? If we contributed in proportion to population, we might ask for an Imperial Parliament in which Australia should be represented; but if we were so represented we should be absolutely bound by the decisions of that body. Now, however, we are in the happy position of being able to offer advice and counsel to the Ministers of the Empire without responsibility. We have only recently had an instance of such action. The head of the Government promised the Secretary of State for the Colonies that he would submit his preferential scheme of duties to this Parliament, but he has not done so, and who can make him do so? But if an Imperial Parliament in which Australia was represented had taken the matter in hand, its decision would have to be complied with, and who can picture the friction which

would have occurred here when it was found that we were bound at its dictation to consider the matter of preferential trade. The natural sympathy between Australia and the mother country will be a sufficient bond between them for many years to come. We are not concerned with the desire of a great statesman to consummate his magnificent career by some large scheme if it does not coincide with our interests. I join heartily with the Government in their desire to increase the naval subsidy, and I hope that the time will not be long before we shall offer, according to our means, a much larger sum than we are offering now. Who can doubt that the people of Australia, taking into consideration the condition of the daily lives of our population, are better able to contribute to a fund of this sort, man for man, than are the people of England, with their carping poverty and distress? That being so, are we not wanting in that great Imperial spirit of which we so often boast, when we fail to come forward and say—"We will contribute our proportion to this great fund from which we derive so much comfort in the protection of our personal interests?" I shall be very happy to support also any Defence Bill which is founded upon the recommendation of the most skilled men the Government can find, and to vote for the establishment of a High Commissioner in London. I favour, too, the adoption of uniform patent laws. We are apt to under-estimate the importance of uniform patent laws to the whole of Australia; but the difficulties which, personally and professionally, I have known men to suffer in connexion with the registration of patents in Australia show me that much disheartenment and disappointment occur under the present system. A very simple Bill, to which no opposition could be urged, might be passed, and its effect should be to encourage the inventive genius of the people of Australia, and to give us a better chance of industrial success in the future. With these comments I conclude my remarks. Speaking generally, I shall be very glad, apart from the criticism I have offered, to give the Government every assistance—"When I am here," the Minister for Trade and Customs will say. He has the magnanimity never to fail to remind my constituents that I do not attend the meetings of the House as often as he does, but when, like him, I am offered a salary of £2,500 a year, I shall be willing to put aside my own

private business, and devote myself as entirely to Commonwealth affairs as he does.

Mr. KINGSTON (South Australia—Minister for Trade and Customs).—With regard to the concluding sentence of the honorable and learned member for Parkes, I should like to say that I have never, when on the platform, made any references to his absence from this House, though in an exchange of courtesies now and again in this chamber I have called attention to the fact that he is not here so often as we should like to see him. I do not think that he need take exception to that statement.

Mr. BRUCE SMITH.—Of course the right honorable member regrets the fact.

Mr. KINGSTON.—I do. When he rose he indulged in remarks of a character which induced me to think that they called for some retort, but his subsequent observations were much more pleasant, so that I do not now think it necessary to reply to him in kind. The criticisms in which he indulged at the expense of the Government were of a very general character. His remarks ranged from the actions of the Imperial Government, and of one of the most distinguished statesmen of modern times—the Secretary of State for the Colonies—to those of our humble selves, and perhaps we should be pleased to be grouped with the Imperial Government, even in depreciatory criticism. In my opinion we have reason to be proud that a statesman of the calibre of Mr. Chamberlain has addressed himself to the question of preferential trade between the various parts of the Empire. The criticisms of gentlemen who have accepted the theory that in trade nothing but cheapness is to be valued, and who decline to give the slightest consideration to questions of Empire and kinship, are not likely to induce Australians to come to a wrong conclusion as to the value of the action which is evidently now contemplated by the British Government. Sentiment, they say, rules the world, and sentiment, practically expressed, appeals to all; but sentiment which finds no expression in action is worthless. What is the value of the talk about Imperial sentiment and of the ties which constitute the Empire in which we all believe in our hearts, if we are to know no citizenship so far as trade is concerned, and to recognize no distinction between those whose hands may be, and have been, raised in our defence in times of distress and difficulty, and those who at the

earliest opportunity would drag the national honour in the mud, and destroy our traditions and reputation? May the time speedily come in which, as regards trade affairs, we shall be found willing to make some little sacrifice for those who rightly claim to be our kith and kin, who subscribe to the same conditions of commerce and labour as we do, and with whom practical expressions of friendship should exist. It is a source of great disappointment to many that hitherto no preference has been shown by Great Britain to her colonies, or by her colonies to Great Britain; but may the time speedily come when some arrangement in that direction may be made which will be satisfactory to both the contracting parties. I do not forget our difficulties in the way of revenue, but it is patent that we might give the United Kingdom preference over foreign countries without any inexpedient loss of revenue by keeping our duties as they are, so far as England is concerned, and raising them against others whom we have no reason to similarly favour. What is the value of our patriotism and imperialism if we do not differentiate between our brothers and the citizens of the mother country, and those who would willingly bring about our downfall at the earliest opportunity? Those who brag about the connexion with the Empire, and refuse to give her people the slightest consideration, are undoubtedly open to blame. Consideration of the present position is being forced upon Britain by the action of Canada, and I venture to think that British statesmen will rise to the occasion. What is the position? Canada gave a preference to Great Britain without receiving anything in exchange.

Mr. CONROY.—She had the benefit of open ports.

Mr. KINGSTON. — She received nothing in a protectionist or reciprocally preferential commercial sense. What was the further result? The benefits which Canada had previously enjoyed in relation to foreign trade, and which Great Britain had also enjoyed and continued to enjoy, were taken from her by German retaliation. Thus Canada's preference for her own mother country resulted in her being deprived of privileges which she had formerly enjoyed, and being subjected to disadvantages to which she had not previously been called upon to submit. Under such circumstances, British sentiment in relation to her colonies

has found practical expression in the words of the Prime Minister of England and Mr. Chamberlain. We find moreover that Germany has practically retired from her position, and that Canada is not likely after all to be seriously penalized for the magnanimous attitude she assumed towards the mother land. The time has come of which we have every reason to be proud. We have also reason to regard with pride that statesman who has taken such a prominent part in this movement. The honorable member for Parramatta referred to Mr. Chamberlain as having resorted to a political dodge. The honorable member may know all about dodges, but he does not know very much about Mr. Chamberlain. I hope that there will be no uncertain sound in this connexion, and that it will be made known, despite the outcry of free-trade faddists, that Australia appreciates what is proposed by Great Britain, and that she will welcome the day when the details can be worked out, and some satisfactory arrangement arrived at. At present the Government are subject to adverse criticism, because they have not proposed this, that, and the other; but our present duty is to wait. The British Government intend to appeal to the country, and I venture to think that our duty is to wait, and to wish, and to hope, and to hold ourselves in readiness to support the mother country in every possible way. We should make it known at the earliest possible moment that Australia will be only too glad to take advantage of the opportunity which Britain proposes to give us. The Empire which does not recognise, in matters of this kind anything in the shape of citizenship, but treats the enemy of to-morrow in the same way as its friends and citizens of to-day, which does not concede the right of mutual consideration between citizens and mother country, which does not mark the distinction between foreigners and those who belong to it, cannot stand. Therefore, let us hope that such conditions of instability as do exist may be replaced at an early date by a better state of affairs, in which the national sentiment shall find practical expression by assent to proposals which it is evident the British Government propose to make at the earliest possible opportunity.

Mr. WILKS.—The British Cabinet is divided on the subject.

Mr. KINGSTON.—Really, after the statements which have been made by the

two gentlemen who are at the head of the British Cabinet, it would appear that the honorable member has spoken without reflection. When a declaration has been made on the floor of the House of Commons by Mr. Balfour and Mr. Chamberlain, telling the whole world that the Cabinet are in agreement, what is the use of the feeble pipe of the honorable member for Dalley?—for whom, personally, of course I have the greatest respect.

Mr. WILKS.—The ballot-box will not speak with any feeble pipe.

Mr. SPEAKER.—Order! I must direct the attention of the honorable member for Dalley to his frequent disregard of the standing orders relating to interjections. I must ask him to discontinue these interruptions.

Mr. KINGSTON.—The British Government have acted in view of the elections, and have unfolded a programme of which their announcement relating to preferential trade will form a leading feature. Knowing what we do of the astuteness and statesmanship of the Right Honorable Joseph Chamberlain, it may be taken for granted that he feels that the Government programme is one which will appeal to the great heart of the British people. I venture to think that that programme will be appreciated, as it ought to be, here in Australia, and in the other colonies of the Empire, which have too long mourned the absence of some such proposal as that now put forward. I had intended to allow myself to say a few words at the expense of the honorable and learned member for Parkes, but in his absence I scarcely care to do so. I might, perhaps, say that it is a pity that the remarks of the honorable and learned member should be characterized by what is apparently—of course I may be mistaken—insufferable egotism. The honorable and learned member has associated the word “hypocrite” with the Prime Minister. Who believes for an instant that hypocrisy is a characteristic of my right honorable friend? Then the honorable and learned member talks about “swollen” utterances. I do not know what is the worst thing that one could behold in the way of “swelling visibly.” I believe that there would be a close contest between a pouter pigeon and a poisoned pup; but these two representatives of the

animal kingdom would hide their diminished heads in a competition with the honorable and learned member for Parkes when he rises to let himself loose. "Hypocrisy!" "Swollen!" Do honorable members think that these are proper words to use in that connexion?

Mr. WILKS.—They are quite as fitting as the right honorable gentleman's reference to a poisoned pup.

Mr. KINGSTON.—On a dog matter, no doubt, the honorable member may be an able judge. The arguments of the honorable and learned member for Parkes were most inconsistent. First he found fault with the Prime Minister for administering the law, and afterwards rated him from a different point of view altogether for not administering it. The arguments of the honorable and learned member were mutually destructive. I contend that if a law is proposed in this House, those who are opposed to it should get up and fight against it. Do not let one honorable member say—"I was asleep," or another say—"I was not here." It is the duty of all honorable members to be awake. It is their duty to be here. And if, as the result of their somnolence or absence, legislation is passed with which they cannot agree, or which, from their point of view, is injurious to the Commonwealth, they are all the more to blame. It does not become them to attend here at rare intervals, and then rate their fellow members who have been applying themselves to their work and who agree with the law. The honorable member for Parkes said that the law provided that immigrants were not allowed to come in here under contract unless the Prime Minister had ascertained that they were required. That is the law. Anybody who finds an expression of the popular will embodied in a Bill, and who disagrees with it, should strike at it immediately. If, however, the measure becomes an Act, no Minister can hold his seat and refuse to execute it without being a traitor to his country and the law. That law was intended to be executed.

Mr. THOMSON.—It is not being carried out now.

Mr. KINGSTON.—It is. I venture to say that the law is being as thoroughly and faithfully executed as any Act ever was. Has the Government failed in its duty? We have the law for our direction,

and it is interpreted by the honorable and learned member for Parkes as requiring the Prime Minister to do what he actually did. My right honorable colleague would have been a coward and a traitor if he had not done what he did. There was no dispute as to his duty. Are we to pass Acts simply to tickle the public ear, to offer the people something, and then snatch it from their grasp? I say "No." I am proud to serve under the Prime Minister, who is determined to keep the word of promise to the hope as well as to the ear. I desire to make some reference to the remarks which have fallen from honorable members as to certain Maoris having been prevented from entering the Commonwealth. The Prime Minister had nothing to do with the action that was taken in regard to them. He did not know anything about it until it was all over, because the stoppage which was suggested was of the purest technical character, and all those concerned were more than pleased with what was done. These Maoris were members of Fitzgerald's circus troupe. On their arrival at night they were refused admission by the Customs officer, but when the matter was referred to the Collector of Customs next morning an exemption certificate for three months was issued immediately. What more do honorable members want? The Customs officer executed the law, and the next morning an exemption was granted by the collector. A telegram which was received on the subject goes further, and states—"Fitzgerald Bros. express themselves as perfectly satisfied, but wish extension for twelve months." The extension was given immediately, and a further notification was conveyed to Messrs. Fitzgerald that if they wanted anything else in that connexion it would be done. There is no doubt about our sentiments in connexion with the admission of immigrants. Of course, Maoris are treated in a manner entirely different from aboriginals of Australia. We have specially exempted them, and very properly, from the prohibition which attaches to aboriginals in connexion with the franchise. As regards the fuss which has been made in this connexion, I say that it clearly reveals the fact that the Prime Minister did his duty; aye, and he is always prepared to do his duty.

Mr. WINTER COOKE.—Under what authority is a temporary permit granted?

KINGSTON.—Under the authority of the Immigration Restriction Act. I avoid laughing when the honorable member for Parkes, who went to know all about history, betook himself so like it, sneered at Mr. Min, and asked—"What does he mean that he has visited only Crown Colonies? Good gracious! What about New South Wales and Natal? Are they merely colonies?"

HON.—Their Constitutions are so that the honorable member was perfectly correct.

HON. MEMBERS.—No, no.

KINGSTON.—I think that the honorable member for Coolgardie will find my statement is incorrect, and that the colonies possess constitutional govern-

HON.—Their Constitutions were altered during the recent war.

KINGSTON.—Do they not possess responsible government? When Mr. Min was there, were they not so?

HON.—I do not know.

KINGSTON.—The honorable member knows, and ought to acknowledge it is so. Open confession is good enough, and I believe that the withering stigma cast upon Natal and New South Wales by the suggestion of the honorable and learned member for Parkes that the Crown colonies, will be perceived by him with all possible despatch. In many times various hard things have been said about myself. I have listened to a number of them, and I tried to say a word or two in regard to criticisms. I confess that I was vexed to find that, though the criticism was used by some of my critics was to be severe, the reception given by the House showed unmistakably that honorable members were not disposed to say that I would wittingly treat one differently from another.

JOSEPH COOK.—Hear, hear.

KINGSTON.—I feel certain of that, therefore, why one or two honorable members did not say a little less than they did. The principal suggestion that has been made is founded upon a misrepresentation by the Colonial Sugar Company. The effect of that suggestion is that in the collection of

excise upon sugar I have treated one company differently from another. All I can say is that I have never done anything of the sort.

Mr. THOMSON.—I made no insinuation that such treatment was intended. I stated that I did not know the facts.

Mr. KINGSTON.—I am not complaining of the observations of the honorable member for North Sydney. I know perfectly well that he did not suggest an improper act, or that I had dealt with one company in a way different from that in which I had treated another.

Mr. CONROY.—Some people suggest that.

Mr. KINGSTON.—And it is not worth while taking any notice of some of these people. The allegations contained in the petition from the Colonial Sugar Company is—

That whilst stocks of purchased sugar held by the company in their free stores were seized and levied on, no excise or other duty was levied on stocks in other factories, expressly referred to as coming under the operation of the Excise Acts, nor were such stocks seized, though those in breweries were under Customs supervision, and were subsequently used in the production of beer, under Customs authority.

It then proceeds to particularize as follows—

That although the company's stock of refined sugar in their free store was seized and excise levied thereon, a larger quantity, the property of the Millaquin and Yengarie Sugar Company, and other white sugars, made and owned by Gibson and Howes, H. E. and A. Young, the Nerang Central Sugar Mills, and Wood Brothers and Boyd, all at the time in the stock, custody and possession of the said manufacturers respectively, were not seized, but were permitted to be delivered free of excise, such sugar amounting in all to over 9,000 tons, and liable therefore—if your petitioners' stocks were rightly seized—to duty in the amount of £27,000 was allowed by an officer of Customs to be sold and distributed in the State of Queensland without the payment of excise which was levied on the stocks of your petitioners, and without, so far as your petitioners can ascertain, any inquiry by the Customs department as to the quantity of sugar thus held, or the places in which such sugar was stored.

I am sure that honorable members will not come to the conclusion that the Millaquin Company, Messrs Gibson, Howes, and others, were allowed to clear their sugar free.

Mr. THOMSON.—Not clear it.

Mr. KINGSTON.—I am satisfied that honorable members will not believe that any differentiation was made between the mills. If I were guilty of such conduct as that, I would not stand here. I would not

face the House. I say, further, that if I thought any section of the House worthy of the name, believed that I could be guilty of such conduct I should be sorry indeed, and glad enough to justify myself at any time or place. This matter has been repeatedly explained. It was the subject of discussion time and again last year in the Senate.

Mr. THOMSON.—Who gave the explanation of it?

Mr. KINGSTON.—The Vice-President of the Executive Council. It was on the 8th of October, 1901, that we imposed the sugar excise. That was the date upon which the Tariff was introduced. Part of the 1901 season, therefore, which commenced in June or July, had expired. There was bound to be some sugar which had passed into consumption, and which it was impossible to pursue into the teacup, or even into the private store. What we decided to do was to seize all that was in the factories or in stores belonging to them.

Mr. THOMSON.—The law says in the "stock, custody, or possession."

Mr. KINGSTON.—The honorable member will recollect that on the 8th of October, 1901, there was no law in existence. We did not enact legislation upon this subject till some months after. The Tariff Excise Bill was not drafted until some time early in 1902. Therefore, we had to consider what we should do. It was a moot question whether or not we should collect duty upon sugar which had been manufactured prior to the introduction of the Tariff. We therefore decided advisedly to seize all the sugar in the excise factories and refineries and in the mills belonging to them, and resolved, as regards the other, to await the authority of Parliament, which we hoped to receive in due course—

Sir WILLIAM McMILLAN.—Was that fair to the other companies?

Mr. KINGSTON.—Yes. We could not pursue sugar which had gone into consumption before the 8th of October. We could deal only with that which remained for consumption.

Sir WILLIAM McMILLAN.—The Minister has given his whole case away.

Mr. KINGSTON.—The honorable member for Wentworth will allow me to finish my remarks before he comes to such a delightful conclusion upon the whole subject. I was informed that the Colonial Sugar

Company complained of some action of mine in this connexion.

Mr. THOMSON.—On the 18th of October.

Mr. KINGSTON.—I do not think it was so early as that. What was done? The Comptroller-General, who heard of the matter in Sydney, telegraphed at once that no difference was to be made between the treatment accorded to the Colonial Sugar Company and that meted out to any other company. When it got to my ears—

Mr. CONROY.—Did not the Minister know of it before?

Mr. KINGSTON.—When the matter reached my ears I spoke to my officer in warm terms, which are not likely to be forgotten. I issued instructions that the same treatment was to be accorded to all, and that course has been adopted from beginning to end.

Sir WILLIAM McMILLAN.—It is questionable whether that instruction was carried out.

Mr. KINGSTON.—When the petition was forwarded in September last, Mr. Lockyer was Acting Comptroller-General, and he telegraphed—

Mr. THOMSON.—That was after several communications had been made upon the matter.

Mr. SPEAKER.—I would point out to honorable members that several attacks have been made on the Minister during the course of this debate, and, for example, no later than last evening, there was not a whisper heard when the honorable member for Wentworth was speaking. In common fairness I ask that the Minister shall be allowed to proceed without interruption.

Mr. KINGSTON.—I have searched high and low for all the communications that it is possible to obtain in this connexion. I have a number of them here, and I think I shall be able to show enough of them to satisfy honorable members generally. The sting of the petition is to be found in the allegation that certain men have been singled out for special treatment. Nothing of the sort. All have been treated alike. As I was saying, the Acting Comptroller-General wired—

Colonial Sugar Refining Company have petitioned Governor-General re excise on sugar charged on stocks of raw and refined sugar manufactured and purchased by company before date of introduction of Tariff, and held by company in Queensland in free stores, which were not subject to customs or excise control prior to introduction of Tariff. Petition sets out that while the company's stocks were charged excise, the stock-

of sugar in breweries and other excise factories mentioned in the Excise Act were not charged excise. Petition further alleges that a large quantity of sugar, the property of Millaquin and Yengarie Company, and other white sugar owned by Gibson and Howes, H. E. and A. Young, the Nerang Central Mill, and Wood Bros. and Boyd, all the time in their stock, custody, and possession on the introduction of the Tariff, was not charged excise, but was delivered free. Petition states this sugar amounted to over nine thousand tons. Minister desires immediately full report as to these allegations, especially *re* that of discrimination between the mills, which he cannot believe has occurred.

The following reply was sent by Mr. Irving:—

Brisbane, 20th September, 1902.

Sir,—I have the honour to acknowledge the receipt of your wire of the 16th instant *re* the petition of the Colonial Sugar Refining Company to the Governor-General, and the Minister's instructions for a full report upon the allegations, and especially that of discrimination between the mills.

1. "That while the company's stocks were charged excise, the stocks of sugar in breweries and other excise factories mentioned in the Excise Act were not charged excise."

In reply to the above I have to state that, on the receipt of a confidential wire dated 3rd October, 1901, from the Comptroller-General, viz., "Act as if excise duty will be collected on sugar from 9th instant, and see necessary arrangements for officers taking stock, &c., are made."

Officers were instructed accordingly on the 8th October, and the stocks of sugar were taken in all factory and refinery premises in the State on the morning of the 9th idem.

Do honorable members see what that means? Just fancy an officer discriminating, or an instruction being given to treat one mill differently from another! Show me the man who ever dreamt of such a thing and you show me a dishonest man. The communication continues—

The total quantity of sugar ascertained to be in the factories was 16,803 tons 17 cwt., distributed as follows:—

Colonial Sugar Refining Company, Brisbane.			
	Tons.	Cwt.	Qr.
Raw Sugar	5,194	19	3
Refined Sugar	824	3	0
In process of refining	364	1	0
	6,283	3	3
Millaquin and Yengarie Sugar Company Limited, Bundaberg.			
	Tons.	Cwt.	Qr.
Raw Sugar	7,713	18	1
Refined sugar	Nil		
In process of refining	570	0	0
	8,283	18	1
Sugar in 58 factories	2,136	15	0
	16,803	17	0

That is a large quantity. The Millaquin and Yengarie Company had 8,283 tons, and it is difficult to see where there was any preference. We are further informed that the sugar in 58 factories amounted to 2,136 tons, and that the total collection, noting the holding, was on 16,803 tons. There was absolutely no discrimination whatever; indeed, if anything, the facts show that the Millaquin and Yengarie Company were harder hit than were those who called attention to the matter.

Mr. THOMSON.—That firm could not be hit harder if it had the quantity of sugar.

Mr. KINGSTON.—I mean the firm were hit harder in that duty had to be paid on nearly 8,000 tons, whilst the company who complained had to pay duty on only 5,000 tons.

Mr. THOMSON.—What about the 9,000 tons?

Mr. KINGSTON.—Probably this sugar was got out before the 8th of October; we know how smart merchants are, and we did not feel justified in seizing sugar which was not in the factory or its store. It is one thing to go to a mill store, and another thing to pursue sugar all over the country into merchants' private stores, or into private houses. We did what was right when we took that which we could get, and which bore on its face *prima facie* evidence of ownership by the manufacturer. We did not try to do what was unreasonable or impracticable, but we did what was our duty. If we find out that there was any dutiable sugar belonging to any mills at that time, we shall be only too pleased to collect the revenue without a moment's delay.

Mr. THOMSON.—May I point out that all that is asked for is an inquiry?

Mr. KINGSTON.—I am now giving the results of an inquiry; at any rate this matter has been inquired into time and again. The question was fought out in the Senate, as the papers in my possession prove, in June, 1902, almost a year ago. The following question was asked in the Senate:—

1. Whether it is true, as alleged by the Colonial Sugar Refining Company, that no excise duty was levied on large quantities of sugar in stock, custody, or possession of, or belonging to, the manufacturers thereof, and stored in their premises at Bundaberg and Brisbane, on the 8th October last, while the sugar in the possession of the said company was made liable to the excise duty paid on the above date.

2. If so, what was the reason for such differential treatment.

The reply was—

There was no differential treatment. Customs control was taken of all sugar in the possession of manufacturer on their factory premises. It was not found practicable to do this as regards sugar which had left the factory, and which appeared to have gone into consumption except on Inter-State transfer.

Mr. THOMSON.—The sugar referred to had not got into consumption.

Mr. KINGSTON.—I know the honorable member for North Sydney is a reasonable man, and I know he will follow me when I say that there was a risk of losing our proposal for the duty on the stuff which had been passed into consumption before the 8th of October; and we were perfectly justified in doing what we did in regard to the sugar in stock. To follow the sugar into the merchants' stores is a step which I am sure the honorable member would not have cared to take unless fortified by legislative authority.

Mr. THOMSON.—Will the Minister allow me? We are not concerned with sugar which had gone into merchants' stores, but with sugar which was in the refiners' possession.

Mr. KINGSTON.—As to that, the Sugar Company admits that they had 50 tons of sugar which we did not touch, because it was not our policy to interfere with what had gone from the mills or their stores.

Mr. PAGE.—Why not make the petitioners give evidence?

Mr. KINGSTON.—If I can find there is any sugar which, under the larger powers given by the Act, we can take, and which has not been taken, it shall be taken. It is absurd to suggest that I exercised a preference for somebody of whom I had never heard: indeed, had I heard of him, it would only have made the matter worse. My desire, as every one knows, is to get the revenue due to the Commonwealth, and it seems so preposterous to haul me over the coals for acting upon that desire, that I might almost apologize for lingering longer on the subject. My policy is to get revenue anywhere I possibly and rightly can, and the man who can justly lay a charge against me of any laxity or want of vigilance must have found me in a mood altogether unusual. This matter has been discussed almost to nausea elsewhere, and I think I have a right to complain of the suggestions which undoubtedly have been conveyed to the House.

Mr. WILKS.—By whom?

Mr. KINGSTON.—I mean speculating in the presentation of the petition.

Mr. WILKS.—That is another matter.

Mr. KINGSTON.—I do not blame one, but I feel sure that no member would have taken a party to the presentation of the petition, if he knew that the matter had been taken out.

Mr. THOMSON.—What was the result of the threshing out?

Mr. KINGSTON.—I have the duty on sugar, and I should like to show the member for North Sydney with which this complaint has been connected. Any honorable member, I care on which side of the House, who sent an accusation of the character which has been made against my administration, would do well to remember that On the 15th of May last year an honorable member of another place asked why a particular company should be singled out for duty, every other company and importer of sugar was free. Is that allegation borne out by the facts and figures I have to-night laid before the honorable members? The Collector of Customs in Queensland was brought down to the House, in order that this matter might be fully explained. Senator Millen in his place said—

Duty was not collected on similar sugar which was held in Queensland by the Millar and Yengarie Company—which, I understand, is really the Queensland National Bank and A. Young, Gibson and Howes, and Bros. and Boyd. These people I understand had between them 8,000 tons, and while that duty was allowed to go free of excise duty, a quantity of 2,584 tons, held by the Colonial Sugar Company, was charged duty.

Further on, Senator Millen said—

In the absence of a specific denial of my statement, I venture to say that even Senator O'Connor will not attempt to defend an act of partiality which shows such partiality or discrimination.

Senator O'CONNOR.—There was no duty on sugar in stores, but the sugar in all mills and refineries were levied on.

Senator MILLEN.—Of course a great deal depends on what is the definition of a store. In this particular case, a duty was levied on sugar which were in a store, and not in a bond.

Senator O'CONNOR.—I draw no distinction between stores and factories. Sugar in stores connected with factories or refineries was to go free.

What more explanation is wanted than was given a year ago? Senator O'CONNOR said—

But at the same time the Sugar Company was not entitled to be placed in a different position from any other body, or corporation, or individual, and I propose to deal with the matter simply as if it were an individual who had a right to some redress for some injury.

what he also said during the discussion of the Bill in the Senate :—

“I take it that under constitutional law on the 8th October was an excisable article, therefore, subject to this law, and according to the exact letter of the law, sugar, it was, and could have been followed, whether it was in private houses, or shops, or stores. That, in the first place, was necessary. It was also unworkable and unable to carry it out with any sort of fairness, therefore, had to be drawn for the benefit of the revenue.”

The matter was thoroughly fought out under the 2nd clause of the 5th section of the Excise Tariff Bill was before the honorable members know that the intention of the Government was car- effect.

MR. TOMSON.—The Act speaks of the “in possession.”

MR. KINGSTON.—Yes; but that was the original provision on the 8th October. We had not then formulated what we were going to do; but it was an easily explainable and just seizure. To continue the quotation from Mr. Irving's letter from which I was

“sugars were all placed under Customs on the morning of the 9th October, and delivered for home consumption, were subject to excise duty.”

“The sugar we seized, including the sugar belonging to the Colonial Sugar Refining Company, went into consumption duty was paid.”

MR. TOMSON.—Was any sugar seized on the 9th?

MR. KINGSTON.—I do not think so. The proceeds—

“As regards stocks of sugar in breweries on the 8th October, these were not to my intimation had been received to that no copy of the Excise Tariff Act was sent to me until 1st July, 1902, which was done by Melbourne by the Comptroller-General.”

“The opinion of the Attorney-General as to the true interpretation of the Excise Tariff Act, with regard to the dutiability of sugar in private houses, because I wanted to know the law, to recover any amount for which I was liable. The Act imposes duties of excise on—

“... any article dutiable under the schedule ... in possession, custody, or possession of, or belonging to, any brewer, distiller, manufacturer, or dealer.”

“The word “thereof” were not in the Bill, and I take it that sugar in possession of

a brewer would be dutiable, but it apparently refers to the whole group of excisable articles, so that the section seems to speak of beer in the possession of a brewer, tobacco in the possession of a manufacturer, spirits in the possession of a distillery and sugar in the possession of a factory or refinery. That is the way in which we have administered it. Mr. Irving goes on—

“In my wire to you of 24th July, 1902, it was stated that the breweries held 219 tons 16 cwt.”

“We would have levied the duty if we had been entitled to it. He continues—

“My letter of 23rd August brings this under your notice in connexion with the Excise Tariff Act, and asks for instructions. There was no sugar in the distilleries on 8th October, molasses only being used by spirit-makers in this State.”

Mr. Irving then deals with the following statement :—

2. “That a large quantity of sugar, amounting to over 9,000 tons, the property of Millaquin and Yengarie Sugar Company, and other ‘white’ sugars owned by Gibson and Howes, A. H. and E. Young, the Nerang Central Mill, and Wood Bros. and Boyd, all the time in their stock, custody, and possession, on the introduction of the Tariff, was not charged excise, but was delivered free.”

In reply, he says—

“I have to state that all sugars found in the factories or factory premises of the persons referred to by the Colonial Sugar Refining Company, was taken possession of on the morning of 9th October, and found to be as follows :—

Millaquin	...	...	8,283 tons
Gibson and Howes	...	...	230 „
A. H. and E. Young	...	...	5 „
Nerang Central Mill	...	...	25 „
Wood Bros. and Boyd	...	...	15 „

“None of this sugar was delivered free of Excise duty; no discrimination was made between any sugar factories and refineries.”

“No one reading the petition, and particularly the references which contrast the attitude adopted towards the Colonial Sugar Refining Company, with the way in which these sixty other people were treated would believe for a moment that they were treated as this letter shows, all in the same way, and in the only reasonable way in which they could have been treated. No doubt a considerable quantity of sugar got into consumption before the 8th of October.”

MR. G. B. EDWARDS.—What does the right honorable member mean by “consumption”?

MR. KINGSTON.—It was sold, or got to places where it would not be worth while to follow it. It was not in any factory.

Mr. G. B. EDWARDS.—The right honorable member does not refer to sugar in a store!

Mr. KINGSTON.—I would not hesitate to charge duty upon sugar stored by a manufacturer. If the sugar crop in Queensland in that year was 120,000 tons—though I do not think it was so much—would it not have been only natural that at least 20,000 tons would have got into consumption by the 8th October. My officials have gone thoroughly into the matter, and we cannot find that more than 15,000 tons had got into consumption by that time, though we can account for pretty well the whole of the crop for that year. Mr. Irving continues—

With regard to the quantity of over 9,000 tons of sugar said to be in the possession of the persons named on the introduction of the Tariff, and delivered free of duty, a large quantity of sugar, estimated to be 16,000 tons (see my wire of 17th instant), had been removed from the factories, and was stored in merchants' premises and other places, not being factory premises, throughout the State; but the department has no knowledge to whom it belonged. This sugar was not taken possession of on the 9th October, and in connexion therewith I beg to refer you to the following wires between the Comptroller-General and myself:—

Of course, directly I heard the suggestion that there had been discrimination, I gave instructions that a full inquiry should be made. This is the first telegram, which was sent by the Comptroller-General from Sydney, on 28th October, 1901:—

Stated that some persons have large stocks of sugar which are escaping Excise whereas Colonial Sugar Company are charged. Is this so? There ought to be no distinction. Reply to Melbourne.

To that telegram Mr Irving sent the following reply:—

Re sugar stocks removed from mills prior to 9th instant, and stored warehouses, wharfs, &c., have not been treated as liable to Excise. See your wires of 9th and 10th instant. Colonial Sugar Company had large stocks in their refinery, which have been detained in common with stocks in other factories. See also my letter 22nd October, 1901, *re* Gibson's applications.

Mr. THOMSON.—It was not all actually in the refinery, but in the premises adjoining.

Mr. KINGSTON.—The Excise Act gives this very wide definition of a factory:—

"Factory" means the premises on which any person is licensed to manufacture excisable goods, and includes all adjoining premises used in connexion therewith or with the business of the manufacturer.

I think that that definition abundantly justifies all that we have done.

Mr. THOMSON.—Was not some sugar taken out of the refinery before the duty was imposed, and brought back afterwards?

Mr. KINGSTON.—I am obliged to the honorable member for reminding me of that fact. It got out before the 8th October, 1901, but when I saw Mr. Gibson and Mr. Young during my Queensland trip, I was not aware that I had impounded their sugar. However, here is my ruling on the subject, in my own handwriting, which he who runs may read—

If, as I understand, this sugar was manufactured by Messrs. Young Bros. before the 8th October, 1901, and that on the 8th October, 1901, it still belonged to them, it is undoubtedly dutiable under paragraph (b) of section 5 of the Excise Act 1902. This applies to all sugar belonging to the manufacturer thereof on the 8th October, 1901, notwithstanding it may not be in his possession on that date or afterwards returned to his possession.

Mr. Young promptly paid the duty, and we are doing our best to find out any other sugar that was removed while it still belonged to the manufacturer.

Mr. THOMSON.—That is what is asked for.

Mr. KINGSTON.—I am only too glad to do this, but I am afraid we shall not find very much.

Mr. THOMSON.—The Sugar Company and the Sydney Chamber of Commerce are willing to assist the Minister by giving evidence on oath at any inquiry he may hold.

Mr. KINGSTON.—I shall only be too glad if they will give us any information that may be in their power. It would be idle for us to appoint a Royal commission to hold an inquiry. If we have a willing horse we do not need to flog him, and those who are willing to give information can supply it by making a statutory declaration. Do honorable members suppose that I do not wish to catch those, if any, who are escaping the payment of duty? My desire is to make the Customs revenue look as well as I can, and I venture to apply to my right honorable colleague the Treasurer for a certificate on that point.

Sir GEORGE TURNER.—The right honorable gentleman has been so vigilant that he has quite upset my estimates.

Mr. KINGSTON.—Yes; because I brought in more revenue than was expected. I would ask honorable members to consider the attacks to which I have been subjected by some of my critics here. I am not complaining—

HOMSON.—The Minister can give a for an Oliver.

KINGSTON.—I am not going to about the honorable member for Sydney. I wish I was able to obtain other honorable members benefits to those which I derive from experience of the honorable member, know is always at my disposal. ous statements have been making me as a Minister. I take some the position I occupy, and I desire to collect all the revenue that and I know neither friend nor foe in on with my office. I have made my ion, and I feel convinced that e members will consider that not the discredit attaches to me. I need , further, that it was not without iculty that we made up our minds proper way in which to treat this I conferred with some of my col- n the subject, and we came to the n that the plan that was adopted ls seizing sugar in factories which made before the Tariff was brought ration—when we knew where it to whom it belonged—was the one to adopt. We have the work upon now, and as soon as ssed, the Collector of Customs for nd was informed, and I believe has faithfully carried it out ever f, however, there is anything that to be collected it will be brought revenue as soon as possible. With the general criticism to which the administration has been subjected, take up my parable from some of s which were used by the honor- learned member for Parkes. He an understanding was arrived at House that no prosecutions should ed upon except in cases of fraud. as nothing of the sort, and there er any ground whatever for that n. The Bill was framed on an er different principle, because it ated between cases where there was d those in which there was no fraud. d a double penalty was provided, and required to expressly allege fraud r it was intended to suggest it. If charged fraud in the various cases ve been referred to, I should have uthy of the criticisms in which some e members have indulged, but in y cases, indeed, has fraud been

charged. On the contrary, I have been accused of having initiated prosecutions in cases where no fraud was suggested, and time and again the counsel for the department has announced in court that no fraud was charged. I arranged for this from a consideration of the first criticisms which were passed upon me, in which it was stated that unless the fact that no fraud was charged was mentioned in court, the public would not know whether there was fraud or not. Instructions were issued that the position was to be stated in court, although it was not necessary that such a course should be taken.

Sir WILLIAM McMILLAN. — Does the Minister contend that the Act must be put into force in every case?

Mr. KINGSTON.—No, I do not.

Sir WILLIAM McMILLAN.—Then I do not see the relevance of the right honorable gentleman's explanation.

Mr. KINGSTON.—I do not see the force of my honorable friend's interjection.

Sir WILLIAM McMILLAN.—What I say is that if the Minister could exercise discretionary power and refrain from taking action in the courts, why did he force people there in cases where no fraud was alleged?

Mr. KINGSTON.—Because in some cases hideous carelessness was indulged in.

Sir WILLIAM McMILLAN.—In one case out of many involving altogether the payment of £25,000 to the revenue.

Mr. KINGSTON.—My honorable friend's memory is very much at fault. I desire to call his attention to the fact that I have been taunted with prosecuting in cases where there have been errors on either side and a balance in favour of the department. That charge was made against me in another place, and it was supported by the quoted testimony of the honorable member for Wentworth that this had happened to him. That statement has been repeated time and again, even to my own colleagues, and I assert that it has not an atom of fact to support it.

Sir WILLIAM McMILLAN.—The Minister is not stating the case correctly. The Minister knows that although it was stated that the case was connected with my own firm, I said that it belonged to another, but the facts remain the same. It was a pure error when it was represented that the matter was connected with my firm in Sydney.

Mr. KINGSTON.—Senator Pulsford first referred to the Fuller Carrying Company, and as an additional make-weight, he quoted the case of the honorable member's firm, but the honorable member freely admits now that that was a mistake.

Sir WILLIAM McMILLAN.—I did so, long ago.

Mr. KINGSTON.—Yes, after months of delay and repetition.

Sir WILLIAM McMILLAN.—No, at the very moment I found out.

Mr. KINGSTON.—The honorable member went away to England first.

Sir WILLIAM McMILLAN.—No; I admitted it before I went to England. The Minister is mistaken.

Mr. KINGSTON.—It was when the Minister for Defence came back from England. Senator Pulsford referred to the Fuller case, which was really the only case in which even a pretence could be made that there was a balance in favour of the Customs. Let me say further, that it was not proved that there was a balance of error in favour of the Customs.

Mr. THOMSON.—It was admitted.

Mr. KINGSTON.—No; it was not admitted. We could not go into the matter. The prosecution was instituted in respect to a short payment, and it was not until we got into court that anything in the shape of a set-off was urged. That matter could not be investigated, because the point should have been raised when the goods could be inspected. No claim could have been entertained for the refund of the money, and the suggestion of the error in favour of the Customs appeared to be a lawyer's device, resorted to at the last gasp. The issue as to the over-payment was not tried, but was rejected by the court. The sworn testimony in the shape of the entry had been accepted, and there was a short payment, which we proved up to the hilt; but at the last moment the solicitor's ingenuity suggested an over-payment which would more than counterbalance the shortage. The court would not look into the matter, but fined the defendant in respect to the shortage.

Mr. JOSEPH COOK.—Did the Minister look into the matter?

Mr. KINGSTON.—No. I could not do so, because certain goods are charged at a certain rate of duty, and when a point of this kind is raised, we want to see the goods and find out what they are.

Mr. THOMSON.—Not if it is a mistake or error.

Mr. KINGSTON.—We accepted the entry, but for the sake of discrediting our own entry, the defendant proposed to show the correctness of that to which he had referred. I say that that was the only case of it, and Senator Pulsford was entirely wrong in saying that, not only was there the case, but also that of McArthur and Co. The testimony of the honorable member, Mr. Wentworth, in a matter of this kind would, no doubt, carry great weight. The tale as told by Senator Pulsford spread all over the place, and I was unable to trace it to its source until I saw the report of a debate which took place in Sydney, and noticed that an old friend of mine had been making some most extraordinary statements about men having been sued when the balance was on the side of the Customs. I wrote to him about these statements, and found that they were supported by an authoritative announcement by the honorable member for Wentworth. Hence the statement of Senator Pulsford regarding McArthur and Co., whereas the only case was that of the Fuller Carrying Company. I do not suggest that the honorable member for Wentworth would wilfully state what he did not believe in, but the circulation of such a report shows that the world is often father to the thought, and one often imagines wrongs that do not occur. I do not know that I have necessarily introduced personal remarks affecting politics into this discussion. Probably the honorable member for Wentworth will seize an early opportunity to mention that what is alleged did not happen to him, as the people of Sydney, from whom I have heard, undoubtedly believe to be the case.

Sir WILLIAM McMILLAN.—I obtained evidence of certain cases. I do not interfere with my own business in this House.

Mr. THOMSON.—The case existed in the same way.

Mr. KINGSTON.—There were many cases but only one, and that was the Fuller case, which I have already disposed of. My suggestion that the Act was to be confined to cases of fraud was never made. On the contrary, express legislative provisions were made for differentiating between two classes of cases. I have pointed out the same, and again, that in very few instances proceedings instituted for fraud.

MCDONALD. — What about the Reid case?

THOMSON. — That firm was not with fraud.

KINGSTON. — I say that the firm was charged with fraud, and the jury found it guilty of the charge against it. I do not intend to make as to blame, and it is not my business to bother my head beyond the limits of my duty. In the discussion of these cases, I have not exhibited bitterness against any individual, I feel sure. I simply intend to faithfully discharge my duty. I received instructions that a man is not to be charged with fraud unless upon clear evidence, but that in such cases no pains should be spared to punish the offender. I wish to discuss anything in the nature of personal matters, but I may be asked to ask what was the way in which this was met a year or two ago in the nature of this question when I brought the name of Robert Reid and Co.? They were attacked for instituting proceedings against this firm for the recovery of what was put? The idea that that firm should be guilty of any irregularity was as preposterous. I believe that what did happen upon that occasion was right, and the merchants of Tasmania spoke in support of a good cause, although at the time I suggested that I was little less than ready to impugn the action of the Government.

THOMSON. — If that were a case of the Minister ought to have taken action.

KINGSTON. — There was not sufficient evidence to prove fraud in that case, in the light of subsequent evidence, how could I taunt against me lie in the mouths of those who criticised me? The firm has been proved guilty of fraudulent practice. Under such circumstances, how long shall I be charged with the cry—"It is a respectation of long standing and integrity; let it be."?

THOMSON. — That was never suggested.

FISHER. — Why, the Chamber of Commerce declared that it was a persecution.

CONROY. — There were a thousand reasons not prosecuting in that case.

WILLIAM McMILLAN. — As the Minister probably occupies some considerable time in completing his speech, probably this is a convenient opportunity to adjourn the matter.

Mr. KINGSTON. — I shall feel greatly obliged if that can be done.

Mr. SPEAKER. — The House will no doubt extend to the Minister the courtesy which was extended last week, under similar circumstances, to the leader of the Opposition.

[Mr. Speaker left the chair at 6.8 p.m.; sitting resumed at 7.30 p.m.]

Mr. KINGSTON. — The honorable member for North Sydney threw some little doubts on my suggestion as to the use which was attempted to be made of the name of the firm of Robert Reid and Co., when the Tasmanian case was under discussion.

Mr. FOWLER. — The doubts have all been dissipated.

Mr. KINGSTON. — As the honorable member for Perth points out, the old doubts at this particular moment have all been dissipated, but to prevent their return I should like to place on record the facts. When I spoke of the Tasmanian case I was by no means attempting to impugn the honour of any person or firm, but I did not hesitate to point out that I was justified in saying that the revenue was "got at." There was immediately an attempt made to scout the idea on account of the respectability of the firm, a respectability which to all outward intent I was content to admit. I referred to Robert Reid and Co. as a firm held in as high honour as any, but I was justifying their being tackled, when the necessities of the case appeared to require it, as I hope I shall always do, whatever firms, big or little, may be involved. Speaking on that occasion, I said —

What happened? A declaration was made as regards about £16 worth of goods that were intended to be sent to Tasmania, that they consisted of £3 worth of imported material, and that the added value given to them by the Victorian manufacturer was £13. That was not true.

Mr. THOMSON. — There was only 6s. difference.

Mr. KINGSTON. — We may regard the trade between Victoria and Tasmania as of a retail character, and our attention was called to this case because it was found that Tasmanian merchants were being "got at," owing to their being deprived of the protection to which they were entitled under the Constitution.

Sir WILLIAM McMILLAN. — Does the Minister mean that Messrs. Reid and Co. deliberately did this?

Mr. KINGSTON. — I mean to say that they did "get at" the Tasmanian merchants, whether they intended to or not.

Sir WILLIAM McMILLAN. — That is absurd.

Mr. THOMSON. — If that is the view the Minister takes, it shows where the trouble comes from.

If that is not attacking me for suggesting that this firm was capable of "getting at" the revenue, I do not know what it is. I do not believe that that criticism would be indulged in to-day, when I feel still further justified in the action which I then took. On that same occasion I called attention to the reports of the Tasmanian State collector, Mr. Barnard, who stated—

If the quantities and values taken out by the experts here are correct— with regard to the item on the attached copy of certificate— it would show that some of these certificates are totally unreliable; and in the interests of this State some action should be taken against those persons who make these declarations falsely. Otherwise the revenue of this State must be seriously affected.

Sir WILLIAM McMILLAN.—What does he mean by "falsely?" Knowing them to be false?

Mr. KINGSTON.—I will read what Mr. Barnard said—

In the case in point, the dutiable material from which the cotton apparel is stated to have been manufactured, is declared to on the certificate as of value £3 2s. 11d., and the cost of manufacture at £13 11s., whereas the experts here agree that the material used cannot be of less value than £6 18s. 6d., taking the value at bare American cost, thus defrauding the revenue of the duty on £3 15s. 7d., plus 10 per cent.

That, I think, would prevent the two honorable members to whom I have referred, indulging in similar criticism to-day; and in the light of subsequent events I feel even more justified in the course which I then took, and which the House was prepared to indorse. It is no pleasure to me to institute prosecutions. I do not want the fines, and I do not care to see men disgraced by convictions for fraud; but, holding the position I do, my duty is clear, and I will do it, looking to the House for justification. Those who assert that I proclaim myself the only honest Minister say that which is not true. There have been many honest Ministers who have done their best, but having the benefit of the advice and the experience available to an Australian Minister responsible for six States—advice and experience which were not available in the case of State Ministers—I see more of what goes on and know more of what ought to be done than was naturally the case in the isolated States. I do not for one moment attribute to Australian merchants any general failing in comparison with British merchants. Australian merchants are worthy of the highest reputation which British merchants deservedly enjoy; and those who say that I have spoken ill of my Australian friends and the people to whom I belong, in the way of making comparisons with the merchants of other countries, say that which is not. I am proud of the country to which I belong, and have every

Mr. Kingston.

cause to be proud. I am proud of our merchants and all classes and conditions of men within the Commonwealth. But we all know that in the matter of smuggling and offences against the revenue there is a lax idea in nearly all communities which we do not find in connexion with other matters. "Getting at" the Government has been thought to be a comparatively venial offence. I do not know what may generally be thought of such offences, but a Customs Minister ought to lay himself out to prevent them.

Sir WILLIAM McMILLAN.—But not to trap people.

Mr. KINGSTON.—I have been clothed with the necessary power, and I regard it as a trust to be honestly and vigilantly exercised.

Sir WILLIAM McMILLAN.—With common sense.

Mr. KINGSTON.—Yes; with common sense, in order to prevent not only fraud, instances of which of a deliberate nature I am happy to say are comparatively few, but also to prevent carelessness, incompetence, and recklessness, which are all too frequently exhibited in connexion with the preparation of Customs entries.

Sir WILLIAM McMILLAN.—In one out of ten thousand entries.

Mr. KINGSTON.—What are customs entries? A man pledges his oath and his honour.

Sir WILLIAM McMILLAN.—Rubbish!

Mr. KINGSTON.—Honour is not rubbish, and an oath is not rubbish, and every entry which requires an oath involves a man's honour.

Sir WILLIAM McMILLAN.—I did not mean what the Minister thinks I meant.

Mr. KINGSTON.—I will not press the point, as the honorable member says he did not mean his words to be taken in that light.

Sir WILLIAM McMILLAN.—I was referring to what the Minister previously said.

Mr. KINGSTON.—Many people think lightly of Customs offences, and we know how entries are scamped in the hurry of the moment; but that is not good enough, and the Customs have a right to require more. Importers should employ competent hands at good wages to do this work.

Mr. BAMFORD.—Not boys.

Mr. KINGSTON.—Boys should not be employed.

Sir WILLIAM McMILLAN.—Nonsense.

Mr. KINGSTON.—The House marked its intention in this respect in the Customs Act, but time and again we have been told of boys being sent up to pass entries. Dr. Wollaston, who is the highest authority in customs practice in Australia, and who is a worthy recipient of the Imperial Service Order, informs me that it has been too long the custom to send boys to do this important work. Where the oath of an importer is concerned, and the reputation of his firm may be involved, competent men at decent wages should be employed, and not boys in knickerbockers.

Sir WILLIAM McMILLAN.—Rubbish.

Mr. KINGSTON.—As a fact, however, boys, whose heads are not up to the shoulders of an average adult, have been entrusted with this business, and, so long as I have the honour to be in my present position, I shall not allow the practice to go unchallenged.

Mr. SYDNEY SMITH.—How many cases of fraud have been discovered?

Mr. KINGSTON.—Not many—six or seven. But when we find fraud amongst the highest firms what are we to think, and what care ought we not to exercise?

Sir WILLIAM McMILLAN.—Nobody blames the Minister for that.

Mr. KINGSTON.—I am sure they do not. The honorable member for Wentworth knows that the Customs authorities have to be very careful, and that a line cannot easily be drawn between one class of firm and another. The great majority of the merchants are honest men, but they are perhaps not quite so careful as they are honest. There are some few who defraud, but they cannot be marked off with a line; and firms in high repute to-day, may to-morrow be detected in a long series of frauds. We have to be vigilant and treat all alike, and no man should be allowed to escape on account of previous good character. No fraud ought to be charged, unless it is capable of proof up to the hilt.

Sir WILLIAM McMILLAN.—Is it possible to avoid error in any business?

Mr. KINGSTON.—It seems to me that there are errors and errors.

Sir WILLIAM McMILLAN.—And the Minister wants to call them fraud.

Mr. KINGSTON.—That is not so. I am not going to justify my administration by reference to cases, all of which are publicly known.

Sir WILLIAM McMILLAN. — Has the Minister not found the bulk of our mercantile community honest?

Mr. KINGSTON.—Indeed I have; the great bulk are honest. But the honorable member must not think that he has now extorted from me an admission which I have not previously made and gloried in.

Sir WILLIAM McMILLAN.—I do not think the Minister started with that idea.

Mr. KINGSTON.—I did start with that idea, and I repudiate indignantly any suggestion that I ever defamed my countrymen, of whom I am proud. I never suggested that Australia compares unfavorably in this respect with any other country in the world; on the contrary, I know the fact to be otherwise, and have so expressed myself time after time. To endeavour to make out that I am a slanderer of my countrymen is to talk nonsense. I do complain that there is not more care shown in the charges which are brought against me. I will not return to that charge, with which I have already dealt, and in which my honorable friend admitted, like the honorable man he is, that he had made a mistake. I think it was Senator Pulsford who said that in a case in which there was a difference as between £34 7s. 6d. and £37 4s. 6d., and in which nothing had occurred more than a mere error, of which it was not worth while taking notice, I caused a prosecution. I did nothing of the sort.

Mr. THOMSON.—There have been prosecutions for less.

Mr. KINGSTON.—The fact is that there was a case brought before me in which there was a difference or shortage as between £62 and £150, and at the same time the other case, to which Senator Pulsford referred, was mentioned. But it came before me, not as a difference of £3, but as a difference of practically £91. I ordered the prosecution, and the two cases were taken as practically one matter. The defendants pleaded guilty in regard to the big case, and the other was withdrawn.

Mr. THOMSON.—Has the Minister seen Senator Pulsford's letter?

Mr. KINGSTON.—Yes; and Senator Pulsford has every reason to be ashamed of himself for it.

Mr. THOMSON.—He examined the depositions in the police court.

Mr. KINGSTON.—I will give honorable members the facts. The plea of guilty was entered in regard to the larger charge. The

defendants wanted it to be entered as regards the smaller charge, but we would not agree to that. I may say at once that there was no charge of fraud. This is the letter of the Crown Solicitor—

I have the honour, with reference to your letter of the 22nd inst., relating to two prosecutions against Farmer and Co. on the 24th September last, to inform you that, although my papers do not disclose the subject-matter of the charge upon which the conviction was obtained, the prosecuting officer distinctly recollects that the plea of guilty was accepted in respect of the charge concerning twelve cases of furniture. He informs me that, the day before the cases came on for hearing, Mr. Shorter, solicitor for the defendant company, saw him in reference to such cases, and asked if the department would be prepared to withdraw one of the charges in the event of his pleading guilty to the other. Mr. Shorter was told that a definite reply would be given at 10 o'clock next morning, and at that time he expressed a desire to have the plea recorded in respect of the charge relating to one bale of rugs. The prosecuting officer declined to accede to this course, and eventually Mr. Shorter pleaded guilty to the other charge.

I made that statement, or one to the same effect, at the Town Hall. Mr. Pulsford heard what I said, and went to the court. He then proceeded to write that he visited the court, and that the docket showed that the conviction was upon the smaller charge. That statement is a half truth, the sort of fib which is the hardest of all to fight. He makes no mention of the fact that the clerk told him that there was a confusion in the papers, and that in all probability the plea of guilty was entered in the larger case. In ignoring that information he, it seems to me, has wilfully misled the public. This case shows the sort of treatment to which I am subjected. If I make a mistake, I am not above owning it, and I think that others might do the same.

MR. THOMSON.—I have no doubt that Senator Pulsford will reply to the Minister's statements.

MR. KINGSTON.—I hope that he will, and that at length the truth will be made plain.

MR. JOSEPH COOK.—Senator Pulsford is a more accurate man than the right honorable gentleman ever was.

MR. KINGSTON.—I do my best to be accurate.

MR. JOSEPH COOK.—So does he.

MR. KINGSTON.—I do not wish to suggest that he does not; all I desire to say is that he did not treat this case with the candour which is probably his characteristic, but from

which on this occasion he suffered himself to lapse.

MR. THOMSON.—Where is the evidence what the clerk said?

MR. KINGSTON.—It was contained in the following letter, which is signed P. Minns, P.M., acting C.P.S., and Chief Magistrate:—

With reference to the communication by Senator Pulsford and the deposition clerk, it appears that the latter saw Mr. Pulsford inspect the papers, and explained to him that "although the 'furniture' summons attached to the 'rug' information was marked 'withdrawn,' it was almost a certainty that the word 'drawn' referred to the information to which the summons was attached.

All that we have heard about the case of charging fraud against this, that, and the other man is, so much fudge. A charge of fraud is preferred only when there is ground for it. In all other cases no statement is made by the prosecuting officer but that we do not charge fraud, as a concession to the wish of many, that we should do not charge fraud, we shall declare that we do not. With regard to the statement of persons charged with Customs offences, that they are to be herded with the "drunks," I would point out that in South Australia, where I have neglected to register his dog, a man has to rub up in the court a charge of being a "drunk," just as he might do in the street. Though I am not an advocate of intemperance, however much the consumption of spirits may benefit the revenue which I cherish so dearly, I think that, in the sight of Heaven, for a man to go upon a jovial occasion to exceed, so that when rolling home afterwards he is run in for being fined, is a venial sin compared with that of the man who robs me of my duties. We are all liable to make errors, and if we do, it is suggested that we should go to the courts to receive punishment without being contaminated by the presence of "drunks" there. There is much nicety in these complaints. A man in Victoria does not vaccinate his child he is taken to the police court, and he is believed that a member of this Parliament has been so treated. Was he contaminated by that?

MR. JOSEPH COOK.—He feels out of it, and is writing to the newspapers to vent his feelings.

MR. KINGSTON.—But I guarantee that he has too much good sense to object to what has been done to him on the ground

was brought into contact with " Perhaps he did not appreciate the treatment from the people of another country. We need not be ashamed, except of our own sins; and though we may be scariously for the enormities of it is really our own affairs that concern us. Now it has been said that there is no considerable trouble in connection with Customs administration before the Government. If there was not there ought to be. I think I know something to the contrary. Do not honorable members think that we had not been six months since as a federation before the cry in Queensland that serious customs matters were taking place, and we were to help the authorities there?

JOSEPH COOK.—The Minister will be able to stop the leakages, notwithstanding all his heroic measures.

KINGSTON.—The *Brisbane Courier* of August, 1901, contains a report under the headlines, "Unfair influence of laxity—Customs leakages—deputation Queensland Treasurer." This was a motion to direct attention to the customs and the need for reform, and among those who attended I find representatives of Messrs. Stewart and Hemmant, gentlemen whom I can speak in the highest terms, who were called upon to afford me information to their best to show that what they were actually a fact, and I feel sure they were actuated by the best principles in doing what they did. There also were the names of Messrs. D. and W. Fraser and Co., Robert Reid and Co., R. Armour and Co., and A. M. D. Three of these firms have since been themselves in collision with the authorities, and have been dealt

WILLIAM McMILLAN.—Hear, hear. Minister's own condemnation. Were there such cases?

KINGSTON.—I do not lightly charge fraud.

WILLIAM McMILLAN. -- I doubt if the Minister has the right to mention their names.

KINGSTON.—Regarding one of the cases mentioned, an allegation was made that they were tried and fined that their conduct was shown because they had made a mistake against themselves. The mistake

against themselves amounted to 10s., and the mistake against the revenue to £10. I am not suggesting fraud in that case, because, as I say, I shall not charge fraud lightly. When I charge fraud, honorable members may depend upon it that there is some ground for it, and that we are likely to reach the offender.

Sir WILLIAM McMILLAN.—Does not the Minister ever make an error in his own accounts?

Mr. KINGSTON.—Does the right honorable member for Wentworth often have accounts sent to him showing that he owes less than the amount due from him to his creditor. I do not mean to say that all mistakes are made against the Customs, but it is very nice to be able to point to a mistake against oneself, and say, "See how honest I am." In regard to such mistakes the merchant will not forget to call in afterwards and collect the overpayment, but if we passed the mistakes against the Customs, where should we be? According to the report to which I have just referred, Mr. Alexander Stewart did not hesitate to give it as his opinion that—

The leakage in the Customs revenue from soft goods alone during the past three years has been fully equal to half the amount of the existing deficit—namely, over £250,000. And Mr. Stewart asks—"Can we assume that other trades are honest, if this sort of thing goes on in the drapery trade?"

I specially refer to the gentleman who introduced the deputation, because I feel sure that he is absolutely public spirited. It is very pleasant to have to do with a gentleman who not only speaks boldly, but gives every assistance to the Customs. It cannot be doubted that the members of the deputation were in a position to know what was going on, and to give reliable information. Some honorable member asked me a question regarding this matter, which was also mentioned in the Queensland Parliament in the following manner:—

Mr. Macartney asked the Treasurer—

1. Has he seen a statement referring to an alleged leakage in Customs revenue attributed to Mr. Alexander Stewart (of Messrs. Stewart and Hemmant)?

2. Is there, in his opinion, any foundation for such statement in fact?

3. Has any action been taken in the matter?

Mr. Cribb replied:—1. Yes. 2. Yes. 3. The alleged leakage in Customs revenue was brought under the notice of the Treasurer on 7th June last. Steps are being taken to prevent such leakage.

I communicated with Mr. Cribb on the subject, and he replied on 8th August as follows:—

I have the honour to inform you that in the month of June a deputation of Brisbane merchants waited on me, stating that they had good reason to believe that considerable leakage occurred in the Customs revenue of this State. It has been the practice here to allow firms conducting business in other States with branches in Brisbane to pass import entries at English or foreign cost, plus 10 per cent., but it was represented that the invoices presented with the entries did not always show the true English or foreign cost, and that due care was not exercised to see that they did so. This privilege of passing entries at 10 per cent. on English or foreign cost was not intended to apply to houses which do not keep stocks in this State, but simply sell through agents on samples. The deputation further alleged that some firms were in the habit of passing entries for goods which were not properly defined in the declaration. For instance, under the head of "Pins," which for use in apparel are free, hair-pins, curling-pins, &c., are included; and saddlery buckles, which are free, are made to cover many varieties of buckles. There appears to be substantial grounds for the statements made by the deputation, and when the new Tariff comes into force there may be further inducements for unscrupulous traders to attempt to pass goods from State to State without payment of duty. I am desirous that all reasonable care should be taken that the revenue of the State should not suffer, as well as that merchants who conduct their business in a fair and legitimate manner should not be placed at a disadvantage, and I should be glad if you would give this matter your attention, and issue instructions which will insure close scrutiny of invoices, and more frequent examination of goods in this State, with a view to preventing the abuses complained of and protecting the revenue.

At the instance of a committee of merchants in Queensland, the powers of the Commonwealth were invoked for the purpose of preventing abuses, which were stated to be of a very grave character, and this circumstance added strength to the information of which we subsequently became possessed, and confirmed us in every action. Inactivity in such a case would have been a grave offence, and I am determined that such a charge shall not lie at my door. I said a little time ago that I was not requiring information which was not within the complete control of the merchants themselves. I am not troubling merchants with regard to the classification of goods for duty. I do not care what mistake they make with regard to the duties. There may be cases in which it is difficult to say to what particular duty goods are properly subject, but what I have said time and again is—"Give me the nature of the goods, give me their

Mr. Kingston.

value, give me proper invoices, and you need fear nothing—you will not be prosecuted."

MR. THOMSON. — Does not the Minister know that a great many prosecutions have been instituted after such information has been given?

MR. KINGSTON. — No, I know to the contrary, and I am going to prove it. This is what the Sydney merchants asked for when I last saw them, and when I pointed out that they had it already they were delighted. Possibly mistakes have been made, but they have certainly not been justified by the facts. In cases where £90 was involved, it has been represented that only £3 was in question, and I have given an instance in which certain things were represented as having happened to more than one individual when there was only a solitary case. I do not suggest anything beyond an honest mistake, but still it is annoying to have matters misrepresented. I wrote to the Sydney Chamber of Commerce on 27th June last, and said—

What precautions are usual and proper to be taken has long been settled by the practice of States situated in similar circumstances.

Two things are chiefly essential—a true description of the nature of the goods, and their value, supported by the production of the genuine invoice identified by the importer's declaration.

So long as the nature of the goods, and their value, &c., are fairly stated so that the duty can be accurately assessed and the proper invoice is produced, no importer need fear anything. Certainly he will not be prosecuted for any error on a really doubtful matter of opinion.

MR. THOMSON.—They have been prosecuted.

MR. KINGSTON.—I am not speaking without book. I know how exact my honorable friend is, and I am going to prove everything up to the hilt. Instructions were issued in September under my signature.

MR. THOMSON.—That is nearly twelve months after the Tariff was enforced.

MR. KINGSTON.—In June I made the promise to which I have referred, and by which my officers were bound, and on 2nd September I gave instructions which were put into formal circulation, although they had been previously acted upon. I could not go back upon a letter such as that written by me to the Sydney Chamber of Commerce. This was my instruction—

1. As to entries, I do not wish prosecutions when the nature and value of the goods are fairly disclosed in the entry, so that acceptance of the

entry will not necessarily cause loss to the revenue—if the officer does his duty.

2. I specially desire that no error of classification by the importer in the entry shall alone render him liable to penal consequence if he has in the entry disclosed the true nature of the goods so that they can well be identified for Tariff purposes by an officer familiar with the Tariff.

What I say is that I am entitled to two things—the invoice and the entry. The entry is an oath to which the importer swears. I say to him—“Let me have the invoice and entry, the nature of the goods and their value, and you may make as many mistakes as you choose regarding the duty and you will not be punished.” That is the position which I take up. I want my officers to look after the duty, and not to rely too much upon the inexperienced classification by a merchant. We are more competent than he is to decide what duty should be imposed, but he is more competent to say what is the nature of the goods and their value. When he gives us that information, together with the true invoice, he need fear nothing. This is what was circulated with the memorandum by the Acting Comptroller-General, Mr. Lockyer, one of my most careful officers—a gentleman who has raised himself to his present position as collector in Sydney by high ability. What does he say?—

Herewith are enclosed for your guidance, directions by the Minister in regard to the dealing with misdescription of goods and errors of entry by importers and agents. A careful inspection of many of such cases which have, by direction, been submitted for the personal consideration of the Minister, has disclosed in many instances, to say the least, the most culpable carelessness in the presentation of the important particulars necessary for the protection of the revenue.

Here, I say, time and again I get the excuse of gross carelessness. I say to the merchants—“Before you swear to any statement, employ some one who will not be grossly careless. Protect the revenue, and honest and careful merchants.” The communication continues—

It is possible that many of these errors are the result of the employment of incompetent and inexperienced clerks.

I believe that they are. But I hold that the offence is rather aggravated by the employment of boys or of men, often at very small salaries, to do work which they are not capable of satisfactorily performing. The Acting Comptroller-General continues—

It is quite clear that in many instances the attention and care which are considered imperative in ordinary commercial transactions, have not

been extended to and observed in dealing with the department. There is undoubted evidence in many cases of inexperience, want of care, and incompetence in the preparation of entries, which, in the interests of the revenue, cannot possibly be tolerated. It, therefore, now rests with you to see that there is no lapse of vigilance on the part of the officers, or want of care and attention on the part of importers and agents in all that is necessary for the furnishing of full and accurate information. The entries should be clearly written and fully completed, the goods accurately and truthfully described, and due regard given to the importance and very serious nature of the declaration subscribed.

An entry involves an oath. I think that fact is too frequently forgotten. It is regarded merely as an idle form, judged by the want of attention given to its preparation, and the facility and recklessness with which it is sworn to.

The Minister particularly directs—“In all cases of false statements on entries as to the value of goods against the revenue which might have been avoided by proper care by competent clerks, proceedings to be taken when more than £1 duty is involved, or irrespective of amount where the case is not the first against the same importers. The Comptroller-General may sanction any proceedings, irrespective of amount, in any case when the special circumstances appear to require it.

Mr. THOMSON.—Does that apply to fixed duties?

Mr. KINGSTON.—It applies to all. Even in the case of goods which are not delivered before they were weighed, there is no trouble. I have taken pains to inquire by telegram within the last ten days whether there has been any breach of the order to which I refer, and I have received an assurance from each of the State collectors that nothing of the sort has taken place. Under these circumstances, how does it lie in the mouths of those who suggest the contrary to justify their attacks? Let them bring forward one case which will justify them. Such a case has never occurred, and cannot have occurred, unless my collectors have stated what is not true; and I know that I am supported by an honorable staff which would not, on any account, wrongly advise the Minister's office. There I am content to let the matter rest. I am delighted to have an opportunity of making this explanation. I have had other opportunities in various places, and at different times. The last one—and perhaps the one which I most enjoyed—was at the interview which I had with a deputation of merchants at that great centre, Sydney. What was the result of that interview, even according to

my severest critics? One of those critics—the *Sydney Morning Herald*—which had prepared me for all sorts of dull and dreadful things, headed the report of the proceedings of the deputation—"The Minister in a conciliatory mood"—I am always that—"Amicable assurances on both sides." At first there was a little loose sparring, but when we got to close quarters we found that we thoroughly enjoyed each other. The report in question states—

At first there was a little disagreement regarding the precise subjects to be brought forward by the deputation, but an understanding was soon arrived at, a conciliatory spirit was shown on both sides, and the discussion was carried on in the most friendly spirit

There is nothing of the prize-fight about that.

Mr. THOMSON.—The Minister has since stated that the deputation misunderstood his promise, and that he did not give the promise which satisfied them.

Mr. KINGSTON.—All I can say is that this is the report of the *Sydney Morning Herald* upon the matter. I suppose that will be accepted as an authority in New South Wales.

AN HONORABLE MEMBER.—The Minister does not accept its statements himself.

Mr. KINGSTON.—Not as to statistics especially as to shipping which is decorated. In such cases if one obtained 6-47ths of the truth he would be lucky. But the report of the proceedings of the deputation seems to be all right.

Mr. THOMSON.—I quoted from it the other night and the Minister said it was wrong.

Mr. KINGSTON.—Then the honorable member must have quoted a portion which I have not seen. The members of that deputation reminded me of what I had said, but they did not assert that I ever declared I would not institute prosecutions except in cases of fraud. They agreed that I was right in what I wanted. In the House of Representatives, said Mr. Barre Johnston, Sir William McMillan had asked the following question :—

Would not the Minister permit a Customs official to allow the rectification of a clerical error?

to which the Minister had replied—

We are not laying down the rule that persons must be prosecuted and penalized for the smallest clerical error, such as might take place in an arithmetical calculation ; but in collecting duties, as I have stated in communication with chambers

of commerce and other bodies interested, a right to know from the importers what the nature of the goods they are importing, and is the value of those goods.

When they put it that they wanted to abstain from prosecutions where questions of duty were involved, I told them that had been adopting that practice throughout. The report proceeds—

On the point that Mr. Wall and other members have raised, as to men being prosecuted for making wrong statements of duty charged, I wrote to your chamber some time ago that such was not my wish, and I gave instructions to the contrary months ago. I hold in my hand the instructions signed by me on 1st December. I look to my officers regarding the classification of rates—(Hear, hear)—and Mr. Lockyer he believes the fullest effect has been given to these instructions. In the second clause of the instructions I specially desire that no classification by the importer in the entry alone render him liable to penal consequences if he has in the entry disclosed the true nature of the goods so that they can be identified by the Tariff purposes.

All the members of the deputation smile at the benedictions, the clouds which had previously overhung the meeting were dissipated, joy and happiness reigned supreme. At that occasion I also emphasized a declaration which I made in June last, to the effect that the importers need not trouble themselves about the duty which is to be paid. They have only to speak the truth in matters within their knowledge, and to state the nature of the goods, their value, and the invoices. I will undertake to see that after the duty. Every member of the deputation left the room perfectly satisfied.

Mr. THOMSON.—Did not the Minister the other night, when I was quoted, extract from that very newspaper, that the deputation had misunderstood him?

Mr. KINGSTON.—I cannot tell whether or not the report in my hand was read by the honorable member was reading it. There is no doubt, however, as to the point which I took up, and there was my content to allow the matter to go. Since that deputation waited upon me, the Tariff guide has been completed. That work I think supplies a wealth of information not only to the commercial public, but to the Customs officials. It enables them to avoid that reference to the chambers which has necessarily been associated with its absence. I do not hesitate to admit that in the past too many

red. I have never attempted to
fact. It is infinitely better I
knowledge that a lot of work has
ed upon me which I have not
Unless 48 hours could have been
ed into each day, I could not
avoid the delays which have
I have not spared myself,
ave no intention of doing so.
ll be glad indeed to get rid of the
associated with the initial stages of
Tariff administration. It is an
e which I should wish no honor-
ber, but which I am glad to have
ough, because I believe it will
ualify me for the performance of
and give me a better appreciation
rk, thus tending to the credit of
, and, I hope, to the good of

MAHON (Coolgardie).—After a
re generally comes a calm; and
the hurricane which has re-
own in this House has subsided,
te should flow along with its
cidity to the end. I sincerely
t we have heard the last of
s concerning Customs prosecu-
or the past two weeks in this
nd in the press for months,
s would lead one to think that
ts in the country were suffering
hose of unfortunate importers,
represented as being continu-
essed and persecuted by a fiend
pe of the Minister for Trade and
Surely there are other people
porters in Australia. When the
s before the House, I fought in
ests of free-trade; but now that
a Tariff there should be no loop-
for dishonest traders. What
eaning of all this talk about
gnity of men appearing along
unkards in a police court?
innocent men often arrested,
merely asked to appear with
" but deprived of their liberty?
never hear a protest in such
m those honorable members who
loquent in their defence of the
. In my judgment the state-
the Minister for Trade and
is perfectly fair. If the importers
aim the value of the goods, and their
nd produce proper invoices, he will
duty. That seems a proposition
ch I do not see anybody can

fairly find fault. But there are other depart-
ments of the State quite as important, if
not more so, to the people than that of the
Customs. There is the Postal department,
which touches people more intimately than
the Customs. I tell the Government in all
friendliness that if they are to continue
in office it will be necessary for them to
look closely into the administration of the
Postal department. As one from a distant
State, I know that most aggravating delays
occur before the Department can be induced
to carry out the slightest work. Some of
these works were projected before the Com-
monwealth took over the department, and
yet they are still at the stage when tenders
are being called. That is the result of red-
tape, and I respectfully suggest the advisa-
bility of shaking up the officers, so that
the people in the interior portions of Aus-
tralia, who are opening up and developing
the country, may obtain postal and telegra-
phic facilities. In my opinion the depart-
ment is run a little too much on commercial
principles, the idea of the Minister appar-
ently being that each service must pay its
way.

Mr. JOSEPH COOK. — Why should the
Postmaster-General not get revenue, if the
Minister for Trade and Customs gets it?

Mr. MAHON.—I do not object to that
view, but up to this time the post-office has
always been used as an auxiliary in the
development of the country. It is mon-
strous to expect that every new service
must pay its way from its inception,
and if the present policy is continued
it will seriously retard settlement and
development in the interior. Then, I
want to know the reason why these
extravagant demands for guarantees are
made in the matter of telephone and
telegraphic communication? If I desire
a telephone to be constructed between
two towns, I must give a cash guarantee
to cover any loss that might occur.
Under the Western Australian law, muni-
cipalities have no power to give these
guarantees, but must spend every shilling
of the rates, except 3 per cent., on muni-
cipal improvements. It is the opinion of
those who interpret the law that the muni-
cipalities are thus debarred from giving
guarantees to the Federal Government in
connexion with telephone and telegraphic
extension. And I want to know how it is
that in these matters some States are served
differently from others?

Mr JOSEPH COOK. — All States are treated alike.

Mr MAHON. — That is not so. An honorable member of this House, who represents South Australia, and has an influential newspaper at his back, was instrumental in obtaining the construction of a telegraph line to Tarcoola, at a cost of not less than £14,000, without any guarantee being given to the Federal Government. I understand that, in the first instance, it was represented to this House that this money would be deducted from South Australian revenue as part of the expenditure of a transferred department; but now the claim is seriously raised that this is part of the new expenditure which must be borne by the Commonwealth generally. This is a matter which seems worth inquiring into. How is it that an honorable member from one State can have a large work like this done at a cost of £14,000 without any guarantee, while a Western Australian member, under similar circumstances, is asked to deposit a certain amount in cash? There is another point requiring notice in connexion with postal administration. This is in respect to the refusal to deliver letters addressed to Tattersall's. That step has caused an enormous loss of revenue, and the statement I made at the time that the section would prove a failure is borne out by the fact that Tattersall's sweeps are now filling as well as ever they did. The House as well as the Government deserves censure for this. This is what may be called hypocritical legislation.

Mr. McDONALD. — Why so? We might as well say the honorable member was guilty of hypocrisy in voting against the clauses.

Mr. MAHON. — It is pure cant to pretend to legislate for the suppression of gambling, when we know that it cannot be suppressed in that way. What I said in the House was that if we desired to legislate against gambling we should do so directly, and not in an underhand manner, which is always more or less hypocritical. As regards the transcontinental railway, I notice that some honorable members are opposing its construction on grounds of economy. One of the South Australian members the other night gave, as his principal objection to the line, the enormous cost it involved, but I notice that when the same honorable member advocated the

extension of the Tarcoola telegraph line made no inquiry as to the expense recommending the project to the House. Another honorable member observed that the Western Australian Government should give the Esperance line before South Australia gives permission for the transcontinental line to pass through her territory. It was within the recollection of honorable members that during last session I submitted a motion in favor of the construction of the Esperance railway, but I think these subjects stand on different footings. They are both worthy of being completed, but it is no reason why the non-construction of the Esperance railway should retard the construction of the transcontinental line. I regret very much that some effort is not made to prevent the Parliament of South Australia from giving the necessary consent to the construction of the Port Augusta to Kalgoorlie railway. If ever a Government pledged itself to anything beyond recommendation, the Government of South Australia are pledged to give permission for the construction of this transcontinental line. To prove the truth of what I say, I have only to refer to a letter written to the Premier of Western Australia by our Speaker, when he occupied the high position of Premier of South Australia. The letter is dated 1st February, and is as follows:—

Following our conversation as to the proposed blocking of the construction of a railway line from Kalgoorlie to Port Augusta by the Federal Government, by South Australia refusing consent, rendered necessary by section 34 of clause 51 of the Commonwealth Bill, to the construction of the line through her territory. I regard the withholding of consent as the most improbable thing, in quite out of the question. To assure you of my attitude in the matter, I will undertake that as soon as the federation is established and South Australia both being States of the Commonwealth) to introduce a Bill for giving the assent of this province to the construction of a line by the federal authority, and pass it stage by stage simultaneously with the passage of a similar Bill in your Parliament.

I find also that your successor, Mr. Speers, in the Premiership of South Australia, wrote on 31st July, 1901, to the Minister as follows:—

In reply to your letter of 23rd inst., I have the honour to inform you that prior to the submission of the Commonwealth Constitution Act for the approval of the people of Western Australia on the 1st February, 1900, the Honorable Mr. Holder (then Premier of South Australia) wrote to the Premier of Western Australia (copy of letter herewith) undertaking on specified conditions—

only condition specified in your was that the Western Australian should simultaneously pass a gh their House. Now we are understand, however, that certain conditions were mentioned, and the r. Jenkins proceeds—

taking on specified conditions to in- fill formally giving the assent of this construction of a line of railway to n Australian border. On the 11th graphed to the Western Australian follows :—

ardie Railway. A Bill will be intro- our Parliament, as agreed by Mr. February, 1900, but we strongly in- ne joining your State 40 to 60 miles cla.

to me that new conditions are g added by the Premier of stralia before consent will be notice, from the reported state- some public men in South Aus- t there is a disinclination to give the promise which you, sir, made on behalf of the Parliament and of South Australia. I have too opinion of the people of South to credit the notion that they will eir Government to commit such breach of faith as this involves. nced that when South Australian ion is appealed to, it will be de- the promise of the Premier of given in good faith, should be

If that State had an objection being given to the construction tern Australian transcontinental e time for that objection was be- ern Australia agreed to join the

WLER.—And then Western Aus- ld not have come into the union.

HON.—That is so. It was most wait until now to suggest new cond- to raise new objections to the But we find an explanation of that eumstance in the fact that South appears to have set her heart er transcontinental line, though e to think that, when the ditions under which it is o build that line are known, cate will be foolish enough ke the work. It is proposed to a syndicate for the building of territory almost as large as the Victoria. The railway, when s not to be handed over to the

South Australian Government, but is to continue the property of the syndicate. That seems to me a most inequitable proposal. I know of two similar private railways in Western Australia, but they are both miserable failures.

Mr. HENRY WILLIS.—Are they failures so far as the promoters are concerned?

Mr. MAHON.—They are failures so far as the country is concerned. The most miserable railway journey a man can make in Australia is that from Perth to Geraldton, on the Midland Company's line.

Mr. HENRY WILLIS.—Is that worse than the journey from Albany to Perth?

Mr. MAHON.—Yes, far worse; there is no comparison between the two. The trains run at the rate of about 15 miles an hour, and in the 318 miles, which comprise the whole distance, there is not a place where one may procure a decent meal, so that those who travel on the line invariably take their own food and liquor with them. But the secret of the South Australian objection to the Western Australian transcontinental line will be discovered in the report of an interview which took place in London between a newspaper reporter and a gentleman who claims to be the power behind the throne in South Australia. He is not the Premier, but he informs all and sundry that at any time he likes he could turn the Government out. This is the report of an interview with Mr. Darling, the leader of the Opposition in South Australia, the gentleman to whom I refer—

Although his coming to London had no official connexion with the promotion of the scheme for building a railway from Oolnadatta to Pine Creek, still, he had made "casual" inquiries amongst bankers and financiers. "They seem to be agreed," continued Mr. Darling, "that the state of the money market and the disposition of capitalists generally are not altogether too favorable at the moment. They seem to think, however, that it is one of the ventures that might well be taken up by London capitalists when better times arrive." The South Australian afterwards proceeded to show what the expression "better times" meant in his mind. "The Commonwealth," he said, "is at present entirely opposed to the introduction of coloured labour into any part of the island-continent. If that course is persisted in, then the tropical resources of the Northern Territory cannot be profitably developed. It is no use blinking this fact. What I would suggest is the introduction of Indian coolies under an indentured system, which has worked so well in other parts of the British dominions. I believe that the people of Australia will, in the course of a few years, come round to this view."

The railway is to be made by a private syndicate ; and, as a concession, they are to receive a territory as large as Victoria, and are to have the right of running the line, and, apparently, of charging what rates they like on it for all time. I believe, too, that they are to be exempt from State taxation. But Mr. Darling has given the project away when he says, in effect, that this territory can be made profitable only by the employment of coloured labour. I think that this Parliament will prevent Mr. Darling or his syndicate, if it is foolish enough to undertake the enterprise, from employing coloured labour. Possibly the syndicate has not been told that the Federal Parliament may impose taxation upon property ; although, so far, we have imposed no direct taxation, we have the right to place a tax upon land. I apprehend that when those facts are made known to London capitalists they will hesitate for a long time before proceeding with the construction of the line. The correspondent from whose report I have quoted goes on to say—

I reckon that if Mr. Jenkins' land grant railway to Port Darwin is not built until the Australians have turned their back upon white labour, then the man is not yet born who will travel on the line.

And I quite agree with him. I think that when the question is fairly put before the people of South Australia they will not be guilty of a repudiation in the nature of a breach of faith. Despite what the politicians and leaders of Parliament may say, I should be perfectly willing to submit the issue to the people of South Australia, putting before them the promise which was made on their behalf by their Government. I intended to speak at some length upon the other questions dealt with in the Governor-General's speech, but no doubt other opportunities will in due course arrive when the various measures in the Government programme are brought before the House. Although I am inclined to consider the High Court a necessary part of the federal machinery, I fear that as proposed it would be too expensive a luxury at the present time. I should like instead to see some arrangement whereby one federal Judge could be appointed to sit with the Chief Justices of the States whenever occasion required the services of the Federal High Court, because it does not appear to me that there will be sufficient work for five

Mahon.

Judges. I believe, however, that the matter is one that we might fairly postpone for the present. With regard to the capital site, I think that, in justice to South Wales, we should proceed to its selection as soon as possible, but I should be in favour of commencing the building of a capital while money is so dear in London, because no Government can profitably borrow at 4 per cent., and it is not possible to get money now at lower rates.

Mr. JOSEPH COOK.—Not much would be required.

Mr. MAHON.—No ; but as this has already objected to the borrowing of money for necessary works, such as telephones and telegraphs, I think we should not borrow to build a federal capital. I want telegraphs and telephones for the development of the back country more than we want a federal capital. However, I might be to get away from Melbourne and recognise that this is not the time to increase the burden of the taxpayer by borrowing.

Mr. JOSEPH COOK.—Is it not the time to carry out a bargain ?

Mr. MAHON.—The construction of a transcontinental railway was an important bargain with Western Australia, the terms of which are unfortunately not in the constitution, but they would have been made had those who represented that State at the time been alive to the interests of their colony. When will the hon. member be ready to carry out that bargain ?

Mr. CONROY.—Two wrongs do not make a right.

Mr. MAHON.—No doubt that is so, but that statement makes our work a little less hard to bear. I am rather disappointed to be appointed with the declaration of views by speakers concerning preferential trade relations with the other parts of the Empire. I was surprised to hear the Premier pronounced upon Mr. Chamberlain to-night by no less a person than the Minister for Trade and Customs. It is a singular thing to find one who is widely regarded as the darling of Australian democracy praising a man who in England has been a traitor to democracy. Possibly the attitude of one of the Melbourne newspapers in regard to Mr. Chamberlain may have influenced the mind of the Minister. The paper is a harsh critic of the Minister for Customs, and his hostility to it may a-

hausting the language of eulogy of Mr. Chamberlain. Until last the Secretary of State for the was the darling and hero of that newspaper, the *Argus*. During the war, and ever since he left the party, the *Argus* has shown the appreciation of the genius of that man. But on Monday last the says this of him—

is of policy by Mr. Chamberlain have many and too remarkable to make it able to charge him with inconsistency. a policy or a principle is a thing to be view of the exigency of the hour, and ended as further turns of the political render necessary.

to the savage manner in which the for Trade and Customs corrected mistake—if it was a mistake—me in an interjection. I merely the Constitutions of Natal and ony had been suspended during the outh Africa. What I should have that the right of the Parliaments colonies to meet had been suspended e war.

ONROY.—That is practically a sus- f the Constitution.

AHON.—It is really a distinction a difference, and the Minister for d Customs devoted more attention ivil matter than it warranted. I r surprised also to hear some of expressed from the opposition side mber with reference to preferential he leader of the Opposition said were to have a protective Tariff we close the doors more tightly against untries than against England. I do ch difference between what the right gentleman said and what the Min- Trade and Customs has suggested. ances of the leader of the Opposition cord with the Cobden idea of free- cause Cobden held that, although a e Tariff might injure the country hich it was directed, it would also e country which imposed it. If, how can the leader of the Oppo- w himself to become implicated in sition of protective duties?

ONROY.—He would lessen them as possible, if he could not remove

AHON.—There is the alternative by the Minister for Trade and of increasing the duties upon oducts, and leaving them as they

stand with regard to those which come from Great Britain. Personally, I should prefer to see the duties entirely abolished so far as imports from the mother country are concerned, and revenue imposts collected upon goods from foreign sources. I was surprised that the Minister for Trade and Customs should become so enamoured of Mr. Chamberlain, because he must be perfectly aware that that right honorable gentleman has proved a traitor to every political party with which he has been associated. Mr. John Morley, who, as a statesman, a literary man, and a democrat, is far and away above Mr. Chamberlain, in writing the life of Cobden some years ago, practically foresaw the present proposal for preferential trade, or, as it was then known, fair trade. This is what he says—

Nobody has fully grasped the bearings of free-trade who does not realize what the international aspect of every commercial transaction amounts to; how the conditions of production and exchange in any one country affect, both actually and potentially, the corresponding conditions in every other country. It is not free-trade between any two countries that is the true aim; but to remove obstacles in the way of the stream of freely exchanging commodities, that ought, like the Oceanus of primitive geography, to encircle the whole habitable world. In this circulating system every Tariff is an obstruction, and the free circulation of commodities is in the long run as much impeded by an obstruction at one frontier as at another. This is one answer to an idea which has been lately broached among us, under stress of the temporary reaction against free-trade. It has been suggested that though we cannot restore protection in its old simplicity, yet we might establish a sort of National Imperial Customs Union among the English dominions. The territory over which the flag of Great Britain waves is so enormous and so varied in productive conditions, that we could well afford, it is urged, to shut ourselves within our own walls, developing our own resources, and consolidating a strong national sentiment, until the nations who are now fighting us with protective Tariffs come round to a better mind. The answer to this is that the removal of the restriction on the circulation to a more distant point would not affect the vital fact that the circulation would still be restricted and interrupted. To induce our colonies and dependencies to admit our goods free would, of course, be so much gained: just as the freedom of interior or domestic commerce, which was one of the chief causes of the early prosperity of Great Britain, was by so much a gain over the French system, which cut off province from province by customs barriers during the same period. But freedom of internal commerce, whether within an island or over a wide empire, is still not the same thing as universal freedom of exchange. An interruption, at whatever point in the great currents of exchange, must always remain an interruption and a disadvantage. England is especially interested in any

transaction that tends to develop trade between any nations whatever. We derive benefit from it in one way or another. The mother country has no interest in going into a customs union with her colonies, with the idea of giving them any advantage, or supposed advantage, in trading with her over foreign countries.

I do not know that I need weary the House by continuing this debate. I should not have spoken but for some remarks which were made regarding the transcontinental railway to Western Australia. I hope that in discussing the various measures which are to come before us, we shall display the same good feeling and friendliness that was shown in connexion with every measure except the Tariff last session. If the Government will direct their attention to securing a proper administration of the Postal department, they will perform as great a public service as has been rendered by the Minister for Trade and Customs in his department. I honour the Minister for what he has done, and I believe that the people of this country, almost to a man—certainly those in the back country of Western Australia—approve of his administration. Although I sit in opposition to the right honorable gentleman, I concede the fact that his dealing out of even-handed justice to the weak and the strong must meet with all-round approval, and that his action in bringing to justice men who held their heads high in the community, and regarding whom no suspicion was previously entertained, redounds to his credit. I hope that he will continue in the course which he has hitherto followed, but that he will make a strenuous effort to avoid the irritating delays which have caused so much loss and annoyance to merchants in the past. I rose mainly to deal with the objections regarding the transcontinental line to Western Australia, and to urge the Government to give more attention to the administration of the Postal department, and to conduct it upon principles other than those which appear to actuate the Postmaster-General.

Mr. BATCHELOR (South Australia).—I do not intend to go over the ground which has been traversed so often by other honorable members. I should be glad to say a word or two in defence of the attitude of the Parliament of South Australia in reference to the transcontinental railway to the Northern Territory, but, unfortunately, I am unable to do so. It seems to me that the granting of such a large

concession to a private company to them to build a railway for their convenience is altogether indolent. With reference to the attitude of South Australia towards the Western Australian railway, I think that the honorable member for Coolgardie is hardly doing justice to the Premier of the former State. The Australian Government have not stated that they will not carry out the proposition; they have stipulated that the proposed line should be constructed in a certain manner.

Mr. MAHON.—There was no stipulation made in the first instance?

Mr. BATCHELOR.—No, but I can give an explanation for that. During the interval which elapsed between the communication sent to the Premier of Western Australia by Mr. Speaker when he was Premier of South Australia, and the letter sent to him by Mr. Jenkins, the present Premier, the gold-fields were discovered, and the people of South Australia are now very anxious that the line should pass south of the gold-fields in the vicinity of those fields rather than, as suggested, some distance south of them. This would relieve the South Australian Government of the necessity of carrying out an almost parallel line to Tarcoona. The proposed deviation will not add 25 miles to the total distance to be covered by the railway, and the condition laid down is a reasonable one.

Mr. FOWLER.—I do not think that the people of Western Australia will object to the proposed condition, but we are informed that there are all sorts of other conditions are suggested.

Mr. BATCHELOR.—I do not think that the people of South Australia will back upon the undertaking entered into by the Minister for Trade and Customs when he was Premier of that State, but afterwards by Mr. Speaker when he was Premier of a similar office. But before that line was decided, other conditions may prevail. I think that the people of South Australia will go back upon their undertaking because Mr. John Darling, or even one or two individuals, may think it is to do so. I say this without in any way suggesting that either South Australian or her representatives are necessarily in favour of the line. But that is a very different matter from declaring that if the line is to be undertaken, South Australia will stand in the way of its construction in her territory. I suppose that her members would smile if I suggested

g had been omitted from the General's speech. One paragraph of deliverance states—

er of other important measures are in n. Among these is a Bill to provide a navigation and shipping law. This, however, is necessarily long and com-

the speech contains the following on :—

ers will gladly take advantage of any y which may offer of bringing these before you, but they are not sanguine of to do so in the course of this session.

that statement is a reasonable one

It would be quite impossible for act uniform shipping legislation g all the navigation laws of the States in one Act during the pre- on. I understand that a Bill to s purpose is in course of pre- and that it contains some of clauses. Of course we

not care to attempt to pass asure during the current session.

it to the Minister for Trade and

nt that there are some Bills that the

nt intend to proceed with which

urgent than is the passage of a

d designed to protect Australian

from the unfair competition to

s at present exposed. A measure

g only a few clauses would be

for the purpose. Under the cir-

es which obtain to-day, Australian

is gradually being taken away

al companies by foreign vessels

ce in several years, call at a port

ne Commonwealth merely for the

f getting their crews to sign fresh

By adopting that subterfuge

enabled to defy any legislation

may enact with reference to the

nt of white men upon them, and

ide the conditions with which

n vessels have to comply. I

at the House would readily con-

sider a short measure such as

. There is a great deal hanging

a this connexion I need only point

an agreement exists between the

n steam-ship owners and their

which will expire during the

month, though an arrangement

made to continue it till December

f something is not done in the

o place foreign ships in a similar

s regards wages, manning, &c., to

upied by Australian vessels, an

all-round decrease in wages will take place. It may be said that that matter will be covered by the Arbitration and Conciliation Bill, but the arbitrators under any Act will take into consideration the unfair competition to which the owners are subject.

Mr. TUDOR.—Could we not compel the owners of vessels which trade here to pay the increased rate of wage?

Mr. BATCHELOR.—I very much question whether we could. It seems to me that it would be far better to introduce a separate Bill for the purpose of covering these special disabilities. I know that the Minister for Trade and Customs does not care about devoting himself to a short measure of this kind. He would prefer to thoroughly master the whole question, and then draft a measure to meet the necessities of the case. If honorable members study the figures contained in a blue-book which was presented to the House of Commons last year in regard to this matter, they will be disagreeably startled. Those figures show that a large increase has taken place in the number of lascars and foreigners employed upon British ships, and a corresponding decrease in the number of Britishers so employed. During the past ten years I find that the lascars upon British ships have increased by 12,288, and the foreigners by 8,750, a total increase of 21,038 seamen, whereas the number of Britishers so employed has decreased by 7,155.

Mr. CONROY.—May not that be due to the fact that the men can do better than go to sea?

Mr. BATCHELOR.—The real reason is that the labour of the lascar is cheaper. These figures, I submit, are sufficiently startling to merit careful consideration, unless the whole of the mercantile marine of Britain is to be manned by foreigners and lascars, which would be a particularly serious matter for the Imperial navy in the event of a naval conflict. In the course of his remarks, the honorable member for Parramatta spoke of the agreement which had been entered into with the Eastern Extension Telegraph Company. He declared that it was a matter for congratulation that the interminable agreement which previously existed had been amended, and an arrangement for ten years substituted. From my stand-point I am unable to discover any cause for congratulation whatever. As a matter of fact, the old agreement

gave the Eastern Extension Telegraph Company nothing, but bound it to give to the contracting States a continuous reduction in cable rates to the old country.

Sir JOHN FORREST.—A similar covenant will be contained in the new agreement.

Mr. BATCHELOR.—But that agreement is only for ten years.

Sir JOHN QUICK.—What about the right to open offices?

Mr. BATCHELOR.—That arrangement means nothing at all. In the absence of the Pacific cable, tenders for the construction of which had not been called—

Sir GEORGE TURNER.—But the agreement had been made.

Mr. BATCHELOR.—At the time the agreement was made the Pacific Cable Company had not called for tenders for construction.

Sir GEORGE TURNER.—But the British Government had agreed to join with the States, otherwise the Eastern Extension Company would never have lowered their rates.

Mr. BATCHELOR.—I admit that the Pacific cable project assisted to make the Eastern Extension Telegraph Company decrease its charges. It would have been a splendid lever to have held for an indefinite period, but I submit that as an actual fact the construction of that cable has been a bit of a blunder. What has been the immediate result of the undertaking? It has involved a loss of £90,000, of which £30,000 is to be borne by the Commonwealth.

Sir GEORGE TURNER.—We have saved the subsidies which we would otherwise have had to pay.

Mr. BATCHELOR.—The subsidies were wiped out in the agreement.

Mr. McCAY.—The honorable member wants to obtain all the good and reject all the bad.

Mr. BATCHELOR.—That would have been the sensible course to adopt. One method would have been to use the Pacific cable scheme as a means of dealing with the Eastern Extension Company in the event of the latter charging more than fair rates.

Sir JOHN QUICK. — That would have been a breach of faith with Canada.

Mr. BATCHELOR.—There has been no breach of faith so far as South Australia is concerned, and that State was perfectly satisfied.

Sir JOHN FORREST.—And West Australia was perfectly satisfied.

Mr. BATCHELOR. — We remember that under the sliding arrangement, prices over the Eastern extension cable had to be reduced when the revenue of the company reached a certain figure, and that but for the establishment of the Pacific cable, and the subdivision of the business, we should have been able to send messages at 2s. per word instead of 3s. It was a contention on the part of the honorable member for Parramatta that West Australia and South Australia, who had entered into no arrangement in connexion with the Pacific cable, should now not only bear the loss of revenue which its establishment has caused them, but should assist the eastern States to pay the cost of the loss.

Mr. McCAY.—That is only the federal spirit."

Mr. BATCHELOR.—I wonder whether the eastern States, in the case of an arrangement being made on the Pacific cable, would hand over a share to the western States. I mention the observation of the honorable member for Parramatta, because in the absence of anything to the contrary the Government might think it reflects on the opinion of the House.

Sir GEORGE TURNER.—The liability of the eastern States was taken over by the Commonwealth.

Mr. BATCHELOR.—And during the book-keeping period those States must either rise or fall by their agreements. South Australia cannot complain of the fact that a portion of the business now goes over the Pacific cable, but we should regard it as inequitable if we were now called upon to meet the loss on that line.

Mr. HENRY WILLIS.—Does the line from South Australia pay?

Mr. BATCHELOR.—It pays fairly, but in the old days it was a very heavy burden on South Australia; and including payment of interest, has not been made up.

Sir GEORGE TURNER.—Would it be an arrangement as to the Cape cable to have the effect of taking away the telegraphical work from South Australia altogether?

Mr. BATCHELOR.—No, it would not. Under the interminable agreement

Australia, and also Western Australia, entered into, the former State gave, and got a considerable reduction rates. Messages by the Cape cost much as those by Port Darwin; the amount received by South Australia the same irrespective of the line

GEORGE TURNER.—But the Port line would not have been used.

BATCHELOR.—That does not because the landing facilities at Little and Glenelg would have been. We have no right to complain of the Extension Company trying to defeat but we must complain of an attempt part of the Commonwealth Government unduly favour the Pacific line at the expense of the former company. Three eastern States are concerned in one and the western States are concerned, and the postal authorities have that all messages, the routes of are not indicated by the senders, must be by the Pacific cable. That appears to be a necessary action in order to force as business as possible to the Pacific line. Could unrouted messages handed in be sent all the way round to the east, and thence by the Pacific line, when the quicker and quicker route, in which Australia is interested, is avail-

JOHN FORREST.—Western Australia is interested in that route.

BATCHELOR.—I do not use the word "interested" in the sense of partner-

JOHN FORREST.—It does not matter whether Western Australia which way messages I think they are sent by the line or at State. The messages go just as fast and at the same price, on both

BATCHELOR.—I have seen it in the newspapers, and have also very much authority for saying, that instructions have been given to the effect which I have mentioned; and this, of course, affects considerably the revenue of South Australia and Western Australia. A fair thing would be to arrange that all messages should go by the quicker route, or by each alternately. Either method would be better, but with the present arrangement the Government can fairly be accused

of favouring the Pacific line. I should now like to refer to the public service regulations. These as a whole are fairly liberal, but there are a few to which exception may be taken. I shall not refer to details, because I think the public servants may be trusted to bring any disadvantages under which they labour under the notice of their superior, but there is one regulation which it seems to me ought not to be allowed in its present form. By regulation 41, officers are expressly forbidden to publicly discuss, or in any way to promote political movements. That is a very wide and sweeping regulation. Officers are further forbidden to use any official information for political purposes, or to disclose any such information without the express direction of the permanent head. These latter regulations are quite proper, and will meet with the approval of not only the public, but also of the officers themselves. Under regulation 41, however, public servants are unable to join any kind of organization whether of single taxers, free-traders, or protectionists, or in any way to promote a political movement. It may be said that the regulation is not to be interpreted literally—that it is a power which will never be exercised; but it is a very dangerous power to place in the hands of the Executive. I shall not go into details, but merely mention that recently we have seen a very extreme view taken of what a political association is. We have seen the most disastrous results in one of the States as a consequence of the adoption of that extreme view. Here, however, we have a much wider clause, and one which I think honorable members will agree should not be in the regulations. It was first published on the 23rd December last, and took effect on the 1st January of this year. There are other clauses in the regulations to which I should refer, but that I do not wish to keep honorable members at this late hour. I ask the Minister, however, to consult with the Public Service Commissioner to see if the regulations which I have dealt with cannot be modified, so that the public servants of the Commonwealth may enjoy as full rights of citizenship as those outside the service. There are one or two other matters upon which I wished to speak, but I shall leave them over until another time. I was exceedingly pleased to hear the explanations of the Minister for Trade and Customs in answer to the charges made against him during

the debate. I feel certain that the public opinion of the Commonwealth will approve of his administration rather than of the criticism of some of his detractors. I hope that when the debate is concluded we shall get to work as speedily as possible, and that the session will not be unduly prolonged.

Mr. E. SOLOMON (Fremantle). — At this late hour it is not my intention to keep the House very long. I would preface my remarks by thanking honorable members who visited Western Australia to see for themselves the conditions of an important State, which in many respects, I am sorry to say, has been misrepresented. The people of our State, however, regretted that more federal members did not go there to inquire into our conditions, and to be witnesses of the prosperity which we are enjoying and shall continue to enjoy for a considerable time to come. As in 1892 our population was only 58,000, while in March last it was 219,000, honorable members will realize that the State has not stood still. On the contrary, it has progressed by such leaps and bounds as are phenomenal even in the history of Australia. I am aware that an impetus was given to our progress by the discovery of gold, but other reasons for it are the liberality of our laws and the generous encouragement which is given to settlement. The measures to which reference was made in the Governor-General's speech are of very great importance. It must be remembered that the conditions of the various States are very diverse. I may fairly say that there are not two States whose conditions are alike. Consequently the legislation which is proposed here necessarily provoked a great deal of discussion. We can only hope that the laws which are passed will prove beneficial, not to particular States alone, but to the whole Commonwealth. Last session we passed into law twenty-one Acts, apart from measures of a financial nature, so that our first session was not an idle one; and I feel sure that the legal foundation for the working of the Commonwealth which was thus laid will later redound to our credit. We have heard from some of the eloquent speakers in this Chamber that many of the Bills which are to be brought forward this session will be of the greatest importance to the future welfare of the Commonwealth, and

no doubt they must. With regard to the establishment of a High Court, I feel that unless some economical plan is put before us I cannot support it. My idea is that the Judges of the courts will be sufficient for some time to come. There may be cases involving hundreds or thousands of pounds which come before federal courts, but, as the Chief Justices of the States might well be used for a year or two to cover such a court. If that is done, there will be a great saving of expense, and it will be meted out to those who ask for it. With regard to the federal capital, no one will not agree to the expending of any large sum of money upon building a new capital. I agree with the honorable and learned member for Parkes that it is a mistake for the Federal Parliament to meet in one of the capitals of the States, because its members must be influenced to some extent by the newspapers of that State. If the economy were practised I think that the necessary buildings could be erected without imposing too serious a burden upon the finances of the Commonwealth. This is entirely in accord with the proposal to establish courts of conciliation and arbitration. We have just had an illustration of this State of how business and commerce are paralyzed when a large industrial dispute takes place. If a similar dispute occurred at one time in more than one State, the disaster would be very great. Any measure which will prevent strikes, and which will protect men, and especially women and children, from their effects, will be a good one. In Western Australia there were in 1901 several strikes which paralyzed trade, and honorable members can imagine the consternation and misery which was created by the stoppage of supplies to the gold-fields, which are dependent for communication on the 400 miles of railway. I am also ready to support the proposed naval subsidy of £200,000 per annum. It would be a great thing for a country with a population of 2,000,000, like 3,800,000, to spend £1,000,000 upon the purchase of a battleship. We should still have its use to provide for, and it would practically give us no protection at all. I am sure, however, that under the proposed naval agreement we shall be well protected. I hope that the Government will see that the war ships are allowed to move in and out of port. In the past the pe-

Western Australia, who have always contributed their share to the subsidy, have seen very little of the vessels of the squadron. The honorable member for Darling Downs spoke in favour of the establishment of a Federal Department of Agriculture. That suggestion was first made by the honorable and learned member for Bendigo, and it is a pity that it has not been carried out. Such a department need not necessarily be expensive, but it would do a great deal of good by its investigations into the capabilities of various kinds of soil, and by the information which it could give to agriculturists of all kinds. I wish to call the attention of the Minister for Trade and Customs to a case which I should like to bring under his notice. A firm in Western Australia some time ago imported some timber, and as the documents necessary to pass a Customs entry did not arrive with the timber, an arrangement was made with the department that a deposit of £50 should be paid, and that the entries should be made in due form when the proper documents arrived. That happened in due course, and something like £26 was paid in duty. But upon an application for a refund of the difference, it was stated that the money had been paid into the revenue account, and that the Customs Act did not allow any of it to be returned. I will read copies of the papers in the case which have been placed in my hands, the originals having been sent to the Comptroller-General of Customs. The first is a letter to myself, which I do not think it necessary to read. The next letter is addressed to the Collector of Customs, Fremantle, and is dated Fremantle, 6th November, 1902. It reads as follows :—

Dear Sir,—By the *Wollourra*, which reached this port in January last, at Adelaide, we had 1,215 pieces of timber transhipped from a vessel from America.

The papers forwarded to us were not sufficient to satisfy your department, and, by permission, we deposited the sum of £50 (fifty pounds) to obtain delivery, and to produce the specification and other information when received.

These papers have come to hand, and we desire to complete entries, but we are informed that the £50 has been paid into revenue. The amount of duty charged in the shipment is £26 11s. 4d., so it will be seen that a sum of £23 8s. 8d. is due to us.

We will be pleased to learn that upon our passing the necessary entries we may obtain a refund of this amount.

The reply was dated 7th November, and reads as follows :—

In reply to your letter of yesterday's date, I beg to inform you that the amount in question being on deposit over the period allowed, viz., 6 (six) months, was carried to revenue, and as your firm failed to produce the documents required by this Act within the prescribed time, I am unable to approve of any application for a refund of the amount overpaid.

On the 22nd November a letter was addressed to the Comptroller-General of Customs at Melbourne, in the following terms :—

We respectfully ask your consideration of a deposit entry made by us in January last, as per our letter to Collector of Customs here, and his replies thereto, as per copies enclosed herewith. We learn that according to section 17, Federal Customs Act, six (6) months is the period allowed for such deposit, but of this fact we were ignorant, and, therefore, under the circumstances, we trust you will deal justly with the case.

On the 4th December the Comptroller-General replied—

I have the honour to acknowledge the receipt of your letter of the 2nd inst., for refund in connexion with an amount deposited by you with the collector, Fremantle, in January last, to cover duty on certain timber ex *Wollourra*, and in reply to inform you that the Customs Act does not permit compliance with your request.

I think that was really a hard case, because the firm affected was one of good standing, and handed over £50 as a deposit in order to secure duty which amounted to not more than £26. I direct the attention of the Minister for Trade and Customs to this matter in the best spirit, and I feel sure that that honesty of purpose which has distinguished his administration will prompt him to act fairly in this instance. A letter which appeared in to-day's *Argus*, signed by Messrs. Blogg Brothers, shows the difficulties and inconveniences to which manufacturers, even in Melbourne, are subjected—

Mr. KINGSTON.—I could say something very funny about that letter if I wished.

Mr. E. SOLOMON.—I do not think it necessary to read the letter, but simply direct attention to it. I desire to say a few words with reference to the trans-continental railway to Western Australia. Some honorable members, representing South Australia, seem to look upon this proposal in a very parochial spirit. They think that because the Western Australian Legislature declined to authorize the construction of a railway from Esperance Bay

to the gold-fields, the South Australian Government should, therefore, withhold their consent to the construction of the line through their territory to Western Australia. The House has already been informed that distinct promises were made to the Minister for Defence and others before Western Australia entered the federation. It was represented by Sir John Forrest, who was then Premier of Western Australia, that South Australia was really in earnest in her desire to have the railway constructed, and if it had not been for such assurances, Western Australia would certainly not have entered the union. It has been stated that if a railway had been constructed from Esperance to the gold-fields, it would have greatly assisted South Australia, and apparently that State would prefer to have the local line rather than a railway which would connect Western Australia with the other States of the Commonwealth, and promote the general benefit. Would it not be better, after all, for South Australia if goods could be sent direct from Adelaide to Kalgoorlie rather than by steamer to Esperance and then by rail to the gold-fields? I was pleased to hear the honorable member for South Australia, Mr. Batchelor, say that he was favorable to the construction of the line, although he could not vote for it at present. We do not wish honorable members to pledge themselves to vote for the construction of the line until the necessary information, now under preparation, with regard to water supply and many other matters is placed in their hands, because we know that it would be suicidal on our part to urge the construction of the railway before its success could be fairly assured. The honorable and learned member for Parkes rather pooh-poohed the idea that the railway would be of any use for the purpose of conveying troops. I hope that many years will pass before any necessity arises for using the line for such a purpose; but I feel sure that we should act wisely in placing ourselves in a position to convey troops to almost any point of our extensive coastline, in order to meet a threatened invasion. It is questionable whether a railway from Esperance Bay to the gold-fields, such as has been ardently desired by the people of South Australia, would pay or prove of any real benefit to our neighbours in that State; in fact, it might have the effect that neither the present line from Fremantle or the suggested line would pay; so that I hope too

Mr E. Solomon.

much importance will not be attached to the refusal of Western Australia to construct the Esperance line. I hope the Government will push on with the line now being made in regard to the continental railway, and that the line will be surveyed without unnecessary delay.

Mr. BROWN (Canobolas).—I think in view of the long speech made by the Minister for Trade and Customs, it is fairly ask the Prime Minister to consent to an adjournment of the debate at this time.

Sir EDMUND BARTON.—I think the debate might go on a little further to-night. I have been very considerate to honorable members in allowing early adjournments, and I think they should be satisfied if we close at a quarter to eleven.

Mr. BROWN.—In view of all the circumstances, the Prime Minister might fairly have consented to an adjournment, but I know that I need not expect much consideration from him, and, therefore, I am quite prepared to proceed. A variety of subjects have been dealt with in the course of this debate, but most of them are of the greatest importance, and the fullest consideration at our disposal. Therefore, I do not regard the time spent to their discussion as wasted. Neither the Government are anxious to close the debate, in order that they may avoid further caustic criticism, and enter on the work of the session without delay. One of the charges levelled against the Prime Minister is that he is not perfectly fair to the electors of the Commonwealth, and particularly to the electors of New South Wales, when he indicates to them the Tariff policy which he has intended to submit to this Parliament. The Prime Minister, in his reply to the leader of the Opposition, declared that there was no reasonable ground for the contention that he was not perfectly fair to the electors of New South Wales in relation to this matter. But I am disposed to think that the criticism of the leader of the Opposition was perfectly justified. I would remind the right honorable gentleman that a very strong feeling existed in New South Wales over the question of the adoption of the Constitution. That feeling obliterated the old lines of difference between persons entertaining opposite views. If for no other reason than that the Prime Minister should have disclosed to the electors the circumstances

iff which he intended to submit to
ament. At the conclusion of the
test in connexion with the adop-
e Constitution a meeting was held
st to consider the future position
eral movement. At that meeting
figure was the Prime Minister,
regarded as the leader of the pro-
ovement in New South Wales.
e-cry which he then raised in con-
with the impending struggle was
f protection *versus* free-trade, but
contention was that the Consti-
s in danger. He appealed to the
o rally round the federal party, and
the Constitution. The reason for
n was that a large section of the
alists were prepared to do all
sibly could to defeat the purposes
g that instrument of government.
eeting held in Bathurst, amongst
emen who occupied seats upon the
were the honorable member for
th and the honorable and learned
for Parkes. The tenor of their
was strongly in accord with the
tlined by the Prime Minister ; but
e wise enough not to burn their
d when they became familiar with
acter of the Tariff which was to be
l, they wisely drew back. No doubt
gratulate themselves to-day that
not in the position of many of the
free-traders of New South Wales.
ple, one of the right-hand supporters
ime Minister in his own electorate
e-trader. He supported him upon
erstanding that the right honor-
tleman was to be the leader—
a protectionist Government, but
eral Administration. The federal
s to be uppermost. When the
as submitted to this House he
y his support, and during the course
resent debate the Prime Minister
red that the gentleman in question
sense enough to perceive what was
position at the time. Yet in his
address I find that the Prime
amongst other things, stated—
not come here to conduct a protec-
ampaign, though under other circum-
should have been prepared to do so.
in addressing a Brisbane audience,
ported to have said that the differ-
ween the policy of the Government
of the other side was only a
eer—that it was not the wide

fundamental distinction which is implied by
a protective as distinguished from a free-
trade Tariff. During the same campaign
the Minister for Home Affairs is reported
to have said—

He could only call it cruel to raise the fiscal
question now, when the very Constitution itself
rendered free-trade and protection alike impos-
sible.

All these facts go to show that the fiscal
issue was not submitted to the electors. I
would further point out that Senator
O'Connor gave utterance to sentiments
similar to those entertained by the Minister
for Home Affairs. The Vice-President of
the Executive Council is reported to have
said—

We ought not to allow the wretched fiscal
question to come in, but we ought to choose the
best men.

That was the original battle-cry. The men
who were in sympathy with the federal
movement were to receive first consideration,
and the wretched fiscal issue was not to be
raised. But what happened? After the
elections had been won, the Government had
to evolve their taxation proposals. In sub-
mitting those proposals to this House the
Minister for Trade and Customs declared—

This is a protectionist policy. We were sent
here by the people to support that policy, and we
place it before you with the force of our majority
behind us.

That is very different from the statement
which was made throughout New South
Wales prior to the elections. All things
considered, I think there is very substantial
ground for the criticism which has been
levelled against the Government upon this
particular matter. I regret to say that the
high expectations formed of the first Fed-
eral Administration have not been realized.
Probably the reason for this is to be found
in the fact that the Prime Minister selected
his present colleagues very largely from the
legal profession of the other States. The
result is that in the administration of the
affairs of government we get too much of legal
technicalities and too little of common sense.
The result is that much friction has been
caused throughout the Commonwealth by
an incapacity on the part of Ministers
to handle matters in a commonsense
manner. Whilst I freely confess that
I was in opposition to the Constitution
Bill, because I wished to see it more demo-
cratic in some respects, I think I have
every reasonable ground for claiming that

I am as sincere a federalist as the men who fought for a conservative Constitution. I hope that federation will not be judged by the mismanagement of the first Federal Government. I join heartily with the mover of the address in reply in the hope that as time goes on those causes of friction will disappear, and that the great advantages to the whole of the people of Australia from this union will present themselves in so strong a light that dissatisfaction will be forgotten, and all will assist in upholding and supporting the federal movement. But it is a matter of great regret to every friend of the union that the Federal Government have made such a bad start. If even now the Government could see their way to clear themselves of the mere legal technicalities, red tape, and blue paper which, as it were, make the Federal Government stink in the nostrils of the average member of the public, they would serve the high purpose I have no doubt they have in view much better than they are doing at present. This weakness is seen right through the various departments, from that of the Prime Minister in the case of the half-dozen hatters, down to the administration of the Post and Telegraph department, and I am afraid that even the department of Defence is not altogether free from this irritating red-tapeism. As to the hatters, I wish to say that I supported the provision under which they were excluded, because I believed that a law of that character was necessary and desirable in the best interests of the people of Australia. And I am not prepared to go back on the stand I then took ; but it is most regrettable that the powers conferred by this provision were put into operation on this particular occasion. I admit that the papers which have been produced place a much more favorable light on the conduct of the Prime Minister than appeared when the question was exciting high feeling in the State of New South Wales. There was some substantial ground for the feeling of friction which was occasioned in that State. The Prime Minister in his reply seemed to wish to lead the House to suppose that the noise was caused by opponents of his Government, and of the principles of legislation of this character. But I remind the Prime Minister, that perhaps one of his strongest political friends in New South Wales is his late colleague,

Brown.

the present Premier of that State. That gentleman is not likely to lend himself to any expression of hostility towards the Federal Government on measures of this description, but he saw grave grounds for taking exception to the action of the Prime Minister. In the height of the disturbance, before the Prime Minister came to a decision, Sir John See telegraphed to him as follows :—

I sincerely hope your Government will see fit to release hatters on *Orontes* without further delay. Matter raising intense dissatisfaction here.

The following day Sir John See wired again—

Just received cable from Agent-General that action taken to prevent landing of British workmen seriously affects financial proposals of this State. Again strongly urge permission to land.

Mr. TUDOR.—Sir John See did not know all the facts of the case.

Mr. BROWN.—That was a request from the Premier of New South Wales, who is not in any way hostile to the Prime Minister of the Commonwealth. Indeed, when the Prime Minister or any member of the Federal Cabinet addresses a meeting in Sydney the Premier of the mother State is able to join him on the platform and support the Government in matters of general policy. But he could not support them in the matter of the hatters. I am open to correction, but I am informed that Mr. Anderson also is a strong supporter of the present Government, and not likely in a matter of the kind to do anything to their detriment. Mr. Anderson spent something like £30,000 in Sydney in equipping a factory for the production of hats, and he was not likely to spend that sum of money for nothing. For his factory he required 72 skilled hands, and was prepared to give employment to about 200 or 300 other persons ; and, according to his own statement, he endeavoured to secure this skilled labour in the State of Victoria before he sought assistance from outside the Commonwealth. I find from a return prepared by the trades unions for the information of the Prime Minister, that in this trade there are 173 skilled hands in Victoria, twenty in South Australia, fifteen in New South Wales, and three in Western Australia, or a total of about 211 within the Commonwealth. Papers produced show conclusively that Mr. Anderson was not able to get anything like the number he wanted in Australia, and he decided to import hands. I

understand the opposition which in
quarters was shown to the importation
men of this description. It meant
ing of a new industry, and enlarging
active powers of the Common-
instead of making the conditions
worse, it meant the opening up
venues of employment. I have no
with the cry that the population
Commonwealth should be kept down
sent figure. We have immense
s in the way of developing the
Australia, but the possibilities
until such time as intelligent
n be brought to bear. If this
ealth is to be the great nation we
must be prepared not only to
crease of population but to afford
o that population for developing
al resources of the land. To
he starting of new lines of
or to prevent the introduction of
nds, is, in my opinion, the most
policy which could be followed ;
e, it is a policy to which I cannot
adhesion. But in the State of
and increasingly so in New South
h are the conditions that I believe
e most unwise to launch any large
assisting or inducing population.
re. We are not able to hold the
we have at the present time. The
men of these two States are being
ay because the natural resources
hands of a monopolistic few, who
se those resources themselves, or
ers reasonable facilities for doing
the State Governments solve
em I have no hope of any great
to our population in the near
am rather inclined to think that
ge we are now experiencing will
to the detriment of the Common-
d our national prosperity. The
ister took a week to consider the
the six hatters ; and here I may
I believe the right honorable
in insisting on an exemption be-
d for, was only carrying out
The difficulty of the position was
that the particular section was in
Restriction Act which primarily
a coloured races ; and both em-
d workmen in the old country may
for their ignorance of the charac-
terisation.

Mr. BROWN.—That was not the case with

Mr. BROWN.—I have no doubt they were told something about the law in Melbourne.

Mr. TUDOR.—They were told before they left the old country.

Mr. BROWN. — This provision had never been exercised before. Mr. Anderson, according to his own statement, sought legal advice, and he was informed that the Act did not apply to men who were being brought out under the terms of his agreement. After considerable negotiation, after he had been put to the expense of journeying from Sydney to Melbourne to interview the Prime Minister, and after the Prime Minister had consulted a number of persons interested in the trade, it was discovered that the whole trouble was due to the fact that one of the blue paper forms of which the Federal Government is so fond had not been filled in. When Mr. Anderson was set on the right course, the Prime Minister discovered, as he wrote in his minute, that—

It is clear that Mr. Anderson cannot find his 72 men among the existing personnel of the Australian hat trade within the Commonwealth,

and orders were issued to allow the men to be landed. Instead of being treated as they were, they should have been treated as the Sultan of Johore and the Maoris who came here were treated. It was most unwise to administer the law as it was administered. I am a friend of the Act, because I believe it to be a necessary one, and I want to see its provisions carried into effect. But I say that it was unfortunate, in the interests of that legislation, that the incident happened. If the men had a right to come here, they should not have been placed in such an invidious position ; but, on the other hand, if they came out under conditions inimical to the public welfare, they should have been treated as undesirable immigrants, and not allowed to land. I believe that great damage has been done to the Commonwealth in the opinion of the old world by the action which was taken. I make that statement on the authority of the Premier of New South Wales, and of the Agent-General of that State, both of whom are personal friends and former colleagues of the Prime Minister, and would not say anything calculated to injure him unless they found it absolutely necessary to do so.

HONORABLE MEMBERS.—Let us adjourn now.

Mr. BROWN.—Shall I be allowed to continue my speech to-morrow?

Sir EDMUND BARTON.—On this occasion I consent to the honorable member having leave to continue his speech to-morrow.

Mr. SPEAKER.—Is it the pleasure of the House that leave be granted to the honorable member to continue his speech to-morrow?

HONORABLE MEMBERS.—Hear, hear.

Debate (on motion by Mr. BROWN) adjourned.

MESSAGES.

Mr. SPEAKER announced the receipt of messages from the Senate, informing the House of the appointment of a House Committee, a Library Committee, and a Printing Committee, with power to act during the recess, and to confer with similar committees of the House of Representatives.

PRINTING, LIBRARY, AND HOUSE COMMITTEES.

Resolved (on motion by Sir EDMUND BARTON)—

That leave be given to the Printing Committee of this House to confer with the Printing Committee of the Senate, and that a Message be sent informing the Senate accordingly.

That the Senate be also informed that the Library Committee and the House Committee of this House have leave under the Standing Orders to confer with similar committees of the Senate.

HOUSE COMMITTEE.

Resolved (on motion by Sir EDMUND BARTON)—

That Mr. Manifold be a member of the House Committee in place of Mr. Piessse, deceased.

HIGH COURT PROCEDURE BILL.

Resolved (on motion by Sir EDMUND BARTON)—

That leave be given to bring in a Bill for an Act to regulate the practice and procedure of the High Court.

SPECIAL ADJOURNMENT.

Resolved (on motion by Sir EDMUND BARTON)—

That the House at its rising adjourn until to-morrow at half-past 2 o'clock p.m.

House adjourned at 10.53 p.m.

Senate.

Thursday, 4 June, 1903.

The PRESIDENT took the chair p.m., and read prayers.

PETITION.

Senator FERGUSON presented a petition from the Brisbane Chamber of Commerce praying for the repeal of sub-section (g) of section 3 and of section 1 of the Immigration Restriction Act.

Petition received and read.

SENATOR SWORN.

Senator SAUNDERS made a statement and subscribed the oath and signed the roll.

COMMONWEALTH STATUTES.

Senator MCGREGOR.—I desire to know from the Postmaster-General, without any charge, whether the members of this Parliament be supplied with bound copies of the Acts of last session, and if so, whether I also desire to know at what price copies of the Acts will be sold to the members.

Senator DRAKE.—The Government Printer states that only advance copies of the statutes for gratuitous distribution to Ministers, members of the Commonwealth Parliament, and heads of departments have been issued. The matter of issuing copies to the members is now in the hands of the Department of External Affairs for decision as to whether a charge to be made. The Government Printer has supplied that department with all necessary information as to cost of production, &c. The Department for External Affairs states that no decision has yet been arrived at in the matter, pending the receipt of further information from the Government Printer, but it is hoped the matter will be determined within a week hence. Copies of all Commonwealth Acts are supplied to members of the Government purchased at any State Government Printing office, at a cost of £1 6s. 7d. for a complete set.

PAPER.

Senator DRAKE laid upon the table a Bill for Regulations under the Defence Act, 1903, and the Constitution of the Commonwealth.

STANDING ORDERS COMMITTEE.

PRESIDENT laid upon the table a report of the Standing Orders Committee on proceedings upon Bills which may not amend and on the appointment of a committee of disputed re-elections.

STANDING ORDERS COMMITTEE.

PRESIDENT reported the receipt of a letter from the House of Representatives maintaining the Senate that it had referred to its Printing Committee of the draft of the Printing Committee of the House and that its Library and House Committees had leave, under the Standing Orders, to confer with similar committees of the House.

PROTECTION OF PATENTS.

PULSFORD asked the Postmaster-General, *upon notice*—

Has any correspondence passed between the Government of the Colonies and the Commonwealth since the Colonial Conference held on the subject of the mutual protection of patents throughout the Empire? Is it the intention of the Government to have any correspondence on the table of the House?

DRAKE.—The answer to the senator's questions is as follows:

Communication has been received from the Government of the Colonies relating to the subject, which will, in due course, be laid upon the table of the Senate.

GOVERNMENT DEPARTMENTS.

PULSFORD asked the Postmaster-General, *upon notice*—

What was the aggregate amount paid during the year 1902 by the whole of the Government departments for telegraphic, telephonic, and postal services?

What was the aggregate amount so paid what was the exact or approximate, debited as expenditure or credited as revenue to each State?

DRAKE.—The following are the answers to the honorable senators' questions:

I regretted that the information asked for was not available. The Post and Telegraph Department did not come into operation until the 1st of January, 1902. Prior to that date the practice was to place the State Acts and Regulations in the Votes and Estimates was very diverse, and in some of the years payments were made for the services of the Post and Telegraph Department.

There is no information available to enable me to answer the question to be replied to.

ORDER OF BUSINESS.

Senator Sir JOSIAH SYMON (South Australia).—Perhaps I may be permitted to ask the Postmaster-General whether, if the Address in Reply is adopted to-day, he will adjourn the consideration of Government business until next week, or whether he proposes to ask the Senate to sit to-morrow? I am quite sure that he will find great difficulty in getting a quorum to-morrow. It will be impossible to deal with the standing orders efficiently until we have an opportunity of reading them through. I went very carefully through the draft standing orders which were furnished to us last session and annotated them; but during the recess they have disappeared in a most curious way. I do not allege anything like petty larceny, because probably my annotated copy might have been regarded as of no use. But its loss is exceedingly inconvenient. We shall also have to consider the special report of the Standing Orders Committee which I have not yet seen. We shall require an opportunity of looking over it. A number of honorable senators are going away this afternoon, and very likely it will be impossible to form a House to-morrow. It is not worth while to bring us back unless there is some substantial reason for it. There is some private member's business on the paper to-day, and I should like to have my honorable and learned friend's view on that subject. It may be that some honorable senators will desire to take advantage of the opportunity of disposing of some of that business.

Senator DRAKE (Queensland—Postmaster-General).—In reply to inquiries from honorable senators, I have already mentioned that it is our intention to proceed with the standing orders as soon as the Address in Reply is disposed of. But of course I have no desire whatever to hasten the matter if it will be inconvenient to do so. I would, however, express the wish that if we do not this afternoon proceed with that business, the last report of the committee containing draft standing orders, and also, if possible, the special report submitted by the committee this afternoon, should be circulated among honorable senators, so that they may have an opportunity of reading them through, and preparing their minds beforehand.

Senator Sir JOSIAH SYMON.—Is it intended to deal with the special report when

we are dealing with the draft standing orders generally?

Senator DRAKE.—The proposal is to deal with the reports simultaneously, because I apprehend from conversations I have had with members of the Standing Orders Committee that the special report takes the form of an amendment upon the draft standing orders, which amendment has become necessary in consequence of legislation which has been enacted. I am in the hands of the Senate with regard to sitting to-morrow. Last Thursday I informed one honorable senator who has private business upon the paper that, if we did not sit last Friday, I would do nothing to prevent the formation of a House on Friday of this week. If honorable senators are disposed to sit to-morrow, I am prepared to sit and to go on with private members' business; but I should like to know, before to-day's sitting closes, whether there is likely to be a House to-morrow, because it would be unfair to a few honorable senators to ask them to wait here for the purpose of forming a House if it was evident that to-morrow there would not be sufficient members present to make a quorum.

Senator Sir JOSIAH SYMON.—Then the honorable and learned senator will not take any Government business after the Address in Reply has been disposed of?

Senator DRAKE.—I will take nothing before the standing orders.

Senator Sir JOSIAH SYMON.—Will the honorable and learned senator take them directly after the Address in Reply has been dealt with?

Senator DRAKE.—Not if there is a desire not to go on with them, but I should be quite willing to speak on the subject. I do not wish to speak at any great length. I have no desire to go on with Government business if the leader of the Opposition assures me that he is not prepared to proceed. There is no such pressure upon our time at the present period of the session as would justify us in hastening in such a way as would probably tend to prolong our debates eventually.

GOVERNOR-GENERAL'S SPEECH— ADDRESS IN REPLY.

Debate resumed from 3rd June (*vide* page 442), on motion by Senator Sir JOHN DOWNER—

That the Address in Reply be adopted.

Senator MCGREGOR (South Australia).—A number of honorable senators to the length to which this debate extended, have thought it necessary to apologize for doing what, to my mind, is their simple duty. It is the duty of every honorable senator, if he has any views to express in connexion with the Government that are to be presented to the Governor or if he has views to make known in connexion with the administration of the Government already in existence, to take the opportunity when it arises. It will be recognized that the debate on the Address in Reply affords one of those opportunities which honorable senators ought to avail themselves of. It would have been a great advantage to the community if Senator Pulsford had had an opportunity of bringing forward many grievances under which his constituents were labouring. I am sure that it would have been a calamity if he had not done so. Neild—I beg his pardon, Senator General Neild—

Senator BARRETT.—Lieutenant-General

Senator MCGREGOR.—It does not seem, matter in military affairs, but I sent time how high you go above the rank of an officer; he is not a senator. Probably if I were to say Senator Major J. C. Neild there might be some offence, but to my mind Sergeant Neild sounds just as fierce, and in the public opinion is of as much importance as Major Neild.

Senator DOBSON.—It is rather courteous.

Senator MCGREGOR.—We, in the past, were never favoured by the press or the *Hansard* staff by having our titles put before our names, and consequently we have the right to feel aggrieved. I was saying that it would have been a calamity if the senator to whom I have referred had not had the opportunity afforded to debate such as this of bringing forward matters in connexion with the administration of the Commonwealth. It is to be congratulated upon the fact that which he has dealt with some of the grievances. He has my sympathy, and the sympathy of a number of other honorable senators, in connexion with some of the points he mentioned. It is the duty of every honorable senator to state the kind of legislation that he considers most suited to the conditions of the country which the people of Australia are living in, although in the opinion of some

of this kind leads to the waste of time. What did the Australian—now the Australian States—federal Government expect?

They must have had some reason. There must have been some inducement to the people to come together in a federation. By listening patiently to the arguments of the honorable senators who have already spoken, and to the arguments of all the States, I have come to the conclusion that each State expected to get something. I interjected when Senator Playford was speaking last night that he wanted to get half-a-crown in for two shillings, and were led to think that they could do so. I know that the advocates of the Constitution which we are living to-day told them that they were eventually to gain in all directions, and that it was to the benefit of the isolated colonies to become part of this great Commonwealth. Let me ask what the different States expected. They all expected something except the isolated State of South Australia—and I have not heard any one make any claim for half up to the present time.

Mr. PEARCE.—South Australia has got out of it up to date though.

Mr. MCGREGOR.—That is because the representatives are judicious and favoured with success. I will begin with the island of Tasmania. What has she expected to get? That I have heard her whole difficulty of communication and steamship communication conjointly. Tasmania wants a telegraph service, and a more up-to-date mail service. What surprises me is the attitude of some of the Tasmanian senators, notably Senator Dobson and Senator Macfarlane. Those gentlemen, I believe, are always advocating enterprise. But they have had no enterprise in Tasmania, as far as telecommunication with the mainland is concerned, and they do not seem very well satisfied. They would not go in for a little of that abominable thing to their minds—State socialism. At the very commencement of the last century up to this very day, some representatives of the moral State of Tasmania have been arguing about cable communication, in a position which that State occupies to-day to the other States. I hope that the representatives of other States are not going to support the Tasmanians in getting the item of State socialism, they will give some little consideration

to the requirements of the rest of Australia. Tasmania wants a cheap State-owned cable service, and a cheap, regular mail service. Her representatives do not care whether they are State or privately owned, but they want them. And I hope that these honorable senators will get those conveniences, and so far as I am able I will do everything in my power to help them. Then it is amusing to find that the representatives of Western Australia in another place, and in this Senate, have been labouring the question of a transcontinental railway, and they are quite justified in asking for the line, to gain which was one of the objects their State had in joining the Commonwealth. According to the documents which have been read in this and another place, those representatives have a right to expect some sympathy from the representatives of other States, who also in return expect something. Senator Styles attacked this simple request of the Western Australian representatives, and Senator Playford, although not in such a virulent manner, tried to throw cold water on the scheme as, I believe, other representatives of South Australia were prepared to do. These representatives of South Australia seem to be provincial and parochial when the little corner of God's earth in which their particular interests happen to lie would, in their opinion, be adversely affected. That is not in consonance with the grand federal spirit or the great Imperial spirit we hear of sometimes. Senator Styles told us that this is not a transcontinental railway, because it does not go from sea to sea. But there is a sea to the west of Australia as well as to the north, and a sea to the east as well as to the south. Do honorable senators lose sight of the fact that this railway, which is bound to come, will some day or other extend from Sydney to Fremantle—from ocean to ocean. If, after the arguments which have been deduced by the representatives of Western Australia, we decline to comply with their wishes, they will have good reason for blocking the desires of the representatives of other States.

Senator PLAYFORD.—The honorable senator appears to want to do a bit of log-rolling.

Senator MCGREGOR.—Senator Playford probably knows a lot more about log-rolling than I am ever likely to learn in all my lifetime. I do not suggest for one moment that Senator Playford will be

guilty of log-rolling, which is unfair; but we are here representing the interests of the different States, and we have as much right to consider the just claims of any State as we have to consider the claims of the States to which we ourselves belong. So far as the people of South Australia are concerned, railway connexion with Western Australia would be a great advantage. It would be an advantage to a section of the people in South Australia, in whom Senator Playford and other representatives of that State have always taken especial interest; it would be a great advantage to the producing classes, by whom I mean only those immediately connected with farming, grazing, and gardening. It costs, I believe, a very considerable amount of money to send produce from South Australia to Western Australia. We must have regard to the difficulty there is in getting produce from Petersburg, Jamestown, or any of these partially central places to Adelaide, and thence shipping it to Fremantle, where it has to be unshipped and conveyed by rail to the eastern gold-fields of Western Australia. Who has to pay the expense of that transit? Has it not to be borne by the producer and the consumer. It would be a good thing if this expense could be decreased in any way by the construction of a railway, that would prove of immense advantage to the poor miners, of whom we have heard so much, and who have been described to us as going about with tins of condensed milk hanging about their necks. To these miners it would be of great advantage to get from South Australia good beef and mutton, bran, chaff, and other products, and there would be a corresponding benefit to the producers of that State. Certain representatives have endeavoured to influence the minds of the people of Queensland, New South Wales, Victoria, and Tasmania on the question of the construction of a line from South Australia to Kalgoorlie. But what would be said if we were to so misrepresent the position that the eastern States turned entirely against the project? In such case Western Australia and South Australia would undoubtedly be the greatest sufferers. It is said, for the purpose of frightening the people of the eastern States, that the country on the route of the line is almost a waterless waste.

Senator DE LARGIE.—Those who say so know nothing about the matter.

Senator McGregor.

Senator MCGREGOR.—I do not know much about the country on the Western Australian side; and, of course, the people there are ardently in favour of the line, and they can to paint the brightest picture they can. I do know, however, a good deal about the country on the South Australian side. I agree with Senator Playford that the project were considered merely from an agricultural or pastoral point of view, there would be very little hope of it being carried out. But every one who knows the continent of Australia must recognize that the people who make their homes in the interior never look to the central portions as a Garden of Eden. The Governments of the different States are constantly pointing out to the public in other parts of the world that we have rich mineral resources; and it is to these resources in the interior of Australia that we have to look for future development. It is, therefore, scarcely necessary to regard the connexion between Port Augusta and Eucla as a farming or pastoral point of view. We must, however, look at the mineral resources. Senator Playford knows that at Gungahlin, which is nearly 100 miles from Port Augusta in a direct line, vast mineral deposits have been discovered, that only a slight deviation would be necessary in order to take the proposed line through this part of the country. At Gungahlin there are millions of tons of copper at the surface, and although it may be of a low grade, the ease with which it can be secured gives that district an immense advantage over other districts where mining is necessary. It can be seen that all that is necessary to make Gungahlin a prosperous copper-mining centre is railway communication. I visit this place in company with other members of Parliament, and, even with no knowledge of mining, I can say that there are millions of tons of ore there which can be obtained without sinking more than 7 feet. With these facts before us, we can see that such a country is worth more than acres even of the fairly well grassed land which we have been told is found on the Western Australian side of the border. Again, 280 miles from Port Augusta, on the same line, there have been discovered what would undoubtedly prove to be gold-mines if there were only proper means of communication in order that the necessary means of livelihood could be secured.

and cheaply conveyed. It is to sources that we must look for a pro- turn from a railway, and in the cir- ces there is no use whatever in g the question from a pastoral or point of view. It would not matter way went through the Desert of o long as it went in the direction h of this description, which must y prove profitable. Senator Playford ery well that the Act authorizing nstruction of the Broken Hill line ed long before Silverton or Broken discovered.

or PLAYFORD.—No; Thackaringa overed before.

or MCGREGOR.—Thackaringa is en Hill.

or PLAYFORD.—It is part of the d.

or MCGREGOR.—Senator Playford hat this line was originally con- for the purpose of bringing stock e western parts of New South

or PLAYFORD.—That was the prin- son.

or MCGREGOR.—There was no of mining development raised at ; but the line was not half finished t only silver and lead, but gold and minerals were discovered in all s. These discoveries would have ossible but for the construction of ay. Having regard to what has in the past, there is ample justifica- ssisting the Western Australian atives in obtaining the little benefit ey would reap from the construc- ns transcontinental railway.

or PLAYFORD.—If that be so, why the State construct lines to Mount and Tarcoola?

or MCGREGOR.—The State should e so. If it had had enterprise and hese lines would have been con- years ago. But it is hardly pos- outh Australia at the present time, ened are the Government about be- up, to get even a telegraph line to t places of that description.

or PLAYFORD.—They have got it.

or MCGREGOR.— They have got ly after a great deal of difficulty. he Western Australian representa- put their case very well, and, as o that it will be of benefit to Australia, if any proposal is

made to carry out a survey in con- nexion with that line, I shall certainly support it. A few have taken alarm, and I know that the feeling is encouraged in South Australia by short-sighted persons. There are people who imagine that if we construct a line from Port Augusta to Kalgoorlie, in a very short time New South Wales will connect Broken Hill with existing lines in that State; and instead of passengers and mails for Sydney coming through Adelaide, as at present, they will be taken across the continent by the transcontinental line described by Senator Styles—the line from the east to the west. But is such a thing likely to injure Adelaide or South Australia to the extent that some people imagine? Do honorable senators think that when the South Australian Government make reason- able provision for the accommodation of vessels, plying from other parts of the world and of Australia, to land their pas- sengers and goods at Adelaide, trade will not go there? Do honorable senators not think that South Australia will always claim her fair share of the traffic; and is it not clear that if a few tons of mails and a few passengers are taken across the continent in the way to which I have alluded it will be a matter of very small im- portance to that State? Again, I say it is a reasonable thing that we should do all we possibly can to assist Western Australia. Up to the present time every one of the States of the Commonwealth, with the ex- ception of the model State, has made some claim upon the Federal Government. Now what does Queensland want? Queensland did not come into the Commonwealth with- out expecting to benefit in some way or other.

Senator STANFORTH SMITH.—She wanted white-washing.

Senator MCGREGOR. — As Senator Staniforth Smith says, she wanted white- washing, because she was terribly piebald previously. But what evidence have we here that Queensland was in earnest in con- nexion with this question? We have the evidence of her representatives in another place and of her representatives here, that the electors who returned them to advocate a white Australia in the Federal Parliament comprised a vast majority of the people of Queensland.

Senator STANFORTH SMITH.—They will be returned again.

Senator MCGREGOR.—Yes, I hope they will. At the present, time, however, the State selfishness to which I have already alluded comes in again. We now hear the Treasurers in some of the other States complaining that there is a movement on foot to compel them to contribute a small amount towards the maintenance of this white Australia. Senator Playford is one who has very mildly objected to it, because after all the honorable senator is a fair-minded man, and he recognises that Queensland had reasons for coming into the Commonwealth, and that these were her reasons. So far as I can understand up to the present time, the whole difficulty is about the rebate granted to persons employing white labour in the growth of sugar cane, and the amount involved is something like £60,000. I saw the Treasurer of South Australia the other day, and he was like a bear with a sore head. He was in such a condition that he declared he was not going to look at a Federal Minister. Senator Symon is evidently imbued with a very similar spirit. The honorable and learned senator declared here that the people of South Australia were up in arms against the proposal. I have travelled a little in South Australia, and though I have met a number of the people of that State, yet, with the exception of the Treasurer, I have not heard a solitary individual in South Australia complain about it. What does it mean? So far as South Australia is concerned, the position will be this: The amount taken from the South Australian Treasurer will be about £5,500 a year.

Senator PULSFORD.—It may be £20,000 next year.

Senator MCGREGOR.—When it is £20,000 in the case of South Australia the population of that State will be so large that she will be very well able to afford it.

Senator PULSFORD.—No; it might be that with the present population.

Senator MCGREGOR.—I do not know whether Senator Pulsford has studied the matter for himself, but I desire to put the position fairly. I have said the amount will be £5,500. Without an exception the candidates for the Federal Parliament, when before the people of South Australia, declared themselves in favour of a white Australia. I with others did the same, and I was careful to point out that if the people of that State had to pay a little more in the

way of Customs duties levied on sugar for the purpose of obtaining a white Australia, they would have no reason to grumble. I said unanimously, "Hear, hear. Vote and be prepared to do it." But the Treasurer of that State is not prepared to do it. I wish to show the position in which the gentleman is. He is only going to lose sugar, but what does he gain? Prior to the war the duty on sugar in South Australia was £3 per ton. Wisely, I think, the duty was raised by the Commonwealth Parliament to £6 per ton. The quantity of sugar consumed in South Australia in 1901 was 16,000 tons, and in 1902 16,700 tons. Senator Pulsford may say that a lot of the sugar is Australian grown sugar, but according to the returns from the Customs department he finds that there was only about 10,000 tons— they calculate it in cwt. in 1901 in South Australia, and I have reduced the duty to £2 per ton. That gives 500 tons. So that the honorable senators will see that there is a saving of only 200 tons in the duty cleared for consumption in those two years. We shall, therefore, in making the legislation be safe in fixing the amount at 16,000 tons. Sixteen thousand tons at £48,000—Senator Pulsford will correct me if I make any mistake—and 16,000 tons at £6 to £96,000.

Senator PULSFORD.—Yes, but the total taxation on sugar.

Senator MCGREGOR.—If the honorable senator will listen he will find that that is what I am talking about. Previously the South Australian Treasurer was bound by duty to the amount of £48,000. The Commonwealth Treasurer is now bound by duty to £96,000 from the same article. The people of South Australia, when they came to this Parliament, said that they were willing to sacrifice something for the benefit of Australia, but they have sacrificed nothing so far, because sugar is as cheap in Australia to-day as it was in 1899.

Senator PLAYFORD.—In spite of that it is exactly the same price.

Senator PULSFORD.—Sugar is cheap all over the world, and the people are getting it for so many pounds a ton that if it were not for the duty.

Senator MCGREGOR.—There is as much sense in that observation as there was in the yarn about little Jack which the honorable senator took so much trouble to repeat and the author of it forgot.

tor PULSFORD.—When the price of has fallen £3 and the duty has been £3 the original position is unaltered. tor MCGREGOR.—According to the tution the Commonwealth returns urchs of the duty collected, and if any surplus afterwards it returns more. Senator Pulsford will not hat.

tor PEARCE.—It returns about seven-

tor MCGREGOR.—I propose to leave le more out of the calculation alto- and to deal only with what the Con- n provides for, so that no mistake occur in the future. Four into 0 gives £24,000, and three times 0 amounts to £72,000. South Aus- then gets back £72,000 in Customs upon sugar, and deducting the pre- turn from the duty, £48,000, from 0, we find that State is still left profit of £24,000. Out of that she ve to pay £5,500 in connexion with ates, and therefore, instead of the Australian Treasurer losing, he is o gain £18,500—and he has got a ad about it.

tor PULSFORD.—The honorable sena- got hold of a mare's nest.

tor PLAYFORD.—The honorable sena- ld recollect that we have lost the

tor MCGREGOR.—Yes, I know great many people are sorry he tea tax, but is it not a fact he South Australian Treasurer n receiving as much from the Government as the State levied previously? In some instances he more, and in this instance he is go- receive more, because I notice in this e's paper that Sir George Turner has d poverty stricken Victoria that she to get nearly £200,000 more than eected. The position then is that Australia makes a profit on the trans- connected with the granting of a Australia, and the people of that re not asked to pay any more for the . I say, therefore, that South Aus- as nothing to complain about, and ht to be well satisfied that she is put Queensland into such a good . I have not lost sight of Senator l's argument—a nice little argument and very logical, too—that in the

past the South Australian people did all they possibly could to keep South Australia white. She almost made a sacrifice to do it. Queensland never did anything of the kind. The Government of that State allowed this coloured curse to take firm root, and drastic measures had to be adopted to eradicate it. When the other States entered into a partnership with Queensland, were not the people aware of that fact? They were aware of all the conditions, and if not, they should have been. I should like to put the position in this way to Senator Playford: Supposing that when he was a young man he had married a young lady with a wooden leg, knowing all the circumstances, would it not have been very mean on his part, after a couple of years, to have called her "timber-toes"? I think she would have been quite justified in saying that a wooden leg was as good as a wooden head. South Australia and the other States have no right to complain now.

Senator PLAYFORD.—It was never intended that any State but Queensland should pay this rebate.

Senator MCGREGOR.—It was always intended that it should be borne by the States.

Senator PLAYFORD.—The Government charged it to Queensland.

Senator MCGREGOR.—We all know, and I believe that my honorable friend knows, that that was a mistake. The people of all Australia were firmly convinced that they would have to make some slight sacrifice to obtain a white Australia. They were prepared to make that sacrifice. They never asked Queensland or New South Wales to bear all the burden, and they are not going to do so. They have all benefited by the adoption of a white Australia policy, and although Queensland might have been spotted like the leopard before, I hope that her union with the other States will make her as white as the proverbial snow in the near future. I think I have shown conclusively that South Australia is not going to lose. The financial position of that and the other States has not only been maintained, but in some cases it has been improved to a very great extent. New South Wales will get more than even will South Australia; consequently I hope that we shall hear no more complaint from the States Treasurers, or from the narrow-minded, provincial, unfederal, unimperial

representatives who come from States of that description ; I mean the little Australians. Why did New South Wales enter the union ? According to Senator Pulsford, the people of New South Wales were much more prosperous and happy in the days when the kangaroo was running over the silent bush ; when the convicts were rattling their chains near Botany, than they are in the civilised combination with their fellow British subjects. They are in a prouder and better position to-day. What terms did they want to enter the union ? In the first instance New South Wales was so unfederal as to refuse to enter the union. There was something that the tricky politicians made her believe she wanted. The Constitution provides that New South Wales shall possess the federal capital. She is not to get all she wanted. She wanted to have the federal capital in Sydney, but the members of the Convention were not prepared to consent to that. It was not clean enough round about Sussex-street, and there were too many rats in the harbor, and too much waste paper about the streets. In a general sense everything was not up to date ; consequently the Convention considered it would be much more healthy to have the capital in some other place. At the first referendum New South Wales would not consent to come into the Federation. The Premiers of the colonies met and decided to give New South Wales all the honour and glory ; to fix the capital in the State at some place not less than 100 miles from Sydney. It should be pretty healthy when it is so far removed from Sydney. It was decided to take another vote of the people of Australia. Previously we were all agreeable to federate. When this little sop of the federal capital was thrown to New South Wales, her politicians, who had opposed the Bill previously, turned round in their usual manner, and drove the other way ; and her people voted to enter the union. According to the Constitution, the capital of the Commonwealth is to be in New South Wales. The question with me is—Are the representatives of other States going to make a fair deal with New South Wales ? Are they going to carry out the contract which was made by the whole people of Australia, and as soon as possible give New South Wales the satisfaction of having the capital in her own territory ? The representatives of some States are in no hurry to

Senator McGregor.

select the site. Senator Styles care if it is not chosen within 100 miles, whilst Senator Dobson, in that “wobbly” style which is usually followed by a great many persons when they get into Parliament, would favour alternate use of Melbourne and Sydney. I do not think that any honest person who considers the claim of New South Wales under the Constitution should endeavour to delay the selection of the site.

Senator PEARCE.—Or even to propose an alteration in the Constitution.

Senator MCGREGOR.—To my mind it would be a breach of the covenant made by the people of New South Wales if an attempt were made to alter the Constitution in this respect. Then we have the objection of the economist. We all believe in economy. We all believe in economy as much as a miser does ; I dare say I have had that said of me. Economy as much as any one has had, and I am not prepared under any circumstances to sacrifice the interests of the Commonwealth to please New South Wales, Victoria or any other State. Is the question going to cost all the millions that we hear about ? Did Sydney or Melbourne cost an enormous sum to the Commonwealth of the State in which they are situated ? The people of Victoria, the Parliament House and other public buildings at enormous expense. But Sydney and mighty as the Commonwealth Parliament might like to be, I think that some much more utilitarian and less extravagant building than the Melbourne Parliament House would suit all its needs as regards Government offices, I think that the federal capital could do with buildings much more modest than those we see in Melbourne. I am sure that a expenditure of £300,000 or £400,000 would provide all the accommodation which is really necessary in the near future. Are the millions of pounds going to be spent ? For the sake of illustration, let us take a site and see what it would cost the Commonwealth to provide the necessary accommodation. According to some persons, the most expensive site—I am going to say whether it is the most suitable one or not—is on the Snowy River. *Age, Argus, Sydney Morning Herald* and other great organs, state that it would cost the Commonwealth millions of pounds to build the capital there. It would

to be connected with Melbourne by a railway, and it would cost £2,000,000 or £3,000,000 to build a line 150 or 200 miles long. Then a railway would have to be made from Cooma, in New South Wales, for a distance of 60 or 70 miles, and that would cost £300,000, £400,000, or £500,000. All this expenditure is charged to the cost of the capital. It has nothing to do with the cost of the capital. It would not be necessary to make a railway to connect the capital with Melbourne. If the people of Victoria had any interest in federal affairs, I believe they would, if there was a new settlement established at any place, run a race with New South Wales to be the first to get communication with it. The Parliament of New South Wales has already authorized the construction of lines of railway in the direction indicated. These lines would be built in the future even though there never was a federal capital in the locality. I hope they will be made soon, because some of the country they will serve is well worthy of development. I agree with Senator Playford that it will be a very unwise thing to choose the capital, and to have people living there under canvas, or in weatherboard buildings, or "dug-outs." That sort of accommodation would not be good enough for me, at any rate. Rather than go in for a work of that description, it would be better to wait till we could afford something respectable, though it need not cost millions of money. But the federal city, when built, would not be entirely put up by the Government. The probability is that if the city grew a corporate body would be created. People would put up buildings for themselves and the corporate body would see to the streets and tax the people for that purpose. It is all nonsense to talk of the Commonwealth having to spend millions of money. The only direction in which such an expenditure would be necessary would be in the acquisition of the land. Legislation that is already in existence, makes it impossible for any great amount of trickery to be played with the Federal Government in that respect. All the Crown land in the federal area, according to the agreement entered into by the New South Wales people with the people of the rest of the States, is to be handed over to the Commonwealth, and the privately-owned land has to be purchased, not at a value created after the capital is selected, or by the railways which are to be built, but at a value prior to anything of this kind taking

place. If the Federal Government had to purchase every inch of the land under such terms, and that land was suitable—I would not recommend them to go anywhere where the land was not suitable—the result would be that before the capital was half the age of Melbourne it would be one of the wealthiest cities in Australia. Those who talk of the enormous amount of money that is to be spent before anything is done in the construction of the capital, have not given the subject serious consideration.

Senator Sir WILLIAM ZEAL.—Is not the honorable senator fighting a shadow?

Senator MCGREGOR.—I am trying to combat the hostility that has been exhibited towards the just carrying out of the contract that was made between the different States and the State of New South Wales, when they entered into federation. I do not think that Senator Zeal would be justified in calling some of the arguments of Senator Styles and other Victorian senators mere shadows. They are much more substantial than many arguments which I have heard coming from those who have had as long a Parliamentary experience as Senator Zeal himself. What I want is fair play in the carrying out of the contract which has been made, and the sooner it is carried out the better it will be for the peace of the Commonwealth and the prosperity of the people, both of Victoria and New South Wales. Victoria did not enter into this contract without taking everything into consideration. She was in a great hurry about it. Her people voted to a far greater extent in favour of federation than did the people of any of the other States. Why was Victoria in such unbecoming haste to enter this federal combination? I can only see one reason. I am a protectionist, but I hope that I have always fought fair in that direction. Victoria was the most highly protected portion of Australia, and her manufactures and industries were established. Her great manufacturers in the Chamber of Manufactures, and her merchants in the Chamber of Commerce, were those who were in the greatest hurry about federation. They made use of the public press, and they managed to get up an agitation, with the result that the people of Victoria, to the extent of three or four to one, voted in favour of federation. They entered into it with the expectation that as soon as Inter-State free-trade came about they would reap enormous benefits.

I hope that those Victorian manufacturers who are worthy of any consideration, and that the Victorian industrial classes, will in future—when Australia regains the equilibrium which she has lost during the depressing period of drought—reap all the benefits that they expected from federation. But they should not be selfish. They have got what they wanted, Inter-State free-trade. They may not have a tariff as high as they had previous to federation, but it is half as high, and the population they now have to cater for is four times greater. Consequently, although they have not received all that they expected, they have received twice as much as they have lost in the way of protection. Therefore, I trust that the Victorian people will deal less selfishly with the little foibles of the other States who came into the Commonwealth for the purpose of gaining something by it. Some of the people who were in such a hurry for federation some time ago say now, when one meets them in the train or the tramcar, that if they had known what was going to happen they would not have been so eager about it. They say—"If I had to vote again I would give my vote in the opposite direction." It is a positive fact that I have heard working men making statements of the same description. They have been led away. There were led away in the first instance in being in such a hurry, and they are now being led in the opposite direction. I would say to the working classes and the general public, not only in Victoria, but in the rest of Australia also, that they have entered into this combination and must abide by it. Whether they have married in haste and are repenting at leisure, I will not say; but it is their duty to do all they possibly can to make the union prosperous in the future, and happy for all the people who are affected by it. They can do this by paying attention to their interests, and by sending into the Federal Parliament men who have the best interests of the Commonwealth at heart. I have said that no one has brought forward any scheme in the interests of the State to which I belong, South Australia. We also joined the federal compact in a hurry. We were led to believe—at least some of us were; I was not—that we should save an enormous amount of money in connexion with the transferred services and by the consolidation of our debts. Every one likes to get rid of his

debts! People are like the young lady when she owed £5. She signed a cheque and sent it along to pay the bill; and though she had no money in the bank, she said "Thank God the thing is settled." Senator Playford's experience has taught him a lesson which he endeavoured to impart to us last night. He showed us that the promises of those statesmen who were so eager for federation—for what purpose I can scarcely understand, though some honorable senators may have an idea—and who told the people that we were going to save this and that by the consolidation of our debts, were fallacious. Senator Playford showed what must really happen, and what every reasonable man must admit to be absolutely correct. If I borrowed £1,000, at 8 per cent. interest, and I tried to convert that loan into a 4 per cent. loan, I should have to give my creditor £2,000. What better off should I be then? I should be paying just the same amount per annum. And that is all that the Federal Government will be able to do in connexion with the consolidation of the debts of the States. But when the currency of the loans expires, I think that it is the duty of the Federal Government to do all that they can to take over the State debts. I know that there are difficulties, but they can be overcome if the people desire it, and the Commonwealth Government is ready to assist them. In the near future a Victorian loan to the amount of £5,000,000 will become due. It would be a matter of very great difficulty for Victoria to renew that loan on anything like reasonable terms on the English market. If anything better can be done by the Federal Parliament it is their duty to do it in the interests of the people of Victoria. Whenever a debt of any one of the States becomes due, it is the duty of the Commonwealth Government to step in and take over that debt, and to go into the market afterwards for the purpose of renewal. But as Senator Playford said, this will have to be done gradually, and we shall find out then whether the Commonwealth or the States can best manage financial affairs. I have not the slightest doubt as to what must happen, and I am sure that other honorable senators will agree that in the future the credit, and, therefore, the power to borrow, of the Commonwealth will stand highest. We have a right to expect that the credit of the Commonwealth will be used in the

s of the whole people. It is said that Commonwealth may have to take over a millions from one State and a debt hundreds of thousands of pounds another State. What difference that make so far as the Commons concerned? If the Commonwealth debts amounting to £5,000,000 half of Victoria and makes the best possible for that State, will not the be paid out of the portion of the derived from the Customs returns of a? If the Commonwealth take over 100 on behalf of Tasmania and make terms possible for that State, will the interest be payable out of the returnable to Tasmania? I may have had an opportunity of doing great financial undertakings. I never have had an opportunity of my name to a cheque for a million but I do not see the least difficulty in doing out what I am now suggesting. Danger has already been pointed out that the States be relieved of their liabilities they will rush into others. That has to be guarded against, and guarded against, by providing that future borrowings for State purposes be done through the Commonwealth. In any way the Commonwealth would get consolidated State borrowings, which would only be when it was conclusively shown to be the interests of the States. Unless States are prepared to enter into an undertaking of this description, any conclusion of the debts will be delayed for a longer period than will be to the benefit of the whole people. There is other legislation proposed in the speech of His Excellency Governor-General, but I do not think any great necessity for dealing with any length. We have heard a great deal about the establishment of a High Court. I agree with others, was opposed to any such a High Court such as is indicated in the proposed legislation of the Government. I considered that the Chief Justices of the States, vested with federal powers, would be quite sufficient, for some time, to do the duties. But I have come to a conclusion, after two years' experience, that it is not the correct view—that the policy is that the States and the Commonwealth will be continually getting at each other's heads—and I am now convinced that the best thing the Federal Parliament can do is to speedily as possible to establish a

High Court. I do not say whether the court should be composed of three or five Judges—I make no suggestion as to how it should be composed. I shall suspend my judgment until the Government put their proposals before the House and give their reasons. If those reasons are good, then I hope that I and those generally associated with me will take a reasonable view, and do what is best in the interests of the community. I hope, with Senator Playford, that we shall always be found acting in the interests of economy. We have no desire to be mean, nor yet extravagant. We wish to pay those who do the Commonwealth work adequate, but not extravagant, salaries. I am sure that in the hands of the Senate and the House of Representatives, as at present constituted, a question of this kind will be safe. There are other measures to be presented, including a Conciliation and Arbitration Bill, which will have my hearty support. I am not like Senator Pulsford, who says that he has no sympathy with compulsion of any kind, and yet in the same breath expresses his willingness to pass legislation compelling employers to confer with their men. If Senator Pulsford goes that far, probably, when he hears all the arguments, he may be prepared to go the length of compulsory arbitration. Many of the other Bills in the Government programme are merely of a machinery character, and I am sure they will be discussed with intelligence and have as much attention paid to them as was paid to similar Bills during last session. But, like other honorable senators, I would like to say a word or two in connexion with the administration of the legislation already passed, and my best course is, I think, to deal first with the administration of the Immigration Restriction Act. It has been said, in connexion with that Act, that the labour party have always been satisfied with the Government administration. I do not think the labour party have ever said anything to justify that view, nor do I think we have any right to be satisfied with the administration of the Act. Sub-section (g) of section 3 distinctly stipulates that any one landing here to perform services under contract shall, unless certain conditions are observed, be deemed a prohibited immigrant. A great storm has been raised by some federal enthusiasts and great Imperialists about the treatment of the six haters. These

hatters were regarded in somewhat the same light as the poor producer, and the poor farmer—they were a persecuted lot. I can assure honorable senators that a great deal has been said in connexion with this question, which has gone to the extent of vile misrepresentation. Even in the Senate it has been suggested that these hatters were waylaid in Victoria and almost robbed of their agreement. Nothing of the kind ever happened. These hatters were not the first persons brought into Australia under agreement—they were somewhat like the defaulters in connexion with the Customs prosecutions, in that they were the first discovered. On a previous occasion six men and five women were brought into Australia in violation of the Act, and those who were interested thought it time something should be done. The Immigration Restriction Act was deliberately passed by this Parliament. Even honorable senators who have expressed themselves as surprised at what has happened, never raised their voice against this sub-section. These hatters came to Victoria on their way to New South Wales, and were met by the executive of the Hatters' Union, and by another gentleman who was associated with a hat factory in Collingwood or Carlton. Instead of going to the Trades Hall with those men who are now accused of robbing and plundering, the hatters went to the other place, and were fêted with bread and cheese, and very probably something stronger than water. As a matter of fact, although they had to meet the executive of the Hatters' Union at three o'clock in the afternoon, the members of the executive never saw them until a quarter to twelve at night, when they were about to depart from Flinders-street for Port Melbourne. It was then that one of the hatters was asked if he had any objection to furnish a copy of the agreement, and he replied—"Here it is; you can take it and do what you like with it." The person to whom the agreement was handed said that he would send it over to Sydney, and that was done. Was that person not quite justified, in his own protection as a member of the Hatters' Union, in doing what he did? These men were coming into this country against the law, and it does not matter whether Senator Pulsford, Senator Symon, or anybody else, likes or dislikes that law after they assisted in passing it. That these men did not

Senator McGregor.

come to this country in ignorance is shown by the facts. This Act was passed before the Christmas recess of 1901, and we sympathized with it were jubilant at its success. In the May following a communication was sent to the Hatters' Union of England, and it was published in the newspapers of the hatter manufacturing districts of the old country. Every one of the men who came out there that they were doing wrong, and some of them stated that they had taken the law. It has been said that these men were paid the same wages as Australian hatters, and that may be granted; but they were not employed under the same conditions. There was not a word in the agreement as to the hours of work, or as to the pay for overtime. When these men were blocked at Sydney, they knew the reason why. They knew an offence had been committed, and, therefore, had nothing to complain of. It is not the hatters who complained.

Senator DE LARGIE.—It was the employers' Federation.

Senator MCGREGOR.—And also the Chambers of Manufacture, Chamber of Commerce, and the Stock Exchange, members of which have very little sympathy with manual labour in any part of the world. Undoubtedly these English hatters were unionists, but some people, who do not know the difference between a non-unionist and a unionist, wrote to the newspapers and gave the public an exaggerated view of what had taken place. It has been pointed out by Senator Pearce that the violation of this description is in force in the British Dominion of Canada, from which men have been sent away for violation of a similar provision. It has also been said that similar cases have arisen, are arising, and will probably continue to arise for many years to come in the United States. A good deal has been said about the treatment of British subjects, but honorable senators must bear in mind that these men were never blocked, because they came ashore and had refreshments almost every day. They were almost as free as any other people, but they were like other people—they had not been clothed in the customs goods—they had not been clothed, and the entry for them had not been passed. That is where the difficulty was. The individual who brought them here knew very well that he was violating the Act. He knew also that the Act

not apply in certain circumstances, and when the men were blocked, he got them admitted under the proviso that they had special skill required in the Commonwealth. The declaration that they had special skill was not applicable to four out of the first six and to three out of the second six. The man who declared that they only knew of the fact by personal experience in the case of seven out of the twelve, yet he made the declaration as applicable to them all. Do not honorable senators think that if this had been done in the department of the Minister for Trade and Customs there would have been some bother about a false entry? I think there would, and consequently members of the labour party have no reason to be satisfied with the administration which allowed those men to come in on the flimsy pretext that they were skilled men, when they were no more skilled than hundreds of men already in Australia. If they had any desire to become honest citizens of Australia they should come here to remain, as other people have come before them, and are coming now, under no agreement. Senator Pulsford takes very great credit to himself for the action he took at the time. The honorable senator has said—"If an amendment I moved had been accepted, it would have done away with all the difficulty." Certainly it would have done away with all the difficulty, but it would have left the workers in Australia in a much worse position than they are now in under the Act. The honorable senator's proposed amendment was intended to permit of the introduction of men who under their agreements were to be paid the wages at the time ruling in Australia. But does the honorable senator think that a protection against the operations of unprincipled individuals, whose only object is to make money, and who will make it at the sacrifice of the interests of every one else in the community? I know that men have been brought to South Australia under similar agreements to be paid the same wages as were ruling in the State, but it was done for no other purpose than to reduce the standard rate of wages ruling in the State at the time. I know that in 1884 some 24 bootmakers were brought to Victoria from Northamptonshire in England. I have become acquainted with many of those men since. They were to be paid the current rate of wages, and there was no Immigration Restriction Act in force. As

many as liked could come out under these agreements. What was the result? The effect of bringing out these 24 bootmakers to a market that was just level was, in less than twelve months, to bring about a reduction of 30 per cent. in the wages being paid in the State. Any one with any sense must know how it would operate—these 24 coming out to a level market made a surplus of 24. They displaced 24 who were here already, or they kept 24 here already out of work. The result was that there were 24 men looking for work, and if they were out of work for any length of time, and had families to support, they were probably prepared to come to terms with the employers and to do the work for a little less next year. Then the 24 new men were dropped out when their agreements expired. Some of them went to Tasmania, and some to South Australia. But the desired effect took place, and wages in the boot trade were lowered by degrees in Victoria, and men suffered greatly. I am sure some honorable senators will recollect, and Senator Zeal will recollect, that ultimately it resulted in the appointment of a Royal commission to investigate the deplorable condition into which things had drifted. That shows what has been the effect of bringing out labour under contract, even though the labourers stipulate that they shall get the same wages as are already paid here. I have always believed that it is right that the interest of those who have come to Australia on their own account should be considered to some little extent, and that any one wishing to come here should come under such conditions that they may be welcomed by their fellow workers here. Every workman who comes from England is made welcome by his fellow workers here if he comes as a free man, and does not come in violation of the legislation in existence. The Government should administer this legislation in such a way as to carry out the spirit of the Act, and they should not do what they did in connexion with these six hatters, who had no special skill which was not possessed by men already in Australia. There is even a worse position in connexion with the administration of sub-section (g) of section 3 of the Immigration Restriction Act. The Act was passed for the purpose of protecting the interests of the working classes, and of manufacturers also. Amendments were inserted in the Bill when it was going

through which were intended for the protection of shipowners engaged in the coastal trade of Australia. Even Sir Malcolm McEacharn moved one amendment to the effect that immigrants should be exempted from the operation of section 3 if they were to be employed in connexion with intercolonial shipping so long as the wages paid them were not lower than those ruling on the Australian coast. I consider that that provision has been violated in its administration by the Federal department. We have vessels coming to Australia from overseas, and we have no objection to any steamer or sailing vessel coming here from America, London, Hamburg, Hong Kong, Tokio, or anywhere else. They come to Fremantle, and there discharge their cargo for Western Australia. They come on to Adelaide, and discharge the Adelaide cargo. They come on to Melbourne and discharge the Melbourne cargo, and they go on to Sydney in the same way. They take in in Sydney the Sydney cargo for home ports, and they do the same at every other Australian port. That is legitimate business. But these oversea vessels, manned as some of them are by Japanese, Chinese, lascars, and other aliens of that description, not only carry on their foreign trade, but take what they can get of the Inter-State trade of Australia as well. I say that when they do that, according to the spirit of the sub-section to which I have referred, their crews become prohibited immigrants, as they are under contract to work for wages less than those ruling in the coastal trade of Australia. Yet the Minister for External Affairs, and even the Attorney-General, though when speaking upon the matter in the House they were prepared to give all the protection intended, declare now that this sub-section is overruled by sub-section (k), which refers to officers and crews of such vessels landing during their stay in Australian ports. We know that landing during their stay in Australian ports has nothing to do with sub-section (g), which specially stipulates that they may do manual labour. We have no objection to the officers and crews of vessels landing at any of our ports, but while they are paid only half the wages, and live much more miserably than the seamen on our coasting boats, we have a serious objection to their entering into competition with them. We are told that they are not under the Act immigrants in the true

sense of the word. They are not intended to stay. I should like to ask them to argue in that way whether the men who leave the shores of Ireland ever return, and go over to England to reap the fruits of their labour, or whether they are returning as soon as the work is done, or are not, immigrants? Everybody knows that they are not immigrants, and they are so much about as "Irish immigrants." I intend that the crews of these vessels should come here to Australia and doing work in competition with our sailors and shoremen, and be treated as prohibited immigrants. I hope that the Government will be differently administered in the near future, and that, if not, fresh legislation will be introduced in the shape of a short Navigation Act, which will protect the interests of those who have invested their capital in the coastal trade of Australia, and of the men employed in carrying on that trade successfully. Although it is written in the Act, no one can ever say truthfully that the labour party has not always considered the interests of capital as well as the interests of labour. In this instance we are endeavouring to do so. The members of the labour party know that under present conditions capital and labour are associated in a very peculiar manner. We know that what affects the one affects the other, and we have no desire to do anything that will injure the interests of the honest immigrant in Australia, who has probably put his savings of a life time into the shares of a shipping company, or some other form of that description. We cannot have an honest investment, and we, as a party, are prepared to assist such investments because in assisting them we assist those whom we more nearly resemble. A lot has been said already in connexion with old-age pensions, but I am surprised that, after the professions and the protestations uttered by the representatives of the people when on the subject of old-age pensions, and even in Parliament, that they were in sympathy with the aged and the poor of Australia, they have not done anything up to the present time to alleviate the distress which exists amongst the old people. We are told that we cannot do it, but we cannot raise the money. Why, then, are we doing it to the extent of six-sevenths in Australia at the present time. It is being done in New South Wales and in Victoria. They have not done it, though they never made any provision to meet the extra expense, and conse-

got into trouble. As in New South Wales and Victoria, old-age pensions are only being paid, there remains only one-third of the population of the colony to be brought under the provision. I should like to refer here to some of the difficulties which the old-age pensioners are now under. There are old men and women in Victoria and New South Wales who have spent a lifetime in Australia yet cannot secure the benefit of these old-age pension provisions. They have worked hard in the different colonies for 40 or 50 years, but they have not lived sufficiently long in any one colony to be entitled to the benefit of the provision, and consequently they live in a poor condition or in some institution as destitute. Therefore it is more than anything that something should be done for the non-wealthy other than urging the Government to undertake this duty. All this has been said by the Prime Minister, Mr. George Reid, and the Government, about not being able to raise the money for the sake of giving £1,000,000 for the aged and infirm has been shown to be a mistake. It has been shown that the Government has power to retain more money and pay an old-age pension to the aged and infirm in Australia. Yet the Government will not undertake the duty. I think that Victoria and New South Wales would be glad to be relieved of the responsibility, and that they would have no objection to the amount being deducted from their surplus. I do not think that any honorable senator so callous as to be unable to realize the position in which the aged parent might have been placed if he had no means of support. I am sure that every honorable senator will do all in his power to bring about legislation which will relieve the aged from the necessity of being taken care of. I think that the men who constitute the Senate have some sympathy with the aged and infirm, and I hope that they will urge the Government to take some action as soon as possible, and not to wait until the "Braddon blot" ceases to exist. In most of the States, even although they are in a flourishing condition, could they not get more revenue. If a little more money was to be raised, the means are not wanting. The people of Australia have been tried out against the burden of the old-age pension. It is only Senator Pulsford who has been against it. I hope that the assistance of the Government will be given to those who are striving

to place the aged of Australia above want in the future. The Customs administration is a very interesting subject. I was pleased to listen to Senator Pulsford when he trotted out the case of that person who had dressed up a copy of the Bible in silks and laces, and brought it ashore. It must have looked a spectacle dressed in £5 worth of silks and laces. This man Tingey was a quartermaster, and he knew that he was violating the law. Let me ask Senator Pulsford and other critics of the Minister, what does he appoint tide waiters, lockers, boarding officers, and others for? Is it not to see that nobody comes off a ship with goods that are dutiable? If Senator Pulsford were administering the law, and he saw an officer allow a sailor or other person to pass out of a ship with a suspicious looking bundle, would he not think that that officer was neglecting his duty if he did not challenge him? I am sure that he would. Any officer who would allow a man to come ashore from a vessel with a parcel that might contain dutiable goods without making inquiries is neglecting his duty and ought to be dismissed. One peculiar feature in this case has not been taken notice of. When Tingey was stopped by the officer, he said he was going to the post-office to post the parcel to a friend in New Zealand. We have the name of the quartermaster and the name of the arresting constable, but we have no record of the name of the friend in New Zealand for whom the parcel was brought out. Does not Senator Pulsford think that it should have borne the name of the person to whom it was being taken? It is not in a post-office where such a parcel should be addressed. If any one should get this parcel of silk with a copy of the Holy Scriptures, it is the person to whom it was addressed. The absence of this person's name makes the thing look more suspicious to me than does anything else. Occasionally I have gone to sea in ships, and I know what takes place. It is the practice to attempt petty smuggling wherever a Customs duty is levied. Is not an honest effort to put a stop to this petty smuggling justifiable? Is it not the duty of the Customs officers to see that petty smuggling is stopped as far as possible? I have known sailors and workmen to come ashore from a vessel in Sydney Harbor with pounds of tobacco and hundreds of cigars in the boat. On one occasion, in Balmain,

when a Customs officer turned up, the men all cleared out of the boat. He did not know who owned the tobacco and the cigars, and all he could do was to confiscate them. With a firm administration of the law, such as now exists, this petty smuggling is bound to end. People will find out that it is too dangerous to indulge in the habit, and the revenue will benefit. We have all read stories about the smugglers. They were great men and their lives have been glorified to a certain extent, but the days of smuggling are gone. I hope that the Röntgen ray of fiscalism, or what might more appropriately be called the fiscal radium in the shape of Charles Kingston, is going to put a stop to all smuggling. All his officers are carrying out their duty to the entire satisfaction of the great majority of the people in the Commonwealth. In the police courts, however, the same old game is still continued. If a poor woman steals a pair of boots worth 3s. or 4s. for the purpose of procuring bread for her starving children, she gets a sentence of six or twelve months—in some instances a couple of years. But if a bank manager is convicted of robbing the institution of £20,000 he is sentenced to only eighteen months, and very likely in gaol he is made storekeeper or cook's assistant. When I visited the gaol in South Australia I generally found that respectable defaulters were placed in the good billets, and, no doubt, it is still done. A poor person, who brings ashore a few cigars, is punished as heavily as a person who attempts to swindle the revenue of hundreds of thousands of pounds. That is not fair, and I hope the Minister will suggest to magistrates that the punishment should be fixed in proportion to the enormity of the offence. There was another case to which Senator Pulsford referred as a case of very great hardship. A cook, named Ygberg—I wonder if he came from Yorkshire—had 2 cwt. 1 qr. and some odd pounds of dirty dripping stored up in a cask. When he came to Newcastle he entered into collusion with a man called Tucker. They got the cask off the vessel, but they were caught by the Customs officers. Ygberg was charged with taking the stuff off the ship without legal authority—not with stealing it or evading the Customs—and he pleaded guilty. He knew when he was challenged by the Customs officer that

he was found out, and like any other thief he had a right to acknowledge guilt. The man who was acting in collusion with Ygberg was charged with taking the stuff from the ship with the intention of evading the Customs. He was another thief too, and he confessed his guilt. Each offender was fined £5. One of them fortunately had the money to pay his fine. The other probably thought that he could not earn so much in the same time, and he went to gaol. Yet we have Senator Pulsford and others trying to make us believe that the Minister should employ a host of Customs officers at good wages to stand about the wharfs and see such things done without any interference on the part of the public. The administration of the Customs is at the present time—with the exception of a few big rogues is not punished to the same extent as the little one, and I hope that this may be remedied—has been very satisfactory. I hope that in the next big case that the big rogues will be punished.

Senator FRASER.—There is a bill coming on now.

Senator MCGREGOR.—Yes ; there is, and I know something about it. I will not mention it, because it is what Senator Symon would call "sub-marine," or something like that. I am not going to hurt anybody by getting out long words. I hope the administration of the Customs will be continued in the way it has been, and I have not the slightest doubt that in less than two years, the revenue will be increased to the extent of hundreds of thousands of pounds, and no one will be dissatisfied because no one will attempt to defraud the revenue. Some hardships must occur in any legislation of this description. The Parliament passed legislation affecting the drinking habits of the country, and it happened to be going down the list of innocently intoxicated, a "bobby" was "run him in," but he would not be a criminal. The same occurs in connection with the administration of the Customs Act. I have heard instances of great hardships. I know of a case that occurred somewhere in South Australia. I will not mention names. I like to keep my name covered over misdeeds in my own State. If they happen in Victoria or New South Wales I will mention names, but I will not go on putting away any of my Southern fellow citizens.

or McGregor.

BEST.—No one ever does wrong

McGREGOR.—Oh, yes; but wrong innocently in South Australia. There was a gentleman who brought a case of goods, and made a mistake that it contained such and such. He was not quite sure about the contents, and he called the attention of the Customs officer to the matter, and said "I am not certain that there may not be something else, but I cannot tell; we had better have a look." They had a look and found something else. The case was not the one he had described it at all. What was the man punished for? Not for anything. The Customs—not even for attempting to cheat them; but for making a mistake when he was not sure of the contents. I do not think that any one would defend the action of a man who merely makes a declaration, which is equivalent to an oath, when he is not positive of his statement. I dare say the case was a hard one, and the man honest, inasmuch as he had not intended to defraud. But if errors like this were allowed to go unpunished, others might play the same game, less innocently, in New South Wales.

Mr. STYLES.—Or in South Australia.

McGREGOR.—No; I do not think they would there; but these things have been done to a very great extent in New South Wales, Sydney, and Brisbane—especially in the latter city. There is nothing new in the alleged grievances when they are brought to the bottom. There was another case, in whom Senator Pulsford took a great interest. This man was coming out on a voyage to Australia. There were tears in the honorable senator's voice as he referred to the matter. He endeavoured to describe the distressing treatment which this poor fellow had received. He had been trading for many years and he was as honest as the sun. But he had never been found out to do anything else. On this last voyage he endeavoured to bring out some presents for some of his friends. One item amongst the presents consisted of 30 pounds of bacon. It was a greasy sort of present to bring out of the way from London to Sydney. And it consisted of some trifles in the shape of small similar articles—just for the trade. Then he had another friend in the trade, for whom he brought out a very interesting advertising matter. That was a very

happy thought on his part. I wonder how he could tell in England that this friend of his in Sydney wanted some advertising matter in the bicycle line. Then he brought out a specimen bicycle handle. In the name of heaven, is it necessary to bring a bicycle handle all the way from England to Australia for a poor friend? This man was "collared." What for? They did not punish him half severely enough. He was "collared" for removing goods from the vessel without the consent of the Customs officers. Do not honorable senators think that the Customs officers, who were standing about looking after the interests of the Commonwealth, would have neglected their duty if on seeing these people bringing ashore dutiable goods, they had not challenged them? They had no right to bring them in in the first instance, and then they got up a cock and bull story about giving a fellow £5, and he was to take the goods to where the officers were standing. If the person who had the goods had got down the gangway and amongst the crowd, I am afraid that he would not have taken much trouble to find the Customs box. It may be imagined from the way I have dealt with these cases that I have a suspicious nature. I have in reference to cases of this kind, because probably when I was at sea I might have done the same things myself. At all events I know how they were done. I am not going to say that I did them, because Mr. Kingston might come down on me and make me pass an entry that I should not like. But these little instances are so glaringly in violation of the Customs Act, that if allowed to pass without notice by any Customs officers there would have been a neglect of duty that would have warranted a superior officer in the department administering censure. I trust that Senator Pulsford will show more sense in the future than to make a song of this description. Why does he not tackle some of the big cases? Why did he not defend Robert Reid in reference to the Brisbane case? Not a single opponent of the Government has attempted to do that. Why do not the friends of the merchants, like Senator Pulsford and Senator Symon, take the part of those who belong to the same section of the community as themselves? Because they dare not do it. Things have been sufficiently exposed already, and they are afraid that if they said a word things would be more exposed. Consequently they

hold their tongues. But all of a sudden they have taken a pathetic interest in the poor unfortunate individual who has no one to defend him—the poor widow and the poor orphan, who have been trotted out over and over again, figure in these cases in a different form. I think that I have now said enough in connexion with the Customs administration and those who have been trying to defend the action of persons who have attempted to swindle the people of the Commonwealth. Whether the amount which they have tried to swindle is large or small does not matter. It may be a few pence or a few shillings ; they had no right to do it. Let honorable senators opposite devote their attention to defending those who probably have been defrauding the Customs of thousands of pounds for years past.

Senator FRASER. — Does the honorable senator say that all those who have been charged are swindlers, then ?

Senator MCGREGOR. — Every one who cheats is a swindler. The honorable senator knows that.

Senator FRASER. — Are all those who were charged swindlers ?

Senator MCGREGOR. — Many an innocent man has been hanged. In an institution like the Customs of the Commonwealth of Australia, where thousands of cases have to be dealt with, and so much care has to be exercised, it is possible that a little hardship may sometimes occur. That is justifiable. But every one proved guilty of fraud is a swindler. The peculiar thing in connexion with most of the prosecutions is that persons have not been prosecuted for fraud. The fraud has been proved afterwards. If a simple case of evasion or misrepresentation is brought against an individual, and it is ultimately proved that there has been unintentional fraud, does Senator Fraser say that the Customs authorities are not justified in the action they have taken ? There are hundreds and thousands of honest merchants, as well as of honest contractors, honest members of Parliament and honest persons in other walks of life. We are prepared to respect honest people. It is in the interests of honest people, as well as of the revenue of the Commonwealth, that the Customs department should do all it possibly can to prevent fraud, or even the appearance of fraud. They have a right to make every investigation when it seems that fraud has been committed. Now, I have occupied the time of

the Senate long enough. I hope that while we are sitting here we shall recognise it as our duty to do everything we possibly can to pass such legislation as will tend towards the happiness and prosperity of the Commonwealth.

Senator Sir WILLIAM ZEAL (Victoria). — The remarks which I shall make will be very brief, seeing that the Address in Reply has been debated at considerable length. But I should be doing an injustice to my belief if I said that this address conforms to what my ideas are of the duties of the Government. No doubt the Government have great difficulty in introducing legislation which will please the great mass of the people, but I find that the bulk of the legislation proposed is of an unnecessary and most expensive character. It seems to me that the Government are bringing forward legislation which will provide for the wants of a lot of impecunious people at the expense of the taxpayers of the Commonwealth. I was thunderstruck when Senator McGregor expressed his willingness to swallow the scheme for the establishment of a High Court, the results of which he does not apparently grasp. Does Senator McGregor know the cost of the administration of justice in the various States of the Commonwealth ? Does Senator McGregor know the number of officials engaged at enormous salaries in the department of Justice in Victoria ?

Senator MCGREGOR. — Because Victoria has been extravagant, Senator Zeal will not allow the Commonwealth to have a High Court.

Senator Sir WILLIAM ZEAL. — That is not a fair way to put the matter. Senator McGregor does not seem to realize the position. But for his information I will give a few items which will give some idea of the immense cost of the administration of justice in the various States. I find that in the Commonwealth there are six Chief Justices and 23 Puisne Judges. I am ignoring altogether the vast number of stipendiary magistrates, District and County Court Justices who have to be paid in the different States. In New South Wales there is one Chief Justice at a salary of £3,500, and seven Puisne Judges who cost £18,200 a year. In addition to these there are a number of subordinate Judges, of whom I am not now taking any account. In Victoria there is one Chief Justice at £3,500, and five Puisne Judges at £3,000

a year each, with five County Court Judges at £1,500 a year each, and a Master in Equity at £1,800 a year; in South Australia there is one Chief Justice at £2,000, and two Puisne Judges who receive between them £3,400 a year; in Tasmania there is one Chief Justice at £1,500 a year, and two Puisne Judges who receive between them £2,400 a year; and in Western Australia there is one Chief Justice at £2,000 a year, and three Puisne Judges who receive amongst them £5,100 a year.

Senator MCGREGOR.—South Australia is the best of the lot.

Senator Sir WILLIAM ZEAL.—Probably South Australia is an economical and well-governed State, and I wish that Senator McGregor would bring his common-sense to bear in regard to the question of the Federal High Court.

Senator MCGREGOR.—I should abolish a number of the State Judges.

Senator Sir WILLIAM ZEAL.—Then why should the honorable senator attempt to fasten further burdens on the people by the establishment of a High Court?

Senator PLAYFORD.—We must have a High Court.

Senator Sir WILLIAM ZEAL.—I shall show presently how the Commonwealth may get a High Court. In Queensland there is one Chief Justice at £3,500 a year.

Senator DAWSON.—That was a special job.

Senator Sir WILLIAM ZEAL.—Never mind that. In addition to a Chief Justice, there are in Queensland four Puisne Judges, who cost £8,000 a year, and four District Judges, analogous to County Court Judges, who cost £4,000 a year. These figures show that, paying regard merely to the superior Judges—that is, leaving out of question the cost of working the machinery of the courts with their sheriffs, associates, bailiffs, attendants, and so forth—the administration of justice in Australia costs £80,200 a year. The Government now, without any warrant, propose to establish a Federal High Court, with a Chief Justice at £3,500 a year, and four Judges at £3,000 a year each. It is a shame and an iniquity to place such a proposal before reasonable and intelligent men.

Senator MCGREGOR.—Half the Judges in Victoria should be abolished.

Senator Sir WILLIAM ZEAL.—We do not desire to abolish the Judges in Victoria, the people of which State have never in a single instance repudiated any contract made. When we see that there is this

enormous expenditure, it is our duty, as prudent men, to consider whether we cannot utilize our present courts to some advantage. If the Government were composed of business men, Judges would be selected from the State Courts, and asked to act as a Federal High Court, at any rate for a few years. I cannot see any difficulties which have arisen up to the present time to necessitate the establishment of a permanent High Court. If difficulties have arisen it has been because of the absence of common sense on the part of the Government in not providing proper machinery. Any man with the slightest business knowledge could in the course of a week make such an arrangement as I have suggested, and thus act justly to all classes of the community. I do not think that the labour senators, who are supposed to represent the bone and sinew of the country, can sit by and see a huge job of this kind perpetrated. If so, Senator McGregor and those associated with him ought to go to their constituents, or to the Trades Hall, and see what is thought of this proposal to establish a High Court at an enormous cost.

Senator STYLES.—And what about the cost of court buildings?

Senator Sir WILLIAM ZEAL.—Unless the different States are prepared to give accommodation in the present court buildings, a special Federal High Court will have to be erected in each State. The Government should use discrimination, and see whether a High Court cannot be constituted of State Judges who have done so much credit and honour to Australia.

Senator DAWSON.—Is Senator Zeal against the establishment of a Federal High Court?

Senator Sir WILLIAM ZEAL.—I am against the course proposed by the Government, because I believe it is not required in our present circumstances. No one more than myself will support any useful measures introduced by the Government, but I cannot support legislation involving the payment of high salaries to a lot of people in the various States who will not have to do a day's work in a month, while there are thousands of people in Victoria and New South Wales who have been ruined by the drought. There is another job in the proposal to establish an Inter-State Commission. Is that commission intended to furnish a billet for a chairman at £1,500 a year, and for three other members at £1,000 a year each?

Senator FRASER.—The chairman's salary will be more than £2,000.

Senator Sir WILLIAM ZEAL.—The salaries of the commissioners will be just whatever they can get, and the Commonwealth is not in a position to pay the cost involved. We want the government to be administered economically, and not a lot of people kept in idleness at large salaries. Then we are to have a glorified individual—a sort of glorified peacock—who is to be sent to London, as, I suppose, the Lord High Commissioner.

Senator MCGREGOR.—Senator Zeal might get the billet himself.

Senator Sir WILLIAM ZEAL.—I would not take it.

Senator PLAYFORD.—A High Commissioner is not wanted at the present time.

Senator Sir WILLIAM ZEAL.—That is so. In reply to Senator McGregor, I may say that I have been in Parliament since 1865, and I can honestly and truthfully affirm that I have never received or sought any personal benefit at the hands of any Government. At all events, I do not believe that a High Commissioner is required now, and I shall do what I can to secure a little time for consideration. A period of 25 years is nothing in the life of a nation, but this Government in the third year of this Parliament are bringing forward measures for the constitution of a High Court, an Inter-State Commission, and the appointment of a High Commissioner, and I do not know what else. I cannot understand how sane people can make such monstrous proposals. I regret very much having to make these remarks about the Government who I know have had a lot of trouble. The probability is that the Government are forced into a position against which their better nature rebels.

Senator PLAYFORD.—In the matter of the High Court, the Government are supported by the leaders of the Opposition in both Houses.

Senator Sir WILLIAM ZEAL.—I was surprised when Senator Symon justified the establishment of a High Court on the ground that it was recommended by the Judiciary Committee of the Federal Convention. But of whom was that committee composed? Did it not consist wholly of lawyers?

Senator Sir JOSIAH SYMON.—Not at all.

Senator Sir WILLIAM ZEAL.—Who were the lay members?

Senator Sir JOSIAH SYMON.—There were several lay members; the only omission was that of Senator Zeal.

Senator Sir WILLIAM ZEAL.—Senator Walker was one, but I do not know of any other; and the most self-seeking member amongst the lot was Senator Symon.

Senator Sir JOSIAH SYMON.—Is that in order, Mr. President? Senator Zeal says that I was the most self-seeking of the members of the Judiciary Committee.

The PRESIDENT.—I do not think such a remark is in order.

Senator Sir WILLIAM ZEAL.—I withdraw unreservedly, but Senator Symon brought the remark on himself by his persistent interruption.

Senator Sir JOSIAH SYMON.—Senator Zeal asked me a question, but he would not allow me to answer it when I attempted to say that Sir Alexander Peacock was a member of the Judiciary Committee, and that there was Senator Walker, and, I think, another layman with him.

Senator Sir WILLIAM ZEAL.—At all events I notice that the lawyers took particularly good care of themselves. With a view of encouraging Senator Symon to act without that bias of which no doubt he is unconscious in his support of the establishment of the Federal High Court, I can tell him that after our experience in Victoria in relation to the appointment of Members of Parliament to positions in the public service, I submitted to the Federal Convention an amendment preventing lawyers who were Members of the Federal Parliament from being eligible for high judicial office. That amendment was carried, but was eventually overborne by force of circumstances. The present law in Victoria forbids such appointments to laymen, and has worked well for many years, and no doubt that law was passed because experience had shown the inadvisability of self-seeking people in Parliament being appointed to positions which in some cases at all events they were not qualified to hold. Every honorable senator should do his utmost to preserve the purity of Parliament, and a step in that direction is to take away the temptation which is offered in the Government proposals. As to the naval agreement, I am pleased to think that the Government have made an admirable bargain. We are not in a position to go to a large expense in the way of constituting a federal navy. I point out to my honorable friends in the

labour corner that, if we establish a large naval force of our own in the Commonwealth, it can only be done by taking hard-working fisherman and seafaring men at present profitably employed upon our coasts, and placing them in positions in which their labours will not be of so much value to the community. Do not these honorable senators see that if we take only 300 fishermen away from the work which they are now doing, and allow them to become, comparatively speaking, drones in our society, that will not be a good bargain?

Senator PEARCE.—That is right.

Senator Sir WILLIAM ZEAL.—I am with every honorable senator who has expressed himself in opposition to the Government scheme to this extent: That I think it will be desirable, perhaps in the not too far distant future, to establish an Australian Navy. I do not dispute the desirability of such a thing, but I think that at the present time it is inopportune. What do the Government propose? They have entered into a tentative arrangement with the Imperial Government that there shall be a naval force supplied for the protection of this community which I think will be unexampled in the benefits which it will confer upon Australia. Do not honorable senators know that even in the State of New South Wales the expenditure of the British Admiralty at Garden Island is very nearly equal to the whole of the colonial contribution! Will any honorable senator attempt to deny that the men of any of these ships entering our ports will spend a great deal more money here than the contribution which the States will have to make towards this subsidy? So that from the point of view of the money involved, for every pound we shall be asked to spend, there will be two or three pounds brought into the States, and we shall have the great advantage of being able to secure the naval experience of the old country for nearly a thousand years in the constitution of a force for the protection of the Australian Commonwealth.

Senator HIGGS.—Does the honorable senator know what the people of the old country say about the British Navy?

Senator Sir WILLIAM ZEAL.—I know that Senator Higgs has got a bee in his bonnet on the subject of the Imperial Government, and he looks at everything through his own spectacles. The honorable

senator does not lack intelligence, but, unfortunately, when he brings his intellect to bear upon Imperial questions it seems to me that he looks all askew.

Senator BARRETT.—The honorable senator is a republican.

Senator Sir WILLIAM ZEAL.—I think not. I think the honorable senator likes to pose as a republican, but it seems to me that he is an honest Australian at heart, and in the near future he will do much better than he has done in the past. If honorable senators look at some of the statements which have been published broadcast in the old country, they will see that an enormous number of vessels belonging to the British Navy are now considered to have become obsolete, though some of them may not be more than six or seven years old. Some of those vessels have cost nearly £1,000,000, and are we prepared to negotiate for the purchase of a fleet as efficient as that which the Admiralty proposes to supply when we know that the vessels of that fleet may become obsolete in six or seven years? Would that be a good bargain? Is that a proposition which honorable senators are prepared to recommend to their constituents? I think not. I think that the proposal which the Imperial Government make to us to supply efficient up-to-date vessels for a certain subsidy is one which has not been paralleled for generosity by any Government existing at the present time.

Senator HIGGS.—The vessels are to be here only in times of peace, and in times of war they are to be taken away.

Senator Sir WILLIAM ZEAL.—The honorable senator knows quite well what that means. He knows that if a large hostile fleet is gathering in the neighbourhood of China, or of Hindustan, the Government take power to bring up the Australian fleet to those waters to crush the hostile fleet which may be intending to come down here to destroy our very existence as a nation.

Senator DAWSON.—The Government here have no say in the matter.

Senator PLAYFORD.—We cannot have half-a-dozen says in such a matter.

Senator Sir WILLIAM ZEAL.—As my honorable friend says, we cannot have half-a-dozen says in such a matter. We know that there will be an intelligent say, and we know that the Commonwealth, when contributing from her hard-earned resources a respectable sum, will not be

treated unjustly or unfairly by the Imperial Government. I can to some extent understand the desire of certain people in this country to constitute a colonial navy. They are like the people who are looking after the billets proposed in the High Court. They expect to be made colonial admirals, colonial post captains, or something of the kind. But we do not want that. We desire to carry on our Government in a sensible, common-place way, and we do not invite any of the extravagances which unfortunately find a place in the Governor-General's speech.

Senator HIGGS.—We might as well pay the £200,000 to Australians as to any one else.

Senator Sir WILLIAM ZEAL.—They will be paid. The honorable senator knows quite well that under the proposal of the Government there will be training ships, in which Australian seamen will be trained. But I say again that it would be a great misfortune if Australian seamen were taken away permanently from the useful avocations in which they are at present engaged, and put into positions in which they cannot be profitably employed. A good deal has been said about the administration of the Immigration Restriction Act, and I have no desire to labour the question. It does, however, seem to me to be pitiable that the time of the Prime Minister of the Commonwealth should be taken up in adjudicating upon a question about the admission of six hatters. Let honorable senators fancy for a moment the Prime Minister of England being brought from his residence to decide the case of six unfortunate men coming from Germany or Russia to Great Britain! The thing is contemptible. The exercise of a little practical common sense would have avoided the whole of this difficulty.

Senator PEARCE.—Yes, on the part of Anderson.

Senator Sir WILLIAM ZEAL.—Such a thing makes us the laughing stock of the world.

Senator HIGGS.—What do we care about that?

Senator Sir WILLIAM ZEAL.—If the honorable senator does not care, I do. I do not wish to be considered a fool.

Senator DAWSON.—If the world laughs it will grow fat.

Senator Sir WILLIAM ZEAL.—Probably it will, but Senator Dawson knows very well that one gentleman who was

brought out under contract, and is getting £600 a year, is going through the length and breadth of the land abusing everybody. Why did not the Government interfere in that case?

Senator DAWSON.—I know that statement to be absolutely incorrect. The honorable senator is referring to Mr. Tom Mann, who was not brought out under contract.

Senator Sir WILLIAM ZEAL.—I did not say anything of the kind.

Senator DAWSON.—The honorable senator insinuated that it was Tom Mann.

Senator Sir WILLIAM ZEAL.—If the cap fits, the honorable senator can wear it.

Senator DAWSON.—The honorable senator should tell the truth.

The PRESIDENT.—Order!

Senator Sir WILLIAM ZEAL.—I read it in the papers, and I believe it is true.

Senator DAWSON.—The statement is not correct.

Senator Sir WILLIAM ZEAL.—I did not know that it was not correct. Does the honorable senator speak from personal knowledge?

Senator DAWSON.—I do; I know from personal knowledge that it is not correct.

Senator Sir WILLIAM ZEAL.—It has never been denied.

Senator PEARCE.—The honorable senator will very likely find the denial in the waste-paper baskets of the *Age* and *Argus*.

Senator Sir WILLIAM ZEAL.—Probably so; but I have no access to the waste-paper baskets of either the *Age* or the *Argus*, and I have not seen the statement contradicted. I am telling honorable senators what I have read in the papers, and it seems to me that while the Federal Government prevented the landing of six hatters, another man has been allowed to come out here who has made it his business to abuse everybody in the community.

Senator HIGGS.—The honorable senator has said that I have a bee in my bonnet, but I think he has a whole hive in his.

Senator Sir WILLIAM ZEAL.—That may be; but I am pointing out to honorable senators of the labour party some of their inconsistencies. While they are posing as great reformers, they are backing up the Government in proposals involving enormous outlay, and I do not see how they can justify themselves before their constituents.

MR BARRETT.—They are not unanimous that.

MR SIR WILLIAM ZEAL.—I am very sorry to hear that, and I will say for my honor and Senator Barrett, that I do not think there is a better man in the Parliament. I think the honorable senator would say no to anything of the sort. As to the Eastern Australian overland railway, I desire to say too much upon the

MR FRASER.—It is as dead as Julius

MR BARRETT.—It has got to be buried yet.

MR SIR WILLIAM ZEAL.—The result of it in the opening speech seems to me a lot of padding put in to catch the votes of members from Western Australia. It is one of the most outrageous and extra-parliamentary schemes I have ever heard of in my life. That is all I shall say about it. In connexion with the question of the Federal Capital, a great many hard words have been said about Victorians. But I do not believe that any Victorian has ever done to repudiate the bargain made with New South Wales. I believe I am not saying that the present Treasurer of the Commonwealth, Sir George Turner, has a great deal to do with the suggestion that the Federal Capital should be in New South Wales, and that shows that Victorians have no desire to be unjust to the State. Victorians are not unfriendly to the proposal, and I defy any member of the House to say that any Victorian has done anything of a hostile or unkindly thing to the Government or Parliament of New South Wales. No doubt Federal Capital is necessary, and in time it will come, but I point out that we have taken something like 100 or 110 millions to work the Federal Capital of the States up to its present condition. It is necessary that we should rush this thing probably to the great detriment of the State, simply for the sake of obsequious popularity in certain portions of New South Wales? It may hereafter appear that a locality which has, so far, not been thought of will be considered suitable for the purposes of a Federal Capital, and any of the localities which have been considered and explored. I propose to the Government that as soon as they bring forward a suggestion which is met with the acceptance of the Senate from

my point of view, I shall give it my hearty support. I am not captious in the matter, and I know hundreds of Victorians who say they would not object if to-morrow the Federal Capital were transferred to Sydney. We in Victoria are getting nothing out of this Federal Government. We can very well do without it, as we have done before, and we have no wish to secure one pound to which we are not justly entitled. I have one thing more to say, and it is that I am very sorry to have noticed the constant persecutions, as they seem to me, on the part of the Customs department. Senator Playford has been a Commissioner of Customs, and Senator Best has also been a Commissioner of Customs; in Victoria we have had some of the most democratic men who have entered Parliament holding the position, but until the advent of the present Federal Government we never heard of such persecutions as have occurred recently over the length and breadth of Australia. I say that with regret. At the initiation of any new legislation we know that errors will naturally occur, but let us be just and generous, and let us not treat men as rogues and vagabonds, simply because mistakes are made. Let the right honorable gentleman presiding over the department use his great common sense and discretion.

SENATOR MCGREGOR.—There are thousands who have not been brought before the court yet.

SENATOR SIR WILLIAM ZEAL.—That only shows that there is no necessity for it. No man will shield a person who does wrong, and I ask for consideration only for people who do not intend to do wrong. There are firms which to my knowledge have been doing business in Victoria for upwards of half a century, and against whom no reproach can be brought, and yet they have been charged with almost criminal offences. Is that desirable or necessary? Cannot some restraining influence be placed upon the acts of an impetuous Minister?

SENATOR MCGREGOR.—Would the honorable senator like a back parlour for the big ones?

SENATOR SIR WILLIAM ZEAL.—No. I should not like a back parlour for the big ones, so the honorable senator gains nothing by that interjection. The honorable senator must be a very hardened sinner if he can think that I desire that injustice should be done to poor men, and that wealthy men should go free.

desire nothing of the kind. I desire that every one should get justice, and I am sure that is also the desire of Senator McGregor. I hope that the honorable senators representing the Government in this Chamber will note that many members of the Senate would like to see a greater amount of discretion used in dealing with these cases, so that men may not be thrust into court in the position of criminals until it is clear that they have been guilty of an offence. It is a principle of British law that no man shall be considered guilty until his guilt has been proved, but here the Federal Government apparently consider that a man is guilty if he has introduced some article which is not properly described in his manifest, or if he has committed some venial offence which might very well be dealt with by the Minister under more equitable conditions. Before I resume my seat, I desire to point out the position into which we are drifting. The different States owe very nearly £250,000,000. These obligations cannot be repudiated, and will have to be met. If we are not careful in administering the affairs of the Commonwealth, if the programme is carried out which is foreshadowed in the opening speech, a very large federal debt will be incurred very shortly for useless and ornamental purposes. When I mention that the federal debt of the United States is £60,000,000 less than the aggregate debt of the six States in this Commonwealth, it will be seen what a position we have allowed ourselves to drift into. In 1902 the federal debt of the United States was £190,701,554.

Senator PEARCE.—There are the State debts in addition to the federal debt.

Senator MCGREGOR.—We have a long way to go to get up to that amount.

Senator Sir WILLIAM ZEAL.—In Australia the States owe nearly £250,000,000. The Australians have a larger debt per head than have any other civilized people. Does Senator McGregor intend to make the conditions of life ten times more difficult than they are now? I ask him as an honest, sensible man to review the position, and not to be carried away by his loyalty to the Government into voting for that terrible High Court. Let him see if he cannot suggest to the Government a tribunal which will be equally as efficacious and not so costly. Other communities are enabled to carry on their public affairs at a moderate

expenditure, but in the Commonwealth and the various States we have gone to the very pinnacle of outlay and extravagance in endeavouring to emulate the example of wealth and intellect in the old country. Let us consider what salaries are paid in America. I was surprised to find that the Chief Justice receives only £2,100 and the associate Judges £2,000. It is deliberately proposed in this little Commonwealth that we should start our High Court with a Chief Justice at £3,500 and four Puisne Judges at £3,000 each.

Senator MCGREGOR.—In Victoria the Judges are paid that much.

Senator Sir WILLIAM ZEAL.—If we have done wrong in Victoria is that any reason why the Commonwealth should follow our example. On the contrary it should serve as a beacon and a warning to the Commonwealth. The American ambassador to London—the Hon. J. H. Choate, who is a very intellectual and highly capable man—gets a salary of £3,500. I have no doubt that our Government will deliberately propose that our Lord High Peacock shall receive a salary of at least £3,500. The Consul-General for the United States in London is paid only £1,000 a year. The Americans are keenly alive to economy in the transaction of their public business. In Canada the Chief Justice is paid £1,644, while the five Puisne Judges get £1,440 each. Having regard to our conditions of life, I think these salaries are altogether too low. But these figures should teach us that in other communities economy is exercised, and that while they endeavour to obtain highly efficient officers they do not run to the opposite extreme of giving huge salaries. I have often heard a member of the legal profession say—What is a salary of £3,500 for a Judge when he made in his practice at the bar £5,000 or £6,000 a year? In this State eminent barristers have been able to earn up to £10,000 a year. In reply to this I ask—is there nothing in the distinction of being made a Judge of the High Court of Australia? It appears to me that in the United States a Federal Judgeship carries a great deal of distinction. I ask honorable senators, when they are considering the Bill for the appointment of Judges of the High Court to consider the provision made upon the retirement of a Judge when he gets beyond the period of efficient service. What would that provision represent? An annuity of

£1,750 to a Judge between 50 and 60 years of age would cost about £30,000. That sum, therefore, represents what a barrister would have to save during active practice to be able to purchase an annuity at the end of his period of usefulness. This large sum should, in all fairness, be added to the amount of the Judge's salary. In no other position of life could an eminent man obtain that annuity unless he had accumulated the large sum of £30,000. I again repeat that I am not opposed to the creation of the High Court from any factious purpose. I ask the Government to reconsider their position. I am quite sure that they cannot justify such expenditure to the people, when the real facts become known. They cannot justify the introduction of legislation which will involve an expenditure of from £250,000 to £300,000 per annum when it is not required. Ministers owe a duty—not only to themselves, but to their States and to their reputations—to see that it shall not be recorded that the first Government of the Commonwealth were responsible for measures which laid such burdens on the community, that their ill-effects will have to be borne for possibly half-a-century. In conclusion, I ask Senator McGregor to think more over the question of the High Court, and not to give his vote inadvisedly.

Question resolved in the affirmative.

LT.-COLS. BRAITHWAITE AND REAY.

Senator BARRETT (Victoria).—I move—

That there be laid on the table of the Senate copies of all papers in connexion with the retirement of Lt.-Cols. Braithwaite and Reay.

Last week I asked the Postmaster-General a question about an important matter in connexion with these two officers. To me his reply was somewhat startling, because I think it is the duty of the Government on all occasions to furnish the members of the Senate with information on public affairs. The answer I received was that the Government thought that no good purpose would be served by producing the papers, and they suggested that I should not press the question. I felt that inasmuch as the two officers were suffering an injustice, and as they desired to probe the matter to the bottom I had no option but to give notice of this motion. At this juncture I do not propose to go into the merits of the case. All I am now seeking to do is

to elicit from the Senate sufficient information to attain my purpose, and at a later stage, when we may be considering the Defence Bill, or a Supply Bill, to go more fully into the facts of the case, in order to ensure that justice shall be done. Originally, the Victorian Mounted Rifles were organized by Col. Tom. Price, who was in command for a number of years, and on his retirement with a view to take up another position, the next officer in command was Lieut.-Col. Braithwaite. Both Lieut.-Col. Braithwaite and Lieut.-Col. Reay have seen very long service; the former has served 18 years, and the latter 24 years. Neither officer has ever received a penny from the State in connexion with the office he has held. No doubt they have had to spend large sums out of their own pockets in order to provide horses and other equipment. They were purely citizen soldiers, and, considering that they were enthusiastic officers, they ought to have received more consideration from the Minister for Defence than they did. What happened? At the last Easter Encampment the General Officer Commanding proposed to put another officer over their heads. In order to accomplish his purpose, and at the same time not to break the regulation, he added twenty men to the Victorian Mounted Rifles, thereby raising the regiment to a brigade. He then said that there was a need for an instructional officer, and the result was that Lieut.-Col. Lee came upon the scene from New South Wales. I have nothing to say of that officer, except that he was considerably junior in rank to Lieut.-Cols. Braithwaite and Reay. He had to be promoted on two occasions very rapidly in order to obtain the position in the Victorian Mounted Rifles. When the statement was made that they required an instructional officer, who had seen service in South Africa, to take the command, Lieut.-Col. Braithwaite, who had been promoted more quickly than Lieut.-Col. Reay, refused to take a subordinate position. He was told in effect that he still had his command, and that Lieut.-Col. Lee was simply to act as an instructional officer, but he would not accept a position of that character. He asked to be retired. The same thing happened in regard to Lieut.-Col. Reay, who felt that an injustice had been done. The only blunder that these officers made, in my opinion, was that they asked to be

retired under these conditions. Of course I shall be told by the representative of the Government that the officers did ask, and have been retired. Their retirement was gazetted this week.

Senator DRAKE.—The honorable senator will not be told that. I have told him that I am not going to oppose this motion.

Senator BARRETT.—At any rate there is evidently something in the background. There is evidence in the documents, and in the conduct of our military system, of a want of sympathy with our Australian citizen soldiers. A similar case occurred in New South Wales. It was the case of Lieut.-Col. Burns.

The PRESIDENT.—Does the honorable senator think that is relevant to the motion, which is only for the production of papers?

Senator BARRETT.—I was going to illustrate the difference between similar cases in New South Wales and Victoria.

The PRESIDENT.—If the honorable senator were arguing the case he could introduce this illustration, but he is only asking for the production of papers.

Senator BARRETT.—I bow to your ruling, sir, but I shall take another opportunity, when I have wider latitude, to show the differences. It cannot be said that the two officers in question are incompetent men, because if they were incompetent they should not have remained in the positions they occupied for so long a time. In addition to that, both of them have received commendation from Major-General Hutton for the way they have behaved in the field, and also for the conduct of the men serving under them. Under the circumstances, I think that the papers ought to be laid upon the table of the Senate, in order that any honorable senator who desires to look into them may have the opportunity of so doing. As I have stated, I do not intend to go further into the question at this stage, but I have indicated my intention of showing that there are some points that ought to be illustrated, and that I shall bring them forward on another occasion.

Senator DRAKE (Queensland — Postmaster-General).—It is not the intention of the Government, as I have already informed Senator Barrett, to offer any objection to the production of these papers. The answer that was given last Thursday to a question whether the Government

would lay the papers upon the table was as follows:—

The Government is of opinion that no good purpose would be served by doing so, and would suggest to the honorable member not to press the question.

The honorable senator, by his motion, now shows that he does not accept that suggestion. The Government will, therefore, accept the motion and produce the papers. At the same time, on behalf of the Government, I disclaim any responsibility with regard to the effect that the production of the papers may possibly have upon private interests.

Question resolved in the affirmative.

NATIONAL MONOPOLY IN TOBACCO.

Senator PEARCE (Western Australia).—I move—

That in the opinion of the Senate it is advisable that the manufacture of tobacco, cigars, and cigarettes should be a national monopoly.

I wish to thank the representative of the Government and the Senate for having afforded me the opportunity—for which I waited during the greater part of last session—of bringing forward my motion at so early a stage of the present session. I know very well that one of the questions that will arise first of all is as to whether the Commonwealth has the power to carry out the purpose of this motion. I may point out that the Government has appointed a Royal Commission to investigate the desirability of encouraging, by means of bonuses, the manufacture of iron, and inferentially the possibility of the Commonwealth taking up the construction of ironworks and working them. During the present week that Commission resolved to obtain a legal opinion from the Attorney-General on that very question. Therefore, I take it, that it is an open question whether the Commonwealth has the power to establish a Government institution of the kind, but that the evidence is in favour of their having such power.

Senator STYLES.—Would it not be better to wait until we have the opinion of the Attorney-General.

Senator PEARCE.—I presume that we have the power. Another question that will arise is that this subject is not within the region of practical politics. We ought not to assume that the only things which are within the region of practical politics

are those which have been formally dealt with by some other Government or Parliament. If a matter is in the interests of the Commonwealth, we should not hesitate to step out of the rut, and one reason why I and others advocate that the manufacture and sale of tobacco, cigars and cigarettes should be a national monopoly is that at the present time it is practically a monopoly. The tobacco trade is one of those businesses which from its very nature and character becomes a monopoly. Experience in Australia shows that it is becoming a monopoly; experience in America has shown that it is one of the big monopolies existing there. A great trust controls the tobacco industry of America at the present time. An attempt has been made to introduce the operations of the trust into the United Kingdom. It has failed for the time being.

Senator STANFORTH SMITH.—No; the two parties have agreed now.

Senator PEARCE.—At any rate, it is clear that the tendency is for the tobacco trade to become a monopoly. We can lay it down as a safe axiom that where a trade becomes a monopoly, it is advisable that the Government should step in, and make it a national monopoly. That is one of the grounds upon which I claim that the tobacco trade should be made a national monopoly. Another ground is that one of the requirements of the States of Australia is revenue. On all hands that is admitted. In connexion with any new work that is required, the cry is that there is not sufficient revenue. Do we want a federal capital? There is not sufficient revenue. The Western Australian railway must wait. We have not sufficient revenue. For the same reason old-age pensions must wait. Every one of these questions which has some basis of virtue in it, must wait until we have sufficient revenue. If I can show—and I think I shall be able to do so beyond the possibility of disproof—that we can increase our revenue, in a direction where we shall not have to give back a proportion of the return to the States, by upwards of a million pounds sterling per annum—whilst leaving unimpaired other sources of taxation—I shall be doing some service to the Commonwealth. A special reason in favour of this motion is that by adopting the principle of making the tobacco industry a national monopoly

we shall be giving encouragement to tobacco growing in Australia. None can deny that that would be a very good thing. Attempts have been made on various occasions to encourage the growth of tobacco, especially in Victoria. But what has been the result? A certain amount of encouragement was given to the growers by the Government, but owing to the monopoly which existed they were placed in the hands of the manufacturers, who destroyed the protection afforded to them by the Tariff—who by combination were able to keep down the price of leaf. Another point is, that the policy I advocate would insure the good quality of the tobacco. I have here a report from the select committee appointed by the Legislative Assembly of Victoria to look into the question. That committee was appointed in 1896, and some of the evidence which this document contains as to the kind of stuff that goes into the manufacture of the cheaper kinds of tobacco is startling. It seems to me that anything but tobacco leaf is considered good enough to use. By establishing a national monopoly, we shall insure to the growers a fair price for their leaf. We cannot do that by tariff protection as has been abundantly proved. You may raise the price of tobacco by protection, and yet not secure to the local grower 1d. per lb. more for his leaf. But by making the State the buyer we shall insure to the grower a fair and remunerative price. The evidence given by experts who have been growing tobacco in various parts of the world, and by those who have been concerned in its manufacture both in Europe and America, was to the effect that a large portion of Victoria is admirably suited for the production of tobacco leaf. Inferentially—considering the similarity of Victoria to other parts of the Commonwealth—there is a large portion of this continent which is suitable for the same purpose. What I propose is no new departure. In several other countries, although not in any English-speaking country, the manufacture of tobacco and its sale have been a State monopoly for many years. In France it has been a State monopoly since 1621; in Italy since 1862; in Hungary since 1860; and in Roumania since 1869. The manufacture and sale of tobacco has been a State monopoly also in Paraguay and Austria, and a limited system of State ownership has prevailed in Spain and Turkey. In Germany, as

'the records show, Prince Bismarck was an enthusiastic supporter of this principle, and endeavoured to bring into actual practice a Government monopoly in the manufacture of tobacco. His reason was not that he believed in socialism, but that he saw what a splendid revenue producer the system would be. In the interests of revenue, and to counteract the great influence of France, he wanted to establish this monopoly; but the Reichstag would not give it to him. Now, as to profits. In France, in 1894, the gross revenue derived from this monopoly was £15,032,195. In 1889 the gross revenue was £14,900,000, and the net revenue was £12,000,000. In Italy, in 1889-90, the gross proceeds amounted to £7,441,621, and the net profits to £5,705,990. In Portugal, where the monopoly is farmed out by the Government, the revenue derived in 1890 was £1,600,000. In Hungary, in 1891, the gross returns were £4,600,000, and the net profits £2,700,000. In France, in 1883, the consumption of tobacco was 78,691,800 lbs. of tobacco, and the gross proceeds were £14,900,000, or 3s. 9½d. per lb., the net profit being £12,142,000, or 3s. 1d. per lb. The cost of manufacture and sale in France was 8½d. per lb. I quote these figures because I purpose showing later on what the estimated cost of manufacture would be in Australia. In my calculations, however, I have allowed for the higher cost of production in this country. According to the evidence as reported on page 54 of the report of the Victorian Select Committee, the cost of production, with Australian wages and Australian working conditions, would be 1s. 5d. per lb., which is 9d., or more than 50 per cent., higher than the cost of production in France. On making a comparison between the consumption in France and the consumption in Australia, we find that in the former country it is 29 oz. per head, and in Australia 41 oz. per head. The actual consumption in Australia of imported tobacco is 4,909,976 lbs., and of locally-manufactured tobacco, 4,268,446 lbs. It will be noticed that the locally-manufactured tobacco consumed in Australia amounts to almost as much as the imported tobacco, so that the Australian industry already practically meets the demands of half the local consumption.

Senator STYLES.—But the tobacco manufactured locally is manufactured from imported leaf

Senator PEARCE.—That is so. Of the importations, 85 per cent. is tobacco, 6 per cent. is cigars, and 9 per cent. is cigarettes, and from these figures, having regard to the cost of production and the sale price, we are able to ascertain the profit that can be made on the various items. Of the total consumption in Australia, 7,749,640 lbs. is tobacco, 576,765 lbs. cigars, and 853,017 lbs. cigarettes—a total of 9,179,422 lbs. It must be remembered, however, that in the process of manufacture there is a waste of one-third of the leaf, and, therefore, in order to obtain 9,179,422 lbs. of manufactured tobacco there must be used something like 12,000,000 lbs. of leaf. As to the locally-manufactured tobacco and its distribution, New South Wales manufactured 2,081,186 lbs. of tobacco, 15,569 lbs. of cigars, and 288,240 lbs. of cigarettes; Victoria, 1,127,067 lbs. of tobacco, 95,102 lbs. of cigars, and 206,697 lbs. of cigarettes; Queensland, 591,364 lbs. of tobacco, 2,135 lbs. of cigars, and 21,998 lbs. of cigarettes; Western Australia, 115,855 lbs. of tobacco, 14,263 lbs. of cigars, and 10,500 lbs. of cigarettes; and South Australia, 300,000 lbs. of tobacco, 15,000 lbs. of cigars, and 25,000 lbs. of cigarettes. I quote these figures to show that my estimate of the compensation for buildings, plant, &c., is a fair one. If honorable senators observe the figures they will see that Victoria is responsible for about one-third of the production of Australia; and in estimating the cost of compensation for buildings, and interest thereon, I have calculated that there will have to be expended about two-thirds more than was estimated by the select committee under this head. By adding this two-thirds more, I think I have made a fair estimate of the cost of compensation, and of the additional works which will be necessary in order to meet the whole requirements of Australia. The Australian production of leaf in 1901 was 8,164 cwt., and this was grown principally in Victoria.

Senator BEST.—I thought the production of leaf in New South Wales was much larger than that in Victoria.

Senator PEARCE.—In estimating the cost of production, the first thing to be ascertained is the price of the leaf, and this latter I have fixed at 8d. per lb. I may say, however, that the price which the growers have been getting in Victoria is nearer 4d., and it has been as low as 2d. per lb. I could give from the evidence

fore the select committee numbers
ices of growers who said they would
tly satisfied with a return of 6d.
or the lower qualities, and of 9d. per
e higher qualities. One reason for
prices is that growers in Australia
acquired facilities for curing the
is true that the leaf grown in Aus-
as good as the leaf grown anywhere
owing to the deficiencies which are
the curing, higher prices are not
e. Evidence was also given before
t committee by foreigners, who
ried on the business in other
, to the effect that the best Ameri-
can be obtained here at from
d. per lb., so that, if anything,
ate of 8d. per lb. is a little too
the purchase of 12,239,229 lbs. of
d. means £407,974, and the cost of
curing 7,800,500 lbs. of tobacco at
lb. is £267,934. The expert evi-
ven before the commission, and
t by several manufacturers, allows
cigars to the 1,000, and shows the
manufacture to be £2 8s. 9d. per
£104,785 for the 536,835 lbs. Of
s 1,000 go to make 2½ lbs., so that
lbs. of cigarettes would represent
000 cigarettes, at a cost of produc-
shown on page 41 of the report, of

Putting these figures together,
w a total of £407,974 for the pur-
the leaf, £267,934 for the manufac-
tobacco, £104,785 for the manufac-
cigars, and £49,763 for the manu-
f cigarettes. This gives the total cost
ction as £830,456. As to the ques-
mpensation, the number of factories
ria in 1895 was estimated to be

but I am informed that that
as decreased owing to the monopoly
rade. Of course, this means that
be required for compensation; but
e figures of 1895, and I find that
e of the machinery was then
; of land, £43,080; and of build-
2,920; showing a total value for
oses of resumption of £125,080.
produces less than one-third of
lly manufactured tobacco, so that
0 is the sum which is estimated to
ary to purchase all the machinery,
d buildings now employed in the
rade of Australia.

or BEST.—How about goodwill?

or PEARCE.—I am not allowing
for goodwill, and I may say that

the select committee made no such allow-
ance. Indeed, I am not convinced that it
would be right to give any compensation
for goodwill, because this is a licensed
business, carried on with the consent of the
State. I have estimated that £500,000
will be necessary for the purchase of
new machinery and buildings. That
estimate is formed with the idea of supply-
ing all the requirements now met by the
importation; but I deduct £100,000 from
that amount, because I believe that by a
system of centralization in the case of Vic-
toria, and by reducing the fourteen factories
to two or three, as could be done under
State control, the larger amount will not
be required. This leaves a sum of £375,240
for compensation, and £400,000 for new
machinery and buildings sufficient to meet
the requirements of the whole of Australia.
It will be seen, therefore, that the total
cost of resumption and new buildings is
about £775,240. On that amount I have
reckoned 4 per cent. as interest, which
means £31,763, or a total expenditure of
£862,219. As to receipts, I have not
taken the evidence given before the com-
mission, but have taken the ruling
prices of tobacco in the shops in Vic-
toria and in the State from which I
come. I have not taken the highest
price, but the average price. In the
case of cigars, where the prices range very
high, it would not be fair to take the mean
between the highest and the lowest, and I have
therefore taken a price a little below half-
way. In the matter of tobacco, however, I
have taken the average sale price, and esti-
mate that 7,800,500 lbs. of tobacco will
realize 6s. per lb., showing a return of
£2,340,150. Then if we take 44,736,000
cigars, representing 536,835 lbs., at
£8 10s. per 1,000, we get £380,056;
and 336,834,000 cigarettes, representing
842,087 lbs., at 3s. per 1,000, means
£589,459.

Senator STANFORTH SMITH.—Will the
Government not sell at wholesale prices?

Senator PEARCE.—No; I am taking
the selling price, and my idea is that we
should allow private individuals to sell and
give a 10 per cent. rebate as retailers'
profit.

Senator PLAYFORD.—The honorable
member estimates the selling price at 6s. a
lb., but I can buy the best Victory tobacco,
manufactured in the United States, at 5s.

Senator PEARCE.—The price I have given is the price quoted to me. According to my calculations there will be a revenue of £3,309,665. The retailers' profit, 10 per cent., would amount to £330,960, the cost of production to £830,456, and interest to £31,763, or a total of £1,193,179, and deducting that from the gross receipts we have a net profit of £2,116,486. I know that the question will at once be raised that with a State monopoly we should lose the revenue from Customs and Excise. That has to be taken into consideration. We should not then be collecting Customs and Excise, and the revenue from those sources must be set down as a debit against the £2,116,486. In calculating the amount to be debited as receipts from Customs, I have taken the highest receipts from that source. I could, of course, have made this statement appear more favorable by going back to 1899, when the receipts from narcotics were very much lower than they are at present. I have taken the highest receipts—those for the quarter ending 31st March, 1903, leaving out the collections under the Western Australian special Tariff. During that quarter there was received from Customs duties upon tobacco, cigars, and cigarettes, £238,532 1s. From Excise, £110,777 8s. 5d., and from tobacco and cigar licences, £861 10s. 5d., or a total for the quarter of £350,170 19s. 10d., giving a return for twelve months of £1,400,683 19s. 4d. The Treasurer's estimate for the year is £1,325,524. The average cost of collection of Customs duties is stated at 3 per cent., and 3 per cent. on that total amount would give £42,018, leaving a balance to be deducted from the revenue of £2,116,486 I have indicated, of £1,358,665. That would give us a clear balance of £757,821 profit.

Senator BEST.—Has the honorable senator deducted the cost of borrowed money for the purchase of land, and buildings, and so on?

Senator PEARCE.—Yes, I have deducted 4 per cent.

Senator PLAYFORD.—And the cost of material?

Senator PEARCE.—Yes, I have allowed for the cost of material also.

Senator PLAYFORD.—How did the honorable senator arrive at the cost of material?

Senator PEARCE.—I explained that, when referring to the cost of material and building, I quoted an estimate.

Senator PLAYFORD.—I meant the cost of tobacco leaf, and so on.

Senator PEARCE.—I have dealt with that also. I have here quotations which I have received from tobaccoists as to the cost of tobacco. One tobaccoist doing a large business gives the imported cost of tobacco at an average of 5s. 1d. per lb., and the retail price as from 6s. to 6s. 6d. per lb. The wholesale cost of colonial plug tobacco is 4s. 3d. per lb., and this is retailed at 6s. per lb. I am informed that imported tinned tobacco—cut-up tobacco—costs wholesale 6s. 4d. per lb., and it is retailed at 8s. per lb., whilst colonial tinned tobacco costs wholesale 4s. 6d. per lb., and is retailed at 6s. It will therefore be seen that, in allowing for an average selling price of 6s. in my calculations, I have not quoted too high a price.

Senator DOBSON.—Is this a convenient opportunity to ask what the honorable senator would do with the vested interests of men at present selling?

Senator PEARCE.—I have said what I would do with the vested interests concerned. I should not advocate buying out existing sellers. I see no reason why they should not be allowed to continue their business.

Senator DOBSON.—But the honorable senator would buy up the factories.

Senator PEARCE.—Yes, I think we should buy up the factories.

Senator DOBSON.—What would that cost?

Senator PEARCE.—I admit that it is impossible to bring about a violent revolution in a trade, such as this would be, without treading upon somebody's toes, but if we were to compensate every boy who runs about the street selling tobacco, and were to inquire fully into the books of every tobaccoist in order that we might give him an exact *quid pro quo*, we should so overload the scheme as to render it unprofitable for some years. I say, that if we could give to those concerned the value of what they have at present in possession, in the shape of machinery, land, and buildings, we should be doing a very fair thing. As I have already pointed out, this business is a monopoly, and the profits and goodwill of the business are immensely increased by the

fact that it is a monopoly. As in the case of the drink monopoly, which differs, perhaps, in the sense that it is a licensed monopoly, I am not in favour of compensating the individuals interested to the extent of the full value of the monopoly which has never been given to them by the people, but which has been acquired by them through the conditions under which the industry is carried on.

Senator PLAYFORD.—Anybody may go into the business.

Senator PEARCE.—I should like the honorable senator to try to go into the tobacco business in Victoria. He would find that the experience of some of his fellow citizens of Adelaide would very speedily be his own, and he would be scorched out or bought out by the monopoly which exists in all the capital cities of Australia. I know that honorable senators will not have an opportunity of dealing with this question to-night, but the figures to which I have referred will appear in *Hansard*, and I ask honorable senators to study those figures.

Senator PLAYFORD.—What does the honorable senator estimate as the total profit to be made in the business?

Senator PEARCE.—My estimate is £757,821 per annum.

Senator PLAYFORD.—Apart from Customs and Excise.

Senator PEARCE.—Apart from Customs, Excise, licences, and deductions for compensation, and so on. I recommend honorable senators to study the figures I have given in the light of the report sent in by the Select Committee of the Victorian Legislative Assembly. There were prominent members of the Victorian Legislative Assembly upon that committee, and their recommendation was strongly in favour of the Government of Victoria taking over the business. But they pointed out, strangely enough, that one objection to that course was that the States were not federated, and that one State would therefore have a difficulty in taking over the business alone.

Senator BEST.—Victoria did not rush it.

Senator PEARCE.—No. Victoria did not rush it, but the members of the Select Committee were of opinion that many advantages were to be derived from a State monopoly of the tobacco trade, and, amongst others, they referred to increased revenue,

better quality of tobacco supplied to consumers, the encouragement of Victorian farmers to grow tobacco, and increased employment of the people.

Senator DRAKE.—I think they say at the commencement of their report that they had not had time to go into the matter so fully as they should like to have done.

Senator PEARCE.—They expressed their regret that they were not able to make a more complete investigation. I may say that the members of the Select Committee would have liked, no doubt, to go to France in order that they might study the State monopoly there on the spot. They were, however, able to get from the Italian Consul, a man who was in close touch with the monopoly in his own country, full information of the working of the monopoly there. It seems a strange circumstance, and one which, I think, bears out my contention that there has never been the slightest indication in Italy and France to depart from the system of a State monopoly in the trade.

Senator PLAYFORD.—But they make very bad tobacco in France, or did when I was there.

Senator PEARCE.—That is not borne out by evidence given before the Victorian Select Committee. There were witnesses before that committee who said that, after having been in France and having used French tobacco, when they went to America they could not smoke tobacco, and have inquired at the shops there for French tobacco. It is a significant fact also that France not only supplies the requirements of her own people, but also exports tobacco.

Senator BEST.—It is a matter of taste.

Senator PEARCE.—Perhaps the taste for French tobacco must be acquired. I thank honorable senators for having listened to what may appear somewhat like a debating society speech, but I think we are right in bringing forward these questions and inquiring into them. We must recognise that in Australia we have before us the necessity for the construction of immense works for water conservation and irrigation. The borrowing policy of Australia has come to an end, and these works must, therefore, be constructed out of revenue. In the circumstances, I say that the man who can point to new methods of getting revenue, which will not add to the burdens already resting upon the people, is doing a public service. I therefore hope that honorable

senators will not set this matter aside with a wave of the hand, simply because it is a socialistic proposal. They will remember that Australia is to-day benefiting from the State control of many things which in other countries are in the hands of private enterprise. Private monopolies in other countries are here State monopolies, and there are not many people in Australia to-day who would advocate the handing over of the State railways to private enterprise. I remember that not long ago a member of the Victorian Chamber of Commerce speaking upon a shipping question said that the time might yet come when they would have to advocate State ownership of shipping, and he expressed a hope that the State would never lose its control of the railways. I say that in this tobacco industry we have a most magnificent revenue producing industry, and seeing that it is now a monopoly, the Commonwealth would be justified in taking control of that monopoly in the interests of the people of Australia.

Debate (on motion by Senator DRAKE) adjourned.

SPECIAL ADJOURNMENT.

ORDER OF BUSINESS.

Senator DRAKE (Queensland — Postmaster-General).—I move—

That the Senate at its rising adjourn until Wednesday next, at half-past two o'clock p.m.

In submitting this motion, I should like, for the convenience of honorable senators, to state the order in which the Government propose to take their business. As I have already informed several honorable senators, we propose first of all to take the Draft Standing Orders, and next the Vancouver mail agreement, notice of which I gave this afternoon. The next measure I propose to take is the Senate Elections Bill, after that the Naturalization Bill, which is not yet before the Senate, and then the Patents Bill. Of course that order will be subject to contingencies in case of anything urgent arising or possibly other business coming forward, but I wish to give honorable senators a general idea of the order in which we propose to take the business. There will be, for instance, the Eastern Extension Company's agreement, with regard to which a motion will be brought forward here as soon as we learn that the agreement has been

signed in London. I may mention behalf of the Government and guidance of honorable senators, that other place the High Court Bill will first, then the Procedure Bill. This is a measure relating to what are referred to as the sugar rebates. A will be considered the Conciliation and Arbitration Bill and the Naval Subsidy. Arrangement, of course, will be subject to contingencies in the same way as that of business proposed for this Commission. The report with regard to the federal income tax is expected soon, and that matter will then be dealt with in the other Commission. I make this announcement in order to give convenience honorable senators in the management of their own business affairs. I think we have now within sight of the business to keep us fully occupied until measures arrive from another place. We should expect that from this time we shall have plenty to do, and I hope we shall have good attendances, and will be able to satisfy the days prescribed by the sessional regulations.

Question resolved in the affirmative.

Senate adjourned at 6.30 p.m.

House of Representatives.

Thursday, 4 June, 1903.

Mr. SPEAKER took the chair at 10 p.m., and read prayers.

TASMANIAN REVENUE.

Mr. O'MALLEY.—Will the Minister explain what he did with the portion of the Commonwealth revenue collected in the State of Tasmania last month?

Sir GEORGE TURNER.—I will endeavour to meet the necessary expenditure of the State.

PAPERS.

Sir JOHN FORREST laid upon the table—

Regulations under State Defence Act and Constitution of the Commonwealth.

ELECTORAL ACT ADMINISTRATION.

Mr. A. McLEAN.—I wish to know what the Minister for Home Affairs is doing to ensure that the electoral commissioners, or

them, in adjusting the boundaries of the federal electorates in accordance with populations, are making practically no distinction between dense city populations and the scattered populations of large country districts, notwithstanding the fact that the Act permits them to make a discrimination to the extent of 20 per cent. above and 20 per cent. below the quota. If no discrimination is being shown, I ask the Minister if he considers that the spirit of the Act is being complied with, and the intentions of Parliament carried into effect?

Sir WILLIAM LYNE.—If I remember aright, the honorable member was one of those who were prominent in trying, when the Electoral Bill was before the House, to have a distinction made between the number of electors which should be allotted to a country constituency, and the number which should be allotted to a city or densely-populated constituency, but the House decided that there should be a discrimination only to the extent of one-fifth above and one-fifth below the quota. In South Australia the quota is being adhered to very closely in both city and country constituencies. It was the intention of Parliament, however, that there should be some discrimination, and when the proposed divisions are laid before the House it will be for honorable members to say whether the commissioners have done their work in accordance with the spirit of the Act.

Mr. PAGE.—Has the Minister given any instructions to the commissioners on the subject?

Mr. A. McLEAN.—They are adding to the electorate of the honorable member for Maranoa a territory as large as Victoria.

Mr. PAGE.—They are talking of doing so.

Sir WILLIAM LYNE.—The only information—it is not an instruction—which I felt called upon to give to the commissioners was that they should divide the electorates in accordance with section 16 of the Act, which says—

In making any distribution of States into divisions, the commissioner shall give due consideration to community or diversity of interest, means of communication, physical features, existing boundaries of divisions, and, subject thereto, the quota of electors shall be the basis for the distribution, and the commissioner may adopt a margin of allowance to be used wherever necessary, but in no case shall such quota be departed from to a greater extent than one-fifth more or one-fifth less.

I could not do more than that.

Mr. BAMFORD.—Can the Minister say when the maps of the proposed electoral divisions of Queensland will be available to honorable members?

Sir WILLIAM LYNE.—I had a communication from Queensland this morning, and I expect the divisions to be posted to me to-day or to-morrow, so that I shall receive them as soon as a mail can get here from Brisbane. It will take some time, however, to prepare all the maps which have to be distributed.

SOUTH AUSTRALIAN TRANS-CONTINENTAL RAILWAY.

Sir LANGDON BONYTHON.—The other night, in reply to a question asked by the honorable member for Kalgoorlie, the Prime Minister promised to obtain information as to the advantages from the military stand-point of a railway running east and west across the continent of Australia. I now ask him if he will obtain similar information with reference to a railway running north and south?

Sir EDMUND BARTON.—I do not see any valid reason why I should not make the inquiry which the honorable member suggests.

DISTRIBUTION OF PAPERS.

Sir WILLIAM McMILLAN.—During the recess no documents of any kind were posted to honorable members, though many important matters of public interest arose and were discussed in the newspapers—subjects like the report of the Conference of Premiers, and the statements of the Treasurer in regard to the finances. It seems to me that honorable members, without being overloaded with unnecessary papers, should have sent to them documents which would guide them in forming their own opinions on public questions of importance, and not be left to depend upon the newspapers. I do not know what the practice adopted by a State Parliament is, but I know that I have felt the want of such information as I speak of. During the recess I received no public document of any kind.

Mr. JOSEPH COOK.—The honorable member can have all parliamentary papers posted to him if he asks for them.

Sir EDMUND BARTON.—I think it is the custom when documents have been laid

upon the table by command, or in pursuance of a resolution, that they are distributed among honorable members even during the recess, if the printing of them is ordered. But it has been the practice not to communicate to honorable gentlemen during a recess documents for the parliamentary publication of which there has been no authorization, and such papers as are of any importance are laid upon the table upon the re-assembling of Parliament. I will consider the question which the honorable member has raised, but I think that he will admit that it would be a matter of some difficulty to depart from a practice which appears to rest upon reason.

FEDERAL CAPITAL SITE.

Mr. CROUCH.—I wish to know from the Minister for Home Affairs if he is correctly reported in one of this morning's newspapers to have informed an interviewer that the land required for the federal city will be bought before the selection is made?

Sir WILLIAM LYNE.—I have no recollection of making any remark of the kind. The journalist who attributed the statement to me must have drawn upon his imagination. It is not likely that the Minister or Parliament would purchase land before the selection was made.

CARRIAGE OF NEWSPAPERS.

Mr. CLARKE asked the Minister representing the Postmaster-General, upon notice—

1. Has the Postmaster-General seen an article in the *Sydney Daily Telegraph* of the 27th May, in which it is stated that the Commonwealth Government stopped the payment of a subsidy of £2,500 per year to the New South Wales Railway Commissioners for the free carriage of newspapers for the purpose of penalizing the New South Wales press, and giving an undue advantage to the Melbourne newspapers?

2. Were the newspapers of New South Wales, as stated in the article referred to, treated in a different way to newspapers issued in other States of the Commonwealth?

3. Will he give the House a full statement as to what action the Government really took in regard to the carriage of newspapers?

4. Is it a fact, as stated in the article referred to, that Mr. Scott, the Secretary of the Postmaster-General's department, declined to appear before the New South Wales State Parliamentary Select Committee because he was afraid to be examined?

Sir EDMUND BARTON.—The Postmaster-General has supplied me with the following answers:—

1. The Postmaster-General has seen the article in the *Sydney Daily Telegraph* of 27th May, and the statement referred to.

2. The newspapers of New South Wales were not, as stated in the article referred to, treated in a different way to newspapers issued in the other States of the Commonwealth.

3. The Postmaster-General having been informed that some special payment was being made in New South Wales by his department for the carriage of newspapers by the railway, which were not posted and did not form any part of the mails, directed that a telegram should be sent to the Deputy Postmaster-General in Sydney asking for a statement of the payments made by his office to the Railway Commissioners, showing whether any and what services were performed other than the carriage of closed mails and the performance of post and telegraph duties by railway officers. In reply, a statement was sent to the Postmaster-General, on 17th June, 1901, showing among other payments one of £2,500 for "conveyance of newspapers—special." As upon inquiry it was ascertained that this special payment was made for the carriage by the Railway Commissioners of newspapers which were not posted, and were not therefore under the laws of the State legally entitled to free transmission by post, as they would have been if posted in New South Wales, and as it was found that no similar payment was being made in any other State of the Commonwealth, including Western Australia and Tasmania, where under State laws newspapers posted were entitled, as in New South Wales, to free transmission by post within the State, the Postmaster-General directed that this special payment, peculiar to New South Wales, should be discontinued, and notice of discontinuance given at the earliest moment. Notice was accordingly given to the Railway department of New South Wales by the Deputy Postmaster-General on 25th June, 1901, and the payment was discontinued on the 5th August. The action taken throughout by the Postmaster-General was caused by the conclusion arrived at—namely, that it was impossible under a federal system to continue in New South Wales a method involving considerable expense which could not be made general and be extended to the other States, and that to continue to pay for the conveyance of newspapers or any other articles of merchandise not transmitted by the post, but sent by railway by persons not connected with the department, could not be justified. Subsequently a select committee of the Legislative Assembly of New South Wales, in a report dealing with the carriage of newspapers on the Government railways of that State, dated the 19th December, 1902, stated—"That, on the other hand, had the Commonwealth Postal department consented to continue to pay for the conveyance of parcels of newspapers or other merchandise not transmitted through the post, such action would have constituted a distinct misappropriation of public money."

4. It is not a fact that Mr. Scott, the Secretary of the Postmaster-General's department, declined

ear before the New South Wales State Parliamentary Select Committee because he was afraid examined. The reason why he did not appear given in his letter of the 12th September, and which appears on page 125 of the *Report of Evidence* taken before the select committee—namely, the extreme pressure of work in connexion with the Estimates and other matters rendering it necessary that he should not be absent from Melbourne. Replies to questions put by Mr. Wynne were sent with that letter.

CLASSIFICATION OF PUBLIC SERVANTS.

POYNTON asked the Prime Minister, *upon notice*—

Does the Government intend advancing the third and fourth classes of South Australian officers who have reached the South Australian State maximum of their class, from the immediate grade salary to an equality with the Federal officers at the maximum of the Commonwealth fifth and fourth classes, and will such a change take effect from the coming into operation of the Commonwealth Act?

EDMUND BARTON.—I have an answer from the Post and Telegraph Department that this is a matter for the Home Affairs department to deal with, and if an honorable member will repeat his question at a later date the information will be made available.

CHARGES FOR CUSTOMS OFFICERS' SERVICES.

MR. CROUCH asked the Minister for Home and Customs, *upon notice*—

Whether any, and what, charge was made for the attendance of a Customs official at the trial of the *Liverloch* to the syndicate which chartered that vessel?

Whether any, and what, charge was made for the attendance of the underwriters?

Is any difference made between the two cases, and, if so, what is the reason?

If the syndicate pays import duties and all other expenses of the official, why should his attendance be charged for at the wreck, and not at an ordinary port, seeing that he is there to collect revenue?

MR. KINGSTON.—The answers to the honorable member's questions are as follows:—

Seven shillings per day.

No charge was made to the underwriters.

Yes. Because the officer, for the advantage of the syndicate, is specially kept continuously at the scene of the wreck, even when Customs business is only being transacted at considerable intervals of time. As to the underwriters, their charges do not necessitate this.

Because at an ordinary port the officer's services would be continuously employed in the ordinary Customs business, and in this case they are only intermittently employed, and on this account a charge is made.

RENTALS FOR POSTMASTERS' QUARTERS.

MR. THOMSON asked the Minister representing the Postmaster-General, *upon notice*—

1. From what date were the terms of the Act fixing postmasters' rental at 10 per cent. of salary put in force?

2. Are there still some such officers not obtaining the benefit of the provision, though others have received it for some time?

3. Will there be an adjustment placing all on an equal footing?

Sir WILLIAM LYNE.—As this matter is connected with my department, I may inform the honorable member—

1. The Act came into force on the 1st January last, and the adjustment of the rental, when completed, will take effect from that date.

2. This question is very complicated owing to there being no uniform system throughout the States. In some States it has been the practice to make no charge for rent, and in a few cases the officers do not pay more than 10 per cent. on their salaries, but the whole question is so interwoven with the classification of the service that no proper adjustment can take place until this is completed. In all new appointments, however, the rent is being fixed on a 10 per cent. basis.

3. Yes.

LOSSES ON TELEPHONE GUARANTEES.

MR. JOSEPH COOK asked the Minister representing the Postmaster-General, *upon notice*—

1. What is the amount of the losses on the telephonic guarantee lines in New South Wales?

2. How long was this amount accumulating?

3. What was the value and yearly average of the total telephonic business during the same period?

4. What was the average yearly amount of the bad debts?

5. What was the average yearly proportion of bad debts to total business?

Sir EDMUND BARTON.—Information to enable replies to be given to the questions is being obtained, and answers will be given as soon as it is available.

PERMITS FOR ALIEN DIVERS.

MR. BAMFORD asked the Prime Minister, *upon notice*—

1. Whether any permits have been granted to Japanese or other Asiatic aliens to work as divers or otherwise in the Torres Straits pearl fishery?

2. If so, how many such permits have been granted?

3. What are the nationalities of the men to whom such permits have been granted, if any?

4. If granted, under what conditions were such permits issued?

Sir EDMUND BARTON.—The answers to the honorable members questions are as follow :—

1. Permits have been granted to enable owners of pearly boats to bring to Thursday Island a number of Asiatics to sign articles on pearly vessels to replace men who have left or are leaving the Commonwealth.

2. The number of such Asiatics is 211.

3. Men are specified as Asiatics merely.

4. Conditions were as follow :—

(a) That the department should be satisfied that the men were only to replace others who had left.

(b) That a bond should be entered into to secure—

1. That men sign articles forthwith after landing.

2. That no such men should be on shore for more than two weeks at a time, nor for more than two such periods in any year.

3. That at the conclusion of his agreement every person so employed shall be returned to the place whence he came.

GOVERNOR-GENERAL'S SPEECH : ADDRESS IN REPLY.

Debate resumed from 3rd June (*vide* page 496), on a motion by Mr. L. E. GROOM—

That the following address in reply to the Governor-General's opening speech be now adopted :—

MAY IT PLEASE YOUR EXCELLENCY—

We, the House of Representatives of the Parliament of the Commonwealth of Australia in Parliament assembled, beg to express our loyalty to our Most Gracious Sovereign, and to thank Your Excellency for the speech which you have been pleased to address to Parliament.

Mr. BROWN (Canobolas).—When the Prime Minister very kindly consented last night to my resuming my address this morning, I had dealt with the question whether there was any justification for the charge against the Prime Minister that the fiscal policy of the Government had not been fairly set before the electors of New South Wales prior to the general elections. I had also called attention to what I regarded as the causes of the existing dissatisfaction with the administration of the Federal Government. I now desire to say a few words in reference to the Tariff. The Government were charged with the very important duty of framing a Tariff calculated to meet the requirements of the whole Commonwealth, and we are now in a position to judge them by the results of their work. It seems extraordinary that, in spite of the very strong fight they made over the Tariff, no honorable members who sit on the Government

side of the House seem to have the courage to come out into the open and defend their handiwork. The unfortunate Tariff finds no one prepared to father it. It is like "Japhet in search of a father." Those who are responsible for the Tariff deal with it in a very gingerly way, and, judging from the appearance of some leading protectionists, they are not very satisfied with the results achieved. We can all remember the genial expression on the face of the honorable member for Melbourne Ports during last session, but now his appearance is the reverse of cheerful. Whether this is due to the effects of the Tariff, to doubts as to the stability of the Victorian Wages Boards, or to the depressing effects of the wave of "Irvineism" which is now overwhelming his State, I cannot say, but the fact remains that the honorable member and others who supported the Tariff do not seem disposed to make any very strong fight in its behalf. We are told that we should allow the whole matter to rest, because the commercial affairs of the Commonwealth would be very seriously unsettled by any revival of the Tariff discussion. This view is put forward most strongly whenever any suggestion is made that the duties now provided for should be modified upon a revenue-producing basis, and at the same time be rendered less protective. I feel satisfied, however, that if, as the result of the next general election, the Government find themselves supported by a substantial majority in favour of high duties, the cry which is now being raised against interference with the Tariff will be dropped, and an attempt will be made to increase the duties. The Prime Minister, in the course of his address to the electors of New South Wales, claimed that the whole trouble in regard to the Tariff had been caused by the members of the Opposition and those who had assisted them in destroying the symmetry of the Government scheme of taxation. The Tariff has been hailed by some Government supporters as a "poor man's Tariff," and, no doubt, if that description is intended to apply to a scheme which places heavy burdens upon the shoulders of the poor, whilst relieving the rich as far as possible, the present Tariff deserves that name. I wish to show the extent to which the efforts of the Opposition and of the labour party have been successful in removing burdens from the shoulders of the consumers. In this connexion I need only refer to the speech

delivered by the Vice-President of the Executive Council when introducing the Tariff into the Senate. That honorable gentleman made a strong appeal to the members of the Senate not to effect any further reductions, because the revenue which the Government required to meet the needs of the States had been already greatly reduced by the alterations made in this House. He pointed out that the losses so involved included the following:—Cocoa beans, chocolate, and confectionery, £18,000; preserved milk, mustard, salt, and rice, £43,000; tinned fish, £40,000; tea, £350,000; cotton and piece goods, £200,000; other textiles, £50,000; machinery, metals, &c., £50,000; kerosene, £10,000; drugs, £20,000; earthenware, £20,000; printing paper, £25,000; and other items, £20,000; making a total of £976,000. The Senate decided, however, to make further reductions upon some of these important lines, and the revenue-producing power of the Tariff was further diminished as the result of the compromise which was eventually arrived at. But, instead of the Tariff producing only £8,009,000, it actually realized £8,692,000, and is estimated to yield even more during the current year. Indeed, more revenue is being realized under its operation than the high duties originally proposed by the Government were estimated by the Treasurer to yield. According to the returns which are now available, the actual increase from this source in New South Wales up to the present time is approximately £3,272,000. The revenue derived in that State from this particular head actually shows an increase of about £1,250,000. In other words, prior to the accomplishment of federation, the people of New South Wales were taxed to the extent of £1 6s. 4d. per head, whereas during the current year—despite the fact that they have been suffering from drought and disaster such as they had never previously experienced—they have been taxed to the extent of £2 5s. per head, an increase of 18s. 4d. per head. What is more, the taxation is being realized. During the election campaign, the Prime Minister declared publicly that the Tariff which would be submitted by the Government would be based upon the principle of "revenue without destruction." I think that the experience of New South Wales and a number of the other States is that its operation is in the direction of obtaining revenue with destruction—the destruction of its

natural sources of production. The Governor-General's speech contains a recognition of the fact that the Commonwealth generally is suffering from drought. It says—

Notwithstanding the drought, which proved so disastrous to many parts of Australia, the federal finances are in a very satisfactory condition.

But they are in that condition only because the Tariff is exacting from the people money which they can ill afford to pay. To a very great extent, too, it has assisted to destroy natural industries. I have a very vivid recollection of a debate which occurred in this Chamber in reference to the grain and fodder duties. Honorable members will remember that under the original proposals of the Government the duties levied upon these articles were so high that Ministers did not expect them to yield any revenue under normal conditions. The matter was under discussion in this House when the drought had reached a very acute stage in Queensland and New South Wales. I recollect that when honorable members appealed to the Government on behalf of their respective States, either to remove those duties or to suspend their operation until normal conditions again prevailed, their suggestion was met with very strong opposition by Government supporters, notably, by those who favour a high protective Tariff. The Minister for Trade and Customs defended the stand taken by the Government upon the ground that it was right for the farmers in the more favoured parts of the Commonwealth to profit by the needs of their brethren in its less favoured portions. In what way the federal spirit—about which we heard so much prior to the consummation of federation—was manifested in a contention of that character I fail to perceive. In the Senate the Vice-president of the Executive Council voiced the same sentiment when he declared that Australia's needs on that occasion were Tasmania's opportunity. Coming to the rank and file, I would point out that the honorable member for Gippsland strongly opposed the suggestion to suspend the operation of the fodder duties, because he interpreted it as an endeavour to secure a modicum of what he called "free-trade," which, he said, could not be obtained, except under the plea of the necessities of the people of these States. The honorable member for Moira also denounced the proposal in the very classical language of "flap-doodle." He

declared that the suffering settlers of these States were squealing for assistance to which they were not entitled. Several other honorable members from the Government side of the House gave utterance to similar sentiments. In view of the great disaster which has overtaken the industries of the Commonwealth generally—a disaster which is being intensified by the operation of the present Tariff—I should like to hear the grounds upon which those honorable members justify their action at the present stage. There is certainly no reason for the contention that the position of affairs was not known at the time. It is true that it may not have been fully realized, but that was not the fault of the people who were suffering, or of their representatives in this Chamber. The matter was put before the Government very plainly by representatives holding fiscal views similar to those entertained by the Ministry themselves, and by those who were their strongest supporters prior to the election. In this connexion I need only refer to a large meeting which was held in Sydney for the purpose of urging that consideration should be extended to the farmers of the drought-stricken areas—a meeting which resulted in the appointment of a deputation which subsequently waited upon the Acting Prime Minister and placed the position fully before him. At that meeting the Minister of Lands in New South Wales, Mr. W. P. Crick, is reported to have expressed himself as follows:—

It was a cruel thing to think that if fodder could be got for the stock it should be shut out, and he thought he could claim the support of men like Mr. Carruthers (the leader of the Opposition) and Mr. Ashton, when he said it was the duty of the Government of the State to pay the duty on the fodder to keep the stock alive if possible.

I would also remind the House that the Attorney-General of that State was specially deputed to visit Melbourne on behalf of the New South Wales Government and to confer with the Commonwealth Government upon the matter. In the report of an interview with an *Age* representative at the time of his visit, Mr. B. R. Wise is reported to have said—

The idea that Australian farmers will be injured by a temporary remission of duties is based on the assumption that the farmers have any stocks to sell. This is, however, not the case, except in very few instances. The farmers have long ago parted with their stocks, which are now held by persons who bought for re-sale,

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and who should have already made a profit on their bargains. It is quite certain something ought to be done. Any one who realizes the importance of the pastoral industry to the country could not fail to recognize the gravity of the situation.

That is a fair statement of the position. It was placed before the Commonwealth Government by the Attorney-General of New South Wales. After the matter had been considered, and no assistance in the direction of a remission of the duties was forthcoming, the adjournment of the Legislative Assembly of New South Wales was moved by Mr. J. C. Fitzpatrick for the purpose of calling attention to the matter. In the course of the debate, the Premier, Sir John See, is reported to have said—

When this matter was brought under notice, I said as representing the State, that we were prepared to forego the duty upon imported fodder; but the Federal Government could see their way clear to do that. Just the same in some other matters, they have endeavoured to put the responsibility on this Government, and they should have taken action themselves.

I think that is a very reasonable position to assume. The Commonwealth Government is responsible for the duties which have been imposed upon these lines, and if it was expedient to remove or suspend the operation of the duties, certainly the Ministry should have undertaken the task, instead of leaving it to the State Government to circumscribe their action by providing for a refund of the posts after they had been collected. It has been stated in reply to objections which have been urged, that by means of the proposed Tariff, the State Government were enabled to reduce railway freights to an extent more than compensated the stock-owners for the duty they were called upon to pay on these particular items. But I well remember that the Chief Railway Commissioner of New South Wales—a very shrewd commercial man—when he was approached on the subject of a reduction of the rates on the carriage of starving stock, put the question exactly as it subsequently worked out. He told his interviewers that such a proposal would not accomplish the object at which they aimed, inasmuch as the stocks of fodder had passed into the hands of a few persons, that any reduction in the railway rates would be made an excuse for increasing the price to the consumer, so that no benefit would be conferred upon him. That is precisely what has occurred. Failing to secure concessions from the Commonwealth administration, the State Government

ured to assist stock-owners by reducing railway rates. But, just in proportion the rates were reduced, the price of charged to the unfortunate stock-owners was increased. The result was that the cases supplies of fodder which were sold at £4 or £5 per ton, and the price of which should not have exceeded 6 per ton, were sold to persons who were endeavouring to save their stock at £10 per ton, and even more. A few of the honorable member for Gwydir tried to decry the dissatisfaction felt on the operation of these duties. The honorable member quoted a return showing up to August last a sum of some- £17,000 was obtained from this source, and in view of that small sum he asked wherein lay the great grievance against the Government? But it is the amount of duty collected that indicates the full oppressiveness of this problem. It is the fact that the imposition of the duty enabled a few to control the market and charge practically what they liked in dealing with stock-owners who were making a struggle to preserve their stock. The honorable member certainly does not correct up the position if he thinks that the cause of the trouble is to be measured by the experiences of farmers and graziers, some time in April last. The trouble only began then. The farmers' stock-owners are not yet free from it. They have still to purchase fodder to save the remnants of their stock, and seed to sow them to put in their crops—also many other necessary operations. There has long since ceased to be a mere inconvenience affecting stock and stock-owners. It is a people's question. It affects the whole of the community. In consequence of the drought last year's crops were practically a failure. I find that in New South Wales, Victoria, and South Australia, no grain whatever was obtained from about 100 acres, which were put under the plough and that a great part of the area was stripped, or cut for grain, yielded from 10 lbs. to 60 lbs. per acre. Now, in the Commonwealth—with the exception of South Australia—was anything like an average return obtained. I find the returns supplied that Western Australia stands perhaps in a better position to do the other States; but its last year were 51,393 bushels below the average for the previous season.

Mr. FOWLER.—Not on account of the drought.

Mr. BROWN.—Certainly the extent of production in Western Australia is not nearly equal to the local requirements. I wish to indicate the real effects of the drought upon this really indispensable class of production. In 1900-01, New South Wales produced 16,173,771 bushels of wheat, Victoria produced 17,847,301, South Australia 11,253,148, and Queensland 1,194,088 bushels. In the year 1901-2, a considerable shortage took place. Instead of a yield of 16,173,771 bushels, New South Wales obtained only 14,808,705 bushels; and the yield in Victoria was only 12,127,382 bushels. In South Australia, it was 8,012,762 bushels; and in Queensland it was 1,692,222 bushels. Last season, New South Wales obtained a yield of only 1,561,205 bushels, showing a shortage of 13,247,503 bushels on the previous year; Victoria raised 2,386,219 bushels, or a shortage of 9,741,163 bushels; South Australia had a yield of 6,354,912 bushels, or a shortage of 1,657,852 bushels; and Queensland had a yield of only 100,000 bushels, or a shortage of 1,592,222 bushels. In Western Australia the yield was 881,708 bushels, or a shortage of 51,393 bushels; while Tasmania had a shortage of 13,662 bushels as compared with the returns for the previous year. As compared with the yield for the previous year there was a total shortage of 26,303,790 bushels, and as compared with the return for the year before the shortage represented 36,118,881 bushels. There was thus an enormous falling-off in the general food supply of the community. I turn now to the losses sustained in pastoral enterprises. In New South Wales the drought last year resulted in a shortage of 189,263 bales of wool; in Victoria there was a shortage of 68,327 bales; in South Australia a shortage of 12,734 bales; in Queensland a shortage of 26,740 bales; and in Tasmania a shortage of something like 4,741 bales, or a total loss of between 300,000 and 350,000 bales of wool for the whole Commonwealth. This shortage includes a large quantity of what is known as dead wool, or dead skin, and it indicates that in the coming year the falling off will be very largely intensified. Mr. Coghlan estimates that the losses in respect of the failure of wheat crops and death of stock in New South Wales alone represent something like £10,000,000. That, however, is

only a very small proportion of the total losses which the drought entailed upon the State. There was, for example, the increased cost of feeding stock, and the increase in the price of fodder required for that purpose. In my own electorate over £100,000 was expended last season in providing for the sheep upon a single holding. Apart from that expenditure, an enormous outlay was involved in securing railway trucks, and paying for the transfer of stock to more favoured districts. The experience on this holding is a fair illustration of what was general throughout my electorate, and indeed throughout the greater part of New South Wales. The total loss to the community cannot be measured by the loss of £10,000,000 in respect of crop failures, death of stock, and so forth. If this were a question affecting only New South Wales the House, perhaps, might afford to ignore it. But it affects the whole Commonwealth. In the issue of the *Argus* of the 26th ultimo a return was published showing the estimated wheat importations into Australia from the 1st of January to the 24th of May. The approximate production of wheat in Australia last year was 12,112,000 bushels; there was also on hand in flour and old wheat about 900,000 bushels, or a total local supply of 13,012,000 bushels to draw from. The importations during the period named consisted of 7,848,625 bushels, while under order and on the way to Australia there was a total of 4,031,975 bushels, the aggregate importations thus being something like 11,880,600 bushels. It is estimated that 19,500,000 bushels are required for food supplies, while seed requirements represent another 5,500,000 bushels, or a total of 25,000,000 bushels. During the year 1901-2 the Commonwealth instead of importing grain in these enormous quantities for its own local requirements, exported no less than 1,980,000 bushels. It was said last session that the Tariff would operate in the direction of providing for local requirements. The honorable member for Gippsland asserted that we must have a Tariff like that proposed in order that we might provide for our local requirements. He suggested that it would—by what species of magic he did not explain—compel the farmers to enter upon the work of producing wheat, so that we might not be dependent on outside sources for our

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supplies. The Tariff has been passed, and what is the result? As the result of the abnormal drought conditions under which the Commonwealth has suffered during the past twelve months, we have been compelled to import grain to provide for the normal requirements of the community. We have had to import nearly 12,000,000 bushels of wheat, and as the result of the grain duties, we have augmented the federal revenue to the extent of something like £500,000. That sum has been received from a source from which the Treasurer never expected to secure a penny, and he does not expect to obtain anything from it in normal times. If this is not revenue with destruction—the destruction of one of the main sources of the wealth of the community—I do not know what is. One of the charges which will lie against the Tariff is that instead of enabling the people to fight the adverse natural conditions with which they have been faced, and will have to face again in time to come, it has and will operate in an opposite direction. It works in the direction of making these natural conditions more oppressive than they were before. I undertake to say that if the Government of New South Wales had not come to the assistance of the graziers—and more particularly the farmers of that State—by purchasing seed wheat for them, despite the high prices then ruling, and by providing fodder for them, a very small area would have been placed under wheat during the present year. The producing community of that State has been so badly crushed by the drought, plus the operation of the Tariff, that they would not have had any reasonable prospect of providing for the requirements of this community during the coming year. The outlook is now much more promising. I trust that the drought will soon disappear, and that the farmers and other producers will be able to recoup the losses they have suffered, more particularly during the last twelve months. But what I desire to emphasize is that instead of the Tariff being one that will produce revenue without destruction, its operation has had quite the opposite effect. It has assisted to kill those industries so far as it is possible for a tariff to do so. The only alternative open to the Government was to go to the other extreme, in which some of our protectionist friends believe, and provide for the total prohibition of importations. I think that the farmers of the

Commonwealth would be very glad to hear some explanation from representatives like the honorable members for Moira and Gippsland, and two or three others, who made such a strong fight to prevent any relief being secured to them by the remission of duties. At the present time wheat is taxed to the extent of nearly 11d. a bushel, and in my own State the duties and wharfage charges upon the 6,500,000 bushels, which are imported to meet the requirements of the people, amount to 1s. 1d. per bushel. That is a very heavy burden for the consumers. A good deal has been spoken of late of the starving stock of the Commonwealth, but now it is starving people whom we have to consider. The drought has closed a considerable number of avenues of employment and production, and has depleted the savings of a large part of the community, so that many people, particularly among the farming population, are now dependent upon public charity, although they were never so before, and, I hope, never will be so again. Victoria is a country which has enjoyed the advantages of protection, not for merely a year or two, but for something like 30 years. If those advantages are as great as some enthusiastic advocates of protective duties claim, how comes it that up to the 24th May last Victoria had to import something like 2,750,000 bushels of wheat for local consumption? Why did not the duties by which she has been protected sufficiently foster such a primary industry as agriculture to make her people independent of outside supplies? The facts show that many conditions have to be taken into consideration in the formulation of Tariffs, and that to insist upon hard and fast principles in the way the Government have done is not to bring about revenue without destruction, but to destroy in an endeavour to obtain revenue. With regard to the measures foreshadowed in the Governor-General's speech, I shall take the attitude which I have always adopted since my first appearance in public life: I shall support such measures as I consider to be in the interests of the whole community, but I shall oppose measures which I think might very well be postponed, or which in my opinion it would be against the public interest to pass. A matter which the Government should deal with as speedily as possible is the selection of the site for the federal capital. This is probably the last session of this House, and

certainly the last session of Parliament so far as a number of the members of the Senate are concerned. A great deal of time has been given by honorable members, and a good deal of money has been spent by the Government, in order to qualify this Parliament to arrive at a proper decision upon the matter; but if a decision is not come to this session, a great deal of the work that has been done will be thrown away, because the new members who will no doubt be elected will not be in the same position as ourselves in dealing with the question. To my mind, there has been an unaccountable delay in proceeding with the matter. I do not know the reason for that delay; but I hope that it will not be permitted to continue, and that this Parliament, in fairness to New South Wales, and in the interest of the whole Commonwealth, will be given an opportunity this session to finally settle the question. A measure which I regard as of great importance, and deserving of our best consideration, is the proposed establishment of courts of conciliation to provide a modern, humane, and civilized method of dealing with industrial disputes. Another important measure is that for dealing comprehensively with the registration of patents, and bringing all the States under a uniform patent law. A number of the other measures to which the Government seem to attach more importance might very well give place to such a measure as that. The inventive genius of the Commonwealth is heavily handicapped by the present condition of affairs and by existing legislation. With regard to the defence of the Commonwealth, and the proposed naval agreement, I am of opinion that a Defence Act is necessary in order that our military administration may be put upon a sound footing, and that the friction and dissatisfaction which now exists may be removed. As to the proposed naval subsidy, I would point out that we have already contributed to the old country, for the protection which she has afforded us, an amount aggregating something like £1,250,000, and under the proposed agreement we should have to contribute within the next ten years something like another £2,000,000. This sum may not appear a very large one, but I should like to hear the whole subject more fully discussed before I commit myself in any way in regard to the proposal. It is to our benefit that we should work in harmony with the mother

country, but I think that in the end it will be more satisfactory to our own people and to the mother land if we provide for our own defence. I consider naval defence more necessary than land defence, because it is rather late to attack your foe when he has placed his foot within your threshold. It is better to attack him before he reaches our shores. I should like, therefore, to see some system formulated which would give us complete control of our own defences. When we have grown into a nation we must be ready to defend ourselves, and the sooner we commence our preparations on sound lines the better it will be both for ourselves and for the mother country. Now that we have a high Tariff it is necessary that we should pass legislation to prevent the creation of trusts and other mischievous combinations which are likely to arise under it. The Government give great prominence in their programme to measures for the establishment of a High Court and an Inter-State Commission, and the appointment of a High Commissioner to represent the Commonwealth in London. For reasons which seemed good in themselves, they postponed legislation on those subjects from the early part of last session until the present time, and in view of the urgent measures which are now before us, I think they might be left over for a little longer still. If I were convinced that there is an absolute and immediate need for a High Court, an Inter-State Commission, and a High Commissioner, I should be ready at once to support the proposals of the Government, but as it seems to me that the carrying of those proposals into effect will unnecessarily increase federal expenditure, and not do much more than provide big salaries for prominent lawyers, I think they can stand over for a while. I see no reason why, for the present, jurisdiction in regard to federal matters should not be exercised by the State courts, instead of setting up a High Court with the accompanying necessary machinery, to deal with them. If, as I understand, it is the intention of the Government that the minor tribunals of the States are to have federal jurisdiction within certain limitations, I think that similar jurisdiction might be given to the higher State tribunals. It will be time enough to establish federal courts when it is found that they are incompetent—which I do not think they are—or that they have too much

Mr. Brown.

State work to admit of their attention to federal matters. I had intended to say something in regard to the administration of the Post and Telegraph department and one or two other matters, but I will content myself with what I have said upon the Tariff question. I am sure that those who are connected with the pastoral and agricultural interests, and who have been so adversely affected by the operation of the Tariff, will be glad to hear some justification of it from honorable members who so strongly resisted the granting of relief to them in a time of dire need and distress.

Sir JOHN FORREST (Swan—Minister for Defence).—I regret that I must occupy the time of honorable members on this occasion, because I realize that it is necessary that we should pass the address in reply and get to the business of the session as soon as possible; but my regret is somewhat mollified by the fact that for nearly a fortnight I have been listening to the speeches of several honorable members who have not appeared to be very desirous of saving time. As I represent a State whose representation in this Chamber is not very large, and as this is probably the only opportunity which I shall have of speaking generally upon matters of public concern, I think that in the interests of the people who sent me here I should take advantage of it. I feel more impelled to speak on this occasion because I represent a State which is altogether isolated from the rest of Australia, and is in much the same position in that respect as an island in the Indian Ocean, 1,000 miles away. One has to travel 1,500 miles by sea in order to reach that State; it is unknown to most honorable members in this House, and is cared for by very few.

HONORABLE MEMBERS.—No, no.

Sir JOHN FORREST.—I judge in this matter from the utterances of honorable members. I very seldom hear anything that I can regard as exhibiting any great concern for the State which I represent. I say again that it appears to me to be cared for by few, in this House or indeed out of it. This, however, is not fair treatment, because Western Australia has been a good friend to Victoria and to every other State in the Commonwealth for many years past, and is so at the present time. I do not intend to refer to all the matters mentioned in the Governor-General's speech.

honorable colleague the Minister and Customs last evening dealt the animadversions upon his action, and I think that he has a right to that atmosphere. I do not propose anything regarding the case of the which has engaged the attention of the members opposite more perhaps than her matter since we re-assembled, but be silent regarding the case of the Maoris, who came to Australia for the purpose of fulfilling some professional duty. I cannot help saying, however, if it were not that these cases have given the Opposition an opportunity to display their political antagonism to the Government, we should not have heard so much of them. In other words, if they had appeared to be good cards to play from the point of view of those honorable members, they would not have been so much talked of. We have heard a great deal from some quarters with regard to protectionism free-trade; and I believe that all live to be as old as Methuselah shall never hear the end of the controversy. The subject is too good to afford a good line of party and when there is nothing else to do, we can come back to the old and deal with it as if it were an entirely new one. I shall not enter upon a discussion of the subject, except to say that I do not see how those who advocate a Tariff of something like 15 per cent. without any free list, can expect to win free-traders, because a 15 per cent. Tariff constitutes a fairly good protec-

tion. I have had experience in this matter. A large number of men who were born in Victoria, and who were protectionists, migrated to Western Australia, and went to the gold-fields in order to improve their position, and now the majority of them are strong free-traders.

Mr. SYDNEY SMITH.—They were sensible men.

Sir JOHN FORREST.—No; I do not say that; but their action bears out what I say. I should not be surprised, following up the same line of argument, if the honorable member for Macquarie, who is now a strong free-trader—I do not know whether he always was—did not become an equally strong protectionist if he thought it would suit him better, or rather thought it would suit the country better. My own opinion is that it will require a lot of argument to convince people possessed of ordinary intelligence that it is better to have the manufactured articles we require made for us in other parts of the world rather than to make them for ourselves. If we desire the whole population of the Commonwealth to be engaged in the primary industries, we shall never have a large population. We shall have to encourage manufactures, and do our best to make as much as is possible of what we require, thus affording employment to our own people rather than to the people of other countries. I have heard some observations, principally of an uncomplimentary character, with regard to the administration of the Defence department which I have the honour to control. These remarks have been made by persons who, probably, have not studied the question very much, but who have read in the newspapers that there is disorganization here and there, and have, therefore, concluded that everything has been neglected. It has also been said—I think by the leader of the Opposition—that the Government were unwise in taking over the Defence department before they had a Federal Defence Act; I think the right honorable gentleman went so far as to say that we were without any law to govern the department. That, however, is not the case. We have always had the States Acts in operation, as provision was made in the Constitution that in regard to transferred departments, and pending legislation by the Commonwealth, the laws of the States should continue in force, and that the

HONORABLE MEMBERS.—Hear, hear.

Sir JOHN FORREST.—It certainly is a protection of 15 per cent. to the Government produces the article in this regard. Therefore, those who call them free-traders, and in the same breath say they are revenue tariffists, without adding excise on local production in point of fact, protectionists. On many previous occasions stated that they do not believe there is any parish in either free-trade or protectionism. My idea is that it is a matter of fact, and that people advocate the policy which they think will pay best. Those who are protectionists to-day will be free-traders to-morrow if they could have their way. I have

Governors of the States should be represented by the Governor-General. The transferred departments have, therefore, been carried on with as perfect legality as when the six separate administrations had control. I think that we should have been very unwise if we had deferred taking over the department until we had passed a Defence Act. In any case, we are in a far better position to deal with the defences now than we should have been if we had delayed taking over the department. We have already done a good deal in the way of instituting reforms, and honorable members must recollect that the defence vote has been reduced during the last two years by almost £250,000. Surely honorable members must know that we could not make such a reduction in the expenditure and still leave everything as it was before. When the full details are placed before honorable members, as they shortly will be, I think they will find that there has been considerable retrenchment and reform, and that the work done has been of a beneficial character. I hope very shortly to lay the Defence Bill upon the table of the House. The Bill is practically ready, and will be presented to honorable members as soon as an opportunity offers. I believe, furthermore, that honorable members will find the Bill of such a character that hostile criticism will prove somewhat difficult. I desire also to say a few words with regard to the federal capital site. We have an obligation to discharge to the whole of the people of Australia by dealing with this question as soon as possible. It was deliberately decided at the Federal Conventions, and approved by the people of Australia, that there should be a federal capital, and I think we should decide, not upon the exact site, perhaps, but upon the district in which the capital is to be situated, as soon as possible. We have heard a great deal about the great expense which will be incurred in the establishment of the capital, but the fears entertained are not well grounded. I believe in economy, and I should be very sorry if any one thought otherwise. I have had a good deal to do with the expenditure of public money during my lifetime, and I defy any one to find fault in the expenditure which I have made—millions for the people. I displayed any evidence other than careful management. Although I spent

£12,000,000 of loan moneys in Western Australia during ten years I was Premier of that State, not a single public work was ever authorized by me in that State which, if I had the power to undo to-day, I would undo. There is not one great undertaking that the public opinion of that State would wish to see undone, as far as I am able to judge. I make these remarks for the purpose of showing that I am not a spendthrift, and that I have no desire to see money wastefully expended. But during the period that I have occupied a seat in this House, the conviction has been forced upon me that in the minds of some honorable members a miserable feeling of parsimony and impecuniosity reigns. That feeling seems to have laid hold of this House and of Parliament—for what reason I do not know. Some persons entertain the opinion that we cannot have a federal capital because its construction will cost money. I am satisfied, however, that such a view is entertained only by a lot of croakers—by those who have no faith in their own country, as I shall presently show. If we are to give effect to the provisions of the Constitution, as we are bound to do, there is not the slightest reason in my judgment why we should not incur expenditure upon a federal capital. There is no reason why we should not, if it is necessary, spend a million of money upon that undertaking. What is a million of money?

HONORABLE MEMBERS.—Oh! oh!

Sir JOHN FORREST.—I thought that my remarks would arouse those who entertain the parsimonious feeling to which I have already referred, and that is the reason which prompted me to make them. The annual interest upon £1,000,000 amounts to £30,000—less than 2d. per head per annum of the population of this country. It does not represent the price of a glass of beer a year to the people of the Commonwealth. Yet we are told that we cannot afford to give effect to the provisions of the Constitution by building a federal capital. It seems to me that some honorable members, as well as the people and the press of this country, have lost their energy and pluck. I say to my fellow Australians—"Do not let us defer carrying out the solemn covenant embodied in the Constitution for the erection of a federal capital through fear that we cannot afford the yearly expenditure of probably 1d. and certainly not more than 2d. per head. Do not let us look back

upon the days that are past." Some individuals may have lost a little money in those days, but they must not conclude that the whole country is similarly circumstanced. That is not the condition of the Commonwealth, and there is no reason whatever to defer the selection and occupation of a federal capital. At this stage, if I may be permitted to do so, without trespassing too much upon the time of honorable members, I should like to place upon record my view of the qualifications which a federal capital site should possess. No doubt every honorable member has his own idea upon this subject. I desire that the site selected shall be in New South Wales, in conformity with the provisions of the Constitution. I wish it to be convenient to both those great centres of population—Melbourne and Sydney. It must possess a splendid water supply. Its climate should be cool in summer, and it should not be situated in some uninteresting portion of the country, but should be located in reasonably close proximity to some great natural feature.

MR. AUSTIN CHAPMAN.—Near Kosciusko.

SIR JOHN FORREST.—I do not care whether or not it is near Kosciusko, but I hold that it should be adjacent to some great physical feature which shall be a source of pleasure, recreation, and enjoyment to its residents and its visitors for all time. Another matter referred to in the speech of the Governor-General is that of the High Court. I look upon the establishment of that tribunal as a part of the Constitution.

MR. JOSEPH COOK.—What about the expense that will be incurred in its creation?

SIR JOHN FORREST.—There is the question of expense again. The people of the Commonwealth should never have federated under this great Constitution if they were unwilling to incur the expenditure necessary to give effect to its provisions. I have no desire to see extravagance indulged in, but I certainly wish the plan of the Constitution to be completed. To my mind, the High Court is the keystone of that instrument of government. It is just possible that we may be able to economize in other directions. I understand that the Attorney-General at an early date intends to indicate to the House how economies can be effected so that the establishment of the High Court will

not prove a large additional burden. Personally I consider that its establishment is absolutely indispensable. My own idea is that there should be an appeal, not only from the High Court of Australia, but from every court throughout the Empire to one Imperial and final tribunal. The idea of Empire is associated with a feeling that there should be one law for the whole of the Empire. There ought not to exist half-a-dozen interpretations of laws upon the same subject, one for Australia, another for South Africa, a third for Canada, and others for other British possessions. If we are to carry on trade and commerce with all parts of the Empire, there should, in my judgment, be one final Court of Appeal.

MR. JOSEPH COOK.—We have that already.

SIR JOHN FORREST.—That is not a Court of Appeal such as I desire to see established, because, whilst it is the tribunal which finally determines the disputes in which persons beyond its own territorial limits are involved, another court is provided for the appeals of the residents of the mother country itself. My idea is that there should be one Court of Appeal for the whole Empire. In this connexion I cannot do better than repeat what I said when the present Prime Minister, the Minister for Trade and Customs, and the Attorney-General were in England acting as federal delegates on behalf of Australia. At that time I was Premier of Western Australia, and I was asked my opinion with regard to the right of appeal under the Constitution to the Privy Council. In reply to that question, I telegraphed to the Secretary of State for the Colonies—and I am proud of the view which I then took, because it exactly expresses that which I still hold—as follows :—

I am of opinion that by the possession of one Court of Appeal for the whole British race, whose decisions are final and binding on all the Courts of the Empire, there is constituted a bond between all British people which should be maintained inviolate as the keystone of Imperial unity.

That is my idea of the Court of Appeal that we require in the Empire, and whilst I believe that the High Court will finally settle all matters of constitutional practice in the Commonwealth, still I look forward to the time when we shall be able to appeal, not to the Privy Council as at present constituted, but to a great court of final

appeal for the whole Empire. I come now to another matter to which I wish to address myself. It is not the first time that I have spoken in regard to it, nor is it likely to be the last, unless my constituents have no further use for me.

AN HONORABLE MEMBER. — Does the Minister refer to matters of defence?

SIR JOHN FORREST.—In some respects it is a matter of defence. I desire to address myself to the question of railway communication between the eastern and western sides of Australia *via* Port Augusta in South Australia, and Kalgoorlie, which is the eastern terminus of the Western Australian system. I am sorry to have to speak so strongly on this subject, but I owe a duty to the people who sent me here. If I were to remain silent on an occasion of this kind it is just possible that my action might be misrepresented. A portion of my observations will have reference to the legal difficulties, viz., the legal consent of South and Western Australia, necessary under the Constitution, at present in the way of the Federal Government carrying out the project to which I have referred—difficulties which ought to have been removed long ago, and which I hope will soon vanish. I am the more impelled to speak upon the present occasion, because the honorable member for South Australia, Mr. V. L. Solomon, discussed this matter at length the other evening. I regret that he is not in his place to-day in order that I might speak much more strongly in regard to his action than I feel disposed to do in his absence. I have never listened to a more unfederal speech than that which the honorable member delivered. I do not believe that any honorable member has ever so far forgotten in this House the obligations of the State he represents as did the honorable member for South Australia, Mr. V. L. Solomon, a few nights ago; I do not believe that the “dog-in-the-manger” policy has ever been advocated to the extent that it was by that honorable gentleman. Very similar sentiments were expressed by the leader of the Opposition in another place; but, as I have not the right to criticise what takes place there, I shall simply say that I view the utterances of that honorable and learned gentleman as I view the unfederal words of the honorable member for South Australia, Mr. V. L. Solomon. In view of the fact that

Australia has been federated for more than two years, and that we have come together with a common desire to benefit each other, and to do our best for the whole Commonwealth, I should have thought that no honorable member would have dared to say that the obligations of the State he represents should be cast aside and forgotten. That is really what the honorable member said, as I shall proceed to show. But I have another reason for speaking to-night. It is that I desire the people of South Australia—who are my friends, and who, I am confident, are as honorable and as high-minded as are any people in the Commonwealth—to understand from statements made in this House the real position occupied by South Australia and Western Australia in regard to the construction of this line. I am confident that the honorable member for South Australia, Mr. V. L. Solomon, does not represent the feelings of the people of that State in regard to the undertaking on the part of the Government of South Australia to the people of Western Australia. I thank the honorable member for South Australia, Mr. Batchelor, for what he said last night. I know that he voiced the view held by you, Mr. Speaker, and expressed by you when Premier of South Australia. I know, too, that he voiced the opinions held by my right honorable colleague, the Minister for Trade and Customs, when he was Premier of that State. All three honorable members are in accord, and I prefer to accept their opinion as representing the feeling of the people of South Australia rather than the unfederal utterances of the honorable member for South Australia, Mr. V. L. Solomon.

MR. FOWLER.—The honorable member had no authority whatever to express those views on behalf of South Australia.

SIR JOHN FORREST.—I shall show that prior to federation South Australia never had any objection to the construction of a line from Port Augusta to Kalgoorlie. There was a whisper on one occasion as to something in the nature of an objection, but the Government of the State expressed indignation that there should be even a whisper of opposition. I intend to show that the Government, the people, and the press of South Australia all urged and induced Western Australia to enter the federation by promising to assist in advancing the construction of a railway between the two

States. If I do not succeed in proving that fact, honorable members will take a view of the obligations of South Australia very different from that held by me. I shall be plain and straightforward in dealing with this matter. I desire that the promises and undertakings made by South Australia to the Government and people of Western Australia, prior to federation, shall be placed once and for all in the records of this House.

Mr. HENRY WILLIS.—They do not bind the Commonwealth.

Sir JOHN FORREST.—I am not speaking of the Commonwealth. My object is to show the people of South Australia that they are under an obligation to give their consent to the construction of this line. Before doing so, however, I have a very pleasant duty to perform. I have to thank the leader of the Opposition for his generous words and the encouragement he has given the people of Western Australia in regard to this great project, which is of so much importance to them as part of the Federation. I do not for one moment assert that there is any stated obligation on the part of this House as a body to support the construction of the line, but there is an obligation on the part of some honorable members to do so. The leader of the Opposition is in accord with the Government in regard to this matter; and the Government have no doubt as to the desirableness of the work if it is found practicable.

Mr. FOWLER.—The leader of the Opposition goes further than the Government do. He would build the line at once.

Sir JOHN FORREST.—I shall come to that matter presently. The Government have no doubt as to the necessity of the work if it is reasonably possible to carry it out.

Sir WILLIAM McMILLAN.—The right honorable member does not think we have sufficient information before us to enable us to decide the matter now?

Sir JOHN FORREST.—I have not reached that point. Like the Government, the leader of the Opposition has no doubt about the matter. The following is a report of the speech which, as leader of the Opposition, he delivered at Kalgoorlie on the 27th January last :—

Now there was one little bit of equity which the Federal Government had got to do to the State of Western Australia, and that was to build a railway to connect it with the other

States. From the first moment the federal compact was signed he had always publicly stated that, although there was no written agreement about it, it was always regarded as a tacit understanding, upon the strength of which Western Australia had consented to join the federation.

Sir WILLIAM McMILLAN.—That was only the right honorable member's personal opinion.

Sir JOHN FORREST.—I am not seeking to bind any one else to this statement.

Sir WILLIAM McMILLAN.—But the right honorable gentleman said the right honorable member spoke as leader of the Opposition.

Sir JOHN FORREST.—I shall do so again. No doubt when the right honorable member spoke he felt the responsibility that rested upon him as leader of the Opposition, and the right honorable gentleman stated that he spoke in that capacity. I desire to thank him for what he said then, and also for the generosity with which he viewed the question. I come now to the position of South Australia. In 1897—which was the Diamond Jubilee year—I was Premier of Western Australia, while my right honorable colleague, the Minister for Trade and Customs, was Premier of South Australia. On the 28th of May of that year, while we were both on our way to England, you, Mr. Speaker, as Acting Premier of South Australia, addressed the following letter to my colleague Mr. Wittenoom who was Acting Premier of Western Australia :—

Sir,—This Government has obtained reports and estimates for the construction of a railway on the 3-ft. 6-in. gauge from Port Augusta to a point on the border of South and Western Australia, about 470 miles from Kalgoorlie. I should be glad to learn whether your Government is prepared to unite with us by carrying out the work from the border to connect with your line, should we carry the line to your border.

Mr. Wittenoom, who was acting for me, seems to have given the matter but little consideration, and on 8th June, 1897, he made a formal reply in these words—

In reply to your letter of the 18th ult., I have the honour to intimate to you that this Government is not prepared at present to construct a railway to the South Australian border.

I have no hesitation in saying that this was merely intended as a formal reply to the communication from South Australia, but I regret very much that it was ever sent. As I said before, I was away at the time of its receipt, and I did not hear of it, nor of the reply sent by Mr. Wittenoom,

until 1899—two years afterwards. As soon as I learned of the correspondence, I addressed a letter to the Premier of South Australia in these words—

22nd Aug., 1899.

Sir,—With further reference to your letter of 28th May, 1897, (marked C. P. W. 1258-95 in margin) I have the honour to inform you that the present Government has always been anxious to have this colony connected by rail with the railway system of South Australia, and is prepared to do all in his power to further the carrying out of the work.

The reply given by Mr. Wittenoom to the above-mentioned letter during my absence from the colony, and which has recently come before me for the first time, could only have been intended to mean that at that moment he was not prepared to arrange to provide the funds necessary to construct the portion of the proposed railway in this colony to connect with your border.

I will add that you are aware that it has always been a part of my declared public policy to have this railway undertaken and completed, and, therefore, if your Government is able to consider the question favorably I will be glad to enter into negotiations with you as to the best means to be adopted in order to carry out this great and desirable work.

To this I received the following telegraphic reply, dated 28th August, 1899—

Replying your letter 22nd inst. just received, South Australia, as already intimated, favours federal undertaking of railway connecting east and west.

C. C. KINGSTON, Premier.

I was not quite satisfied with that reply, as I had not made any reference in my letter to the construction of the line by the Federal Government. My request was that the work should be undertaken by the Governments of the two States interested. I therefore sent the following telegram to Mr. Kingston on the 1st September, 1899—

Shall be obliged for reply by letter to mine in reference to railway. You will notice that the question of the Federal Government building the railway is not raised in my letter.

In answer to that message I received the following telegram, dated 4th September, 1899—

We can add little to our wire of 28th ult. When we wrote you in June, 1897, we should have been glad to arrange for construction of the railway by our two colonies, but your Government declined to join in doing this. Now the position is altered, for with federation assured the federal construction of the railway is in our opinion undoubtedly the best means for carrying out this great Australian undertaking. We hope that it will not be long before Western Australians and South Australians are co-operating in the Parliament of the Commonwealth to bring this about, and we repeat that you can rely on South Australia's sympathy and support.

Sir John Forrest,

That telegram was signed by Mr. Kingston, as Premier of South Australia. Shortly before the time when this correspondence passed between the Governments of the two States, namely, on the 19th April, 1899. I received a letter from Mr. Kingston, who was then Premier of South Australia, written with the object of inducing the people of Western Australia to join the Federation. This is what he said—

Sir,—As desired, I have the honour to forward herewith three copies of our Commonwealth Act Amendment Bill, pursuant to which and our Federal Enabling Act 1895, we propose, on the 29th of this month, taking a referendum of our electors on the question of the acceptance of the Commonwealth Bill as proposed to be amended at the last Premiers' Conference. We are sanguine that the decision of the people to accept federation, which was pronounced by a two to one majority in this colony in June last, will be repeated.

Will you pardon my taking the opportunity of expressing the sincerest hope that Western Australia will, as heretofore, keep pace with the general federal advance. All the other colonies will, no doubt, be included. To you, who are so familiar with the general advantages of federation, it would be idle to dwell upon them. But the relations between Western Australia and the other colonies—I speak especially for South Australia—have been always so cordial, that I am sure it would be a source of infinite regret to all if Western Australia were even temporarily omitted from the closer union, so long contemplated, so arduously contended for, and apparently so readily capable of consummation by all.

Our near constitutional connexion resulting from federation is in itself a boon of great worth to all included within its sphere. I cannot help thinking, also, that it must at no very distant date result in the connexion of east and west by rail through the medium, say, of a line between Port Augusta and your gold-fields. This would, indeed, be an Australian work worthy of undertaking by a federal authority on behalf of the nation, in pursuance of the authorities contained in the Commonwealth Bill. It is, of course, a work of special interest to Western Australia and South Australia; and I devoutly hope that the day is not far distant when the representatives of Western Australia and South Australia may, in their places in a Federal Parliament, be found working side by side for the advancement of Australian interests in this and other matters of national concern.

That letter shows how earnest my right honorable colleague was. Two months afterwards he appears to have seen a telegraphic report to the effect that a colleague of mine, Mr. Piesse, who for many years was Commissioner of Railways in Western Australia, had stated at some meeting that he had been upon a visit to Adelaide, and had there heard many people say

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Mr. Piesse did not feel himself at
to give the names, because in all
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and the right honorable gentle-
en telegraphed to me in these

understand Piesse's references to
reluctance of South Australia to permit
construction of railway connecting
We have no fear of any such anti-
dog-in-the-manger" policy.

UDOR.—Was that before the two
a?

JOHN FORREST.—It was just be-
second South Australian referen-
long before the Western Australian
um.

UDOR.—The second referendum?

JOHN FORREST.—Before the
referendum in South Australia.
as only one referendum in Western
a, because the Western Australian
g Act provided that until New
Wales had agreed to enter the
o vote should be taken in Western
a. So greatly did Mr. Kingston feel
utation upon the good name and
ty of his State, that a few days
had his letter and telegrams to me
and made a State paper, and he
l the whole of the correspondence
e table of the House. The honor-
mber for South Australia, Mr. V.
on, was a member of the South
an Parliament at the time, but he
o objection to the promises which
n made in good faith by his Pre-
Indeed, while the correspondence
t the table, no dissentient voice was
om either the Parliament, the press,
people of South Australia. The
f the publication of the correspond-
s, with my full consent and ap-
p, to clear the way, so that the
f Western Australia should vote
eration when the question was re-
o them. I think I have said enough

to show what was the feeling of South
Australia, and what were the actions of its
Government in regard to this matter. It is
of no use to cry after the thing is over, but I
say deliberately, in the face of this House and
of the people of Australia, that if for a
moment I had thought that South Australia
would bar the construction of this railway,
and that Western Australia would have to
remain for any length of time isolated, far-
distant, and unconnected with the rest
of Australia, nothing in the world would
have induced me to lend my help and
my voice to the carrying of federation in
that State. Federation, so far as Western
Australia is concerned, is, and always will
be, a sham, and will never be satisfactory to
the people of that State while they are
cut off from communication by railway
with the rest of Australia. In order to
further pave the way towards the accept-
ance of federation by Western Australia,
I, in the early part of 1900, took, at my
own expense, a journey to these States,
so that I might interview the Premiers then
in office, and obtain assurances which would
make it easier for Western Australia to
throw in her lot with the Eastern States. I
obtained very little encouragement, however,
and I have often said since that it seemed
to me that those who were guiding the ship
of State at the time would rather spoil
federation by allowing Western Australia
to remain outside the union than grant
the one or two small requests made by
Western Australia. One little request I
made was that the provision in the Consti-
tution which allowed South Australia to
raise a bar to the construction of a trans-
continental line should be removed; but
the Premiers whom I met said that the Bill
could not be altered, though, notwithstand-
ing that statement, it was altered in far
more important particulars in London. I
do not, however, now wish to find fault with
any one; all I am trying to do is to show
that I did my best to obtain the amend-
ment I speak of. I had told the people
of Western Australia that no South Aus-
tralian Government would be likely to ever
object to the construction of the railway.
But when one is making a bargain it is
just as well, in a matter of this sort at
any rate, to have the undertaking in
writing. We should have had some safe-
guard in the Bill. Those who opposed me,
said to the people—"Trust the people of
South Australia; trust the Commonwealth;

we do not want any special provision in the Bill; we take it for granted that all will be right. South Australia will never object to the construction of the line; see the assurances which her public men have given." But although I got no satisfaction from the Premiers of most of the eastern States, Mr. Speaker, who at the time was Premier of South Australia, and to whom I explained the difficulties of the position, was good enough to write me the following letter, on the 1st February, 1900, just as I was about to return to my own State:—

Following our conversation as to the possible blocking of the construction of a railway line from Kalgoorlie to Port Augusta by the Federal authority, by South Australia refusing the consent rendered necessary by section XXXIV. of clause 51 of the Commonwealth Bill, to the construction of the line through her territory, I regard the withholding of consent as a most improbable thing, in fact, quite out of the question. To assure you of our attitude in the matter, I will undertake as soon as the federation is established, Western and South Australia both being States of the Commonwealth, to introduce a Bill, formally giving the assent of this province to the construction of the line by the federal authority, and to pass it stage by stage simultaneously with the passage of a similar Bill in your Parliament. I returned to Western Australia with that letter, and published it far and wide. It was one of the reasons, amongst many others, which I felt justified me in not further insisting upon an amendment of the draft Constitution.

MR. FOWLER.—Surely a sufficient reason, too!

SIR JOHN FORREST.—But what has taken place? I have seen in the reports of the debates of the Senate that a South Australian senator has said that—

The construction of this railway will put a very serious strain on the federal spirit of South Australia.

Honorable members also heard what the honorable member for South Australia, Mr. V. L. Solomon, said the other night.

MR. WILKS.—And what the honorable member for South Australia, Sir Langdon Bonython, said.

SIR JOHN FORREST.—I am glad that the honorable member has reminded me of that utterance. The honorable member for South Australia, Sir Langdon Bonython, said that a transcontinental railway running north from Oonadatta to Port Darwin was of more importance than a railway running to Western Australia. But a line running north would terminate at a place where at the present time there are very few people

besides 2,000 or 3,000 Chinamen, a line running west would reach the shores of the continent, and would be with a country with a population of white people, with a trade, speaking memory, of £15,000,000 a year, revenue of £3,500,000, with a production of gold of £40,000,000 with an annual output of gold of £8,000,000—one of the most flourishing States of the Commonwealth. Such a line would go through Kalgoorlie andgardie, places 400 miles from the coast, which have already produced gold of value of nearly £30,000,000. I therefore take me a long while to stand the reasoning which led the honorable member for South Australia, Sir Langdon Bonython, to the conclusion that a railway to Port Darwin is more important to Australia than a railway to the State of Western Australia. The honorable gentleman referred to the mail service to Europe, which he thinks will be better come *viâ* Port Darwin. No doubt it is very important that mails and passengers from abroad should reach here more quickly than they do now; but that is not the primary reason why I advocate a transcontinental railway. I ask for the construction of that line, so that Western Australia may be in reality and not merely a part of the Commonwealth; so that she may enjoy her full share of the benefits of the federation, by being united to the other States, and thus have intercommunication with them for the carriage of passengers, mails, and for the purpose of trade and commerce generally. It is not because mail steamers stop at Fremantle that I primarily wish the railway to be constructed, would advocate its construction as I do now even if the mail service did not come to Fremantle. So, as you like, federation can never be a reality, its effect must be seen until it is seen. To make the evidence have the people of Australia of the fact that they are one of the Commonwealth? There is no doubt ever. They may as well be on a desert in the Indian Ocean, as far as federation is concerned, as continue in their present condition. The undertaking given by half of the Government of South Australia must be fulfilled, and I believe and will be. I cannot, however, refrain from

has been a great deal of dilly-
ver this matter. There has been a
he part of the Government of South
to delay, at any rate, the carrying
obligation solemnly entered into
Premiers of that State with the
ent and people of Western Aus-
hat is the reason? Are the Govern-
outh Australia afraid to do right—
their word? Their solemn promise
given, as I have clearly shown.
h which I delivered on the 18th
0, and in which I recommended
of Western Australia to join the
wealth, I referred to the obligation
Commonwealth to defend the States
sion, and then followed with these

be remembered, therefore, that as
eration there is the obligation upon
of Australia to defend Western Aus-
obligation necessitates that there must
ay from Kalgoorlie to Port Augusta.
incipal public men of Australia have
such a railway is indispensable, and
pledged themselves to vote for it on
st possible occasion.

may, without any egotism, say that
ess, in which I pointed out both
the question with regard to the
, if it did not carry federation in
Australia, certainly influenced
ousands of votes in its favour. I
ay anything more with regard to
on of South Australia. I am sorry
ad to say so much, as I do not
make any remarks which may seem
ungenerous, but, at the same time,
public duty to perform, and seeing
ave been federated since the 1st
1901, and that no moye has been
the South Australian Government
Bill dealing with the construction
away, I think that my observations
justified. I may say that the
Australian Parliament has not
Bill because the Government
a waiting upon South Australia.
months ago the Western Aus-
government sent a copy of their
Bill to the South Australian
ent. But no reply was received.
Western Australian Bill was not
with. Possibly this was owing to
es of Government and other circum-
which may have interfered with a con-
f administration in Western Aus-
Whatever the cause may be, the
ains that South Australia has

delayed the carrying out of the ob-
ligation which I say most deliberately
rests upon her, and I hope that no further
time will be lost. I feel quite sure that if
the people of South Australia had an
opportunity of expressing their views they
would not show any disposition to defer a
work which must be of great benefit to them
and to Australia. One can hardly under-
stand opposition on the part of a State which
is within the federation to a railway which
is intended to connect the two sides of the
continent. The construction of this railway
was one of the great advantages assured to
the people of Western Australia before fede-
ration was agreed to, and it is difficult to
conceive what federal feeling can exist in the
minds of those who would prevent this rail-
way from being constructed. I have already
said that honorable members seem to have
a burden of impecuniosity resting upon
them. They seem to be afraid of spending
any money, even upon a railway such as
that now projected. It does not matter,
apparently, how desirable the work may be,
or how much revenue it will produce; all
that seems to occupy a place in the mental
view of some persons is the £4,000,000
which will have to be spent. Honorable
members do not ask for any particulars,
except as to cost; they lose sight of all the
advantages which may be derived by the
Commonwealth as a whole. I assure
honorable members, however, that this rail-
way will never become a burden on the
people of Australia, as it will pay its way
within two years after its completion.
I am not an adventurer, or a spend-
thrift, or a visionary, nor do I make
this statement without knowledge, or a
feeling of responsibility. I have built
many hundreds of miles of railway in my
time, and I have taken the full responsibility
of many works. I have undertaken great
obligations, and I am certainly not willing
now to commit the Commonwealth to any
work that is likely to prove a burden for all
time. If I were to do anything of that
kind, it would recoil upon me as it would
have done when I was connected with the
State Government. I always knew when I
was controlling the affairs of Western Aus-
tralia that if I committed the people to
undertakings which proved burdensome, I
should stand discredited, and that, there-
fore, it would be suicidal for me to do any-
thing without the most careful consideration.
I do not regret my action in regard to any

of the great works which I have carried out. I have very good reason for saying that the proposed railway will pay. Do honorable members consider that the South Australian Government have called for tenders for the construction of a railway from Oodnadatta, which is 700 miles north of Adelaide, to Pine Creek, in the Northern territory—a distance of about 1,100 miles, and that they have offered an immense area of land, 90,000,000 acres I believe, to the syndicate which undertakes the work? I hope they will succeed in getting it carried out, but I regard the proposed railway to Western Australia as being in an entirely different category. It is not to have one of its terminal points at an isolated port in the tropics of Australia, but is intended to bring a large population of white people in Western Australia into connexion with their countrymen in the eastern States. At the present time from 30,000 to 40,000 people travel to and fro by ship between Eastern Australia and Western Australia, and this number would be largely increased if there was railway communication. I ask honorable members to look seriously at this matter, and to consider whether we cannot build the railway, and at once obtain the control of 1,100 miles of line. I suppose we all look forward to the time when the Federation will take over the control of the whole of the railways of Australia, and we should not make a bad start if we commenced with the construction of the railway 1,100 miles in length to connect with the Western Australian railway system. If we say that we cannot undertake the work the Western Australian Government, however anxious they might be, would not be able to build the whole of the railway. If they were willing to build their own 475 miles, the South Australian Government might not respond by constructing the 625 miles of line which would pass through their territory. The only alternative, therefore, would be for the Governments interested to ask a private company to construct the line. Supposing that this were done—even though the land grant system were not introduced except to the extent of giving the company a few thousand acres here and there along the line—would honorable members be willing to hand over that line to a private company for all time? for ever?

HONORABLE MEMBERS.—No.

Sir John Forrest.

Sir JOHN FORREST.—Then we had better set to work and see if we cannot build it for ourselves. We may depend upon it that the line will have to be constructed. Possibly, as the South Australian Government have agreed to the building of a line to Port Darwin on the land grant system, they may not prove unwilling to allow their section of the Western Australian line to be constructed under similar conditions. I do not know what are the views of the Western Australian Government upon that question, but the point for our consideration is whether it would be better for us to undertake the work, and start in business as railway owners with this 1,100 miles, or leave it to be constructed by a private company on the land grant system, or by other means. I want honorable members to dispel their fears about spending a little money, and to undertake the construction of this railway without any apprehension that it will become a burden upon the Commonwealth. The financial position of a country is not to be considered upon the basis of the amount which she owes, but rather with regard to the way in which her money is invested. If we receive in the form of profit more than sufficient to pay the interest on the money borrowed, no one can say that the investment is a burden on the people. If we were all to be judged by the amount of our liabilities, without consideration of our assets, most of us would be regarded as insolvent. Therefore we should look, not at the first cost of the railway, but at its promise as a commercial undertaking. I do not see why the Commonwealth with its £10,000,000 of revenue should be afraid of incurring liability, in embarking upon an enterprise not only absolutely necessary for the purposes of federation, but also a work that will pay its way. When I was the Premier of Western Australia I introduced and passed Loan Bills in one session amounting to over £7,000,000. The population of the State was then not more than 150,000, and yet we borrowed the money knowing full well that we were investing it in such a way as would advance the general interests of the country by constructing great, important, and necessary public works. I took the whole responsibility, and no one to this day can cast any reproach at me in regard to the works then undertaken, including the great Coolgardie water scheme, upon which we spent £2,500,000, on the

that they were not legitimate or reasonable. Honorable members of this and the other hand, seem to regard the issue of a £5 note as a piece of wild chance. The building of this railway in Western Australia is not a South Australian matter, and I will not regard it as a Federal matter. I can have very little faith in their country. I have not been accustomed to such timidity upon the part of men. I was for many years at the head of a small State with a comparatively small revenue, but I was never parsimonious as that exhibited here and I would direct the attention of the members to the recent remarks of a British statesman, because they express my own sentiments. This man said—

“It is the large schemes that succeed. The peddling and shrinking nowadays, want to succeed must risk something, and finds its own reward.”

These are the sentiments which should inspire us.

If we are afraid to face great issues having for their object the bringing together of the people of this country and the opening up of its vast resources we shall be unequal to our duty and to our responsibility, and we shall despair of our being able, in the end, at any rate, to make this Commonwealth either great or prosperous. I have said all that I desire to say in regard to the construction of the transcontinental railway. There is just one matter, however, concerning which I wish to say a few words. I shall not say much upon it, because in a few days the Minister will have an opportunity of placing it before honorable members in more eloquent terms than I can.

At the same time, as the Minister is the head of the Defence department, I think that I ought to say a few words in regard to the Naval agreement. The Minister went to England with the consent and approval of this Parliament and it was never expected that he would do nothing while he was there. He was to leave the ultimate decision of the matter in the hands of this Parliament, but it was surely never anticipated that he should sit idly by and do nothing. I have an opportunity of meeting and

conversing with the most eminent men in England upon the question of naval defence, and, subject to the approval of Parliament, he entered into an agreement based upon conditions which he thought would meet with the approval of this House. In arriving at that agreement, no doubt he had in his mind the views which honorable members expressed during the discussion of the Defence Bill last session. I have perused the speeches delivered upon that occasion—I was not present at the time—and I find that out of eighteen speeches upon the subject, fifteen were practically in accord with the agreement into which the Prime Minister has entered. There were only three speakers who in any way dissented from the general views contained in that agreement. I do not pretend to be a military or a naval expert—my career has led me in the paths of peace—but I have formed the opinion that the 4,000,000 people in Australia are not called upon to embark upon great schemes connected with naval defence. In the early days of our federal union, we had better concentrate, as far as we can, our attention upon the improvement of our country by attempting to make “two ears of corn or two blades of grass to grow where only one grew before.” We should endeavour to settle the people upon the land rather than unnecessarily undertake great schemes of naval defence. The idea of creating and maintaining an Australian fleet, whilst very satisfying from a sentimental standpoint, is one that we need not seriously entertain just now. By assisting the mother country in our naval defence, we can get a far better measure of protection, at an infinitely less cost, than we could derive from the creation of a navy of our own. I thoroughly believe that the people of Australia are really fond of the mother country. In their hearts they wish to do all that they can to make the Empire great and prosperous. It is not only in the interests of our kindred in the old land that we should do so, but it is also in our own interests. We must recognise that our interests are those of the Empire. “Our fate and theirs for good or ill are woven threads”—we are one. For all the purposes of naval defence and British supremacy, the people of the Commonwealth are exactly in the same position as are those of the United Kingdom. We are all aware that the taxpayers of the mother country,

who number about 40,000,000 odd, contribute £34,000,000 annually in providing for the Empire's naval supremacy. That expenditure is not incurred for the defence of Great Britain alone, but for the defence of every possession of the Crown throughout the world. Some one said the other day that I advocated the adoption of a scheme under which Australia should contribute to the naval defence of the Empire upon the basis of population. I never did any such thing. I knew that such a course was absolutely impracticable.

Mr. CROUCH.—It has been advocated.

Sir JOHN FORREST.—I know nothing about that—I have never advocated it. If the Commonwealth were to support the Empire's navy upon the basis of population, her contribution would be £3,500,000 annually; but under the agreement into which the Prime Minister has entered, we are asked to assist the mother country only to the extent of one-seventeenth of that amount, viz. £200,000.

Mr. HIGGINS.—That is only the beginning.

Sir JOHN FORREST.—I have the very greatest respect for the honorable and learned member for Northern Melbourne; in fact, I regard him as one of my dearest friends; but in this matter we are as far apart as the poles. We shall never agree in regard to the Empire's naval defence. We Australians are a proud people, proud of our country, and of the mother land. Is it to be suggested, then, that while we are willing to participate in all the advantages conferred upon us by being British subjects, we are unwilling to assist in bearing the burdens of the naval defence of the Empire to the smallest extent? Shall we say—"Let our countrymen in the mother land continue to pay £34,000,000 annually? We will continue to enjoy all the advantages under which we have been fostered and protected, but will decline to pay 1s. per head towards their cost."

Mr. CROUCH.—Hear, hear.

Sir JOHN FORREST.—If those are the sentiments of the honorable and learned member for Corio, he and I, too, are as far apart as the poles. My views are all in the other direction. I do not know why it is so, but it seems to me that there are some honorable members of this House who were born and nurtured in the old country, who have enjoyed its protection, all its advantages, in their youth, who seem to be less

patriotic than those who, like myself, were born and nurtured in Australia. In this connexion, to such an one, I feel inclined to quote the words of Sir Walter Scott, but I will refrain from doing so. It has been stated that if Australia did not exist, the mother land could not do with one war-ship less, or spend one pound less upon naval defence than she does at the present time. But are we so poor and mean that we are content to allow the taxpayers at home to do all, whilst we do nothing? Surely not.

Mr. HIGGINS.—Which is the best way to help her?

Sir JOHN FORREST.—"I had rather be a dog and bay the moon than such a Briton." Looking at the matter from the very meanest standpoint, namely, the monetary, I hold that it will pay us to approve of the agreement into which the Prime Minister has entered. Under it we shall contribute only a small sum for an immense service. A great deal more than we contribute will be expended in this country, and thousands of Australians will receive a naval training, and a large number will be found permanent employment. We have frequently heard the familiar saying, which by this time ought to be worn threadbare, that there should be no taxation without representation. Only the other day I saw in one leading journal a statement to the effect that Australia had contributed £106,000 annually to the Australian auxiliary squadron for ten years, and that she had nothing to show for the expenditure. That is thought to be a terrible indictment to make. Why, even if the contribution were regarded as a sort of insurance premium, the money would have been well spent. Australia occupies just the same position in regard to it as does any individual who has for a number of years insured his valuable premises without getting the place burnt down. He has paid his money, and has nothing but his house safe and sound to show for it. Is there anything in this contention after all? To my mind it is special pleading, and depends on the ignorance of its readers for any effect. We spend millions of pounds annually in interest upon borrowed money, and similarly we spend thousands of pounds upon external contracts, without having any representation. To my mind, the fact that we entered into this agreement ten years ago should be quite sufficient.

We have paid the money for the service rendered, and we have as much representation as we have in reference to the payment of interest on our debts, or in relation to any other contracts for a term of years that we enter into beyond Australia. But this is not a contract to be carried out beyond Australia, for the money, together with a much larger sum than we shall contribute, will be spent here. If we had our own navy, what should we have to show for the money expended upon it when our vessels became obsolete? How many hundreds of thousands of pounds have been expended upon the local naval forces of the States?

Sir JOHN QUICK.—But is it not insurance?

Sir JOHN FORREST.—It would be, if the service were efficient. But although our local naval forces are composed of capable men, who are fit to do excellent service at any time, we are not in a position to meet a foe outside the Queenscliff heads or elsewhere. I speak with some authority, that is, if I can place any confidence in my advisers.

Sir JOHN QUICK.—What did the Governor of Victoria, Sir George Clarke, say in his recent speech in the Town Hall, relative to our defences?

Sir JOHN FORREST.—I cannot say.

Sir JOHN QUICK.—But the right honorable gentleman was present.

Sir JOHN FORREST.—I say that if a powerful foreign warship appeared on the Australian coast we have not a ship belonging to our local naval forces that could show her nose outside the harbors, notwithstanding that we have spent hundreds of thousands of pounds on our local naval forces.

Sir JOHN QUICK.—The right honorable gentleman appears to lose sight of the auxiliary squadron.

Sir JOHN FORREST.—I am not referring to the auxiliary squadron. I am speaking of the local or State naval ships upon which so much has been spent. If we had the *Gazundah*, the *Paluma*, the *Protector*, and the *Cerberus* in Hobson's Bay there would not be one of them able to show out beyond the Queenscliff heads in the case of the presence of a powerful foreign warship outside. What has become of all the money spent on our local naval forces? I am not complaining, but members say we require representation, but I assert that we

want efficiency and that we have the same representation as we have in many other matters.

Mr. McDONALD.—We had representation.

Sir JOHN FORREST.—But we have no ships to send out to sea. The time has arrived when we must have efficiency, and the only way in which to secure that efficiency is to accept this agreement. No doubt if Parliament were willing to spend £5,000,000 or £6,000,000, we should be able to obtain, purchase, and maintain powerful war-ships, but the maintenance and interest would amount to £1,000,000 a year. I have correctly set forth the position in regard to the hundreds of thousands of pounds that the States have already spent on local naval defence. I feel certain that the Parliament will approve of this agreement which will only be for a limited number of years, and I utterly repudiate the suggestion that it will really mean taxation without representation.

Mr. McDONALD.—What voice should we have in the disposal of the vessels if war were declared?

Sir JOHN FORREST.—We should have something better than any mere agreement could give us. We should have the strong arm, good will, and affection of the mother country, which has never deserted, and will never desert, the British people wherever they may be.

Mr. McDONALD.—But where is the representation?

Sir JOHN FORREST.—In this case we are asked to pay £200,000 a year, and practically we shall have the protection of a fleet which costs the taxpayers of England over £34,000,000 a year.

Mr. McDONALD.—That fleet could be withdrawn from our shores at any moment.

Sir JOHN FORREST.—The honorable member would not trust any one, not even those who hold the reins of power, in trust for the British race throughout the world, in the mother country. This great Empire of ours has not in the past, and will not in the future be carried on without a spirit of trustfulness.

Mr. McDONALD.—But we have been told that what I have stated will occur.

Sir JOHN FORREST.—The honorable member is taking a very narrow view of the matter. Although it is thought best to have but one control, that does not mean that we shall be neglected, that we shall

be treated as if we were not part of and did not belong to the nation. The more generous and the more trustful we are in our dealings with others, the better they will be to us. It seems to me that mere bonds of pen and ink and paper will not bind us together in times of difficulty and stress. I desire honorable members to take a broad-minded, patriotic view of this vital matter. Let us realize that our Empire demands that we shall have the supremacy of the sea, and let us do all that we can to assist in maintaining that supremacy in our own interests, and in the interests of our country.

Mr. A. PATERSON (Capricornia).—In following the Minister for Defence, I feel very humble—as humble as Uriah Heep. I may add that I am also deeply indebted to the Minister, because his inspiring patriotic speech has electrified the atmosphere of the Chamber, and greatly elevated the tone of the debate. I do not say that I agree with everything that has been said by the right honorable gentleman, although I most heartily admired the spirit in which it was delivered. I shall not occupy the attention of the House for any length of time. I shall refer to only two of the measures mentioned in the Governor-General's speech. The first relates to the establishment of the High Court. I have listened with devout interest to all the references made to this subject by the various speakers who have contributed to the debate, and I must say that I am rather perplexed at the diversity of opinions which prevail. Some honorable members speak of the supremacy, urgency, and importance of the High Court in relation to the Constitution, and the right honorable member who preceded me stated that it was absolutely necessary as the complement of the Constitution. Other speakers have said in another place that it is impossible to work the Constitution in the absence of a High Court. We tremble, therefore, when we think of the terrible consequences which might result to Australia if any accident happened to this measure, and if we were left to carry on with a maimed and crippled Constitution. One would think that some honorable members looked upon the Constitution as an old battered hulk fighting in the midst of a storm, its masts and sails and rudder gone, and the crew working at the pumps to save their very lives. I do not think we need take such a pessimistic view of the position. In these alarming

circumstances the neophyte in politics—the man entirely unskilled in legal customs—must look entirely to those experienced and learned in the law. I have looked to the honorable member for Northern Melbourne, but he does not seem to be in the least dismayed at the prospect of having to carry on with a maimed Constitution. In fact he laughs. He says—"The Constitution is all right," and he makes the pithy remark, which puts the whole matter in a nutshell. "Wait till the shoe pinches; wait till there is an absolute necessity for this High Court before you go to the expense of establishing it." I thoroughly agree with the honorable and learned member. Further, he invites Parliament to take Canada as an example. We are all very fond of pointing to Canada as an example to be followed. The Government, when it suits them, have a particular affection for that country. If they desire a double-barrelled duty they quote Canada, and in this connexion I would say that in one case we have actually adopted the Canadian expedient of a double-barrelled duty. I think we cannot do better than follow Canada's example in this case, and wait for ten years, as they did, or at all events until the expiration of the period covered by the Braddon clause, about which I shall have a word to say presently. I look also to the honorable and learned member for South Australia, Mr. Glynn, and I observed that he is perfectly placid and unmoved. What does he say? He says that the creation of the High Court would now be premature, and that it will not be required for another generation. On going into figures, he appeals to every business man by stating that the appeals to the Privy Council have averaged only twelve per annum for the last twenty years. Again we turn to another honorable and learned member. I refer to the honorable member for Werriwa. He tells us that appeals to the Privy Council are always decided with the utmost impartiality. I should naturally think that if one desired an absolutely unbiased judgment on questions of law, he would be far more likely to obtain it from the Privy Council than from a purely Australian Court. I am a very patriotic Australian, yet I think the balance lies in favour of the English Court, so far as the question of purity is concerned. The only thing I do not like about the Privy Council is that it is so strongly branded with the mark of St.

and St. George. As far as the layman can see, I believe that the nation is doing very well—that it is good work. I believe that instead of a shattered hulk she is a handsome ship, that she is sailing in summer seas with all sails set to the best advantage, except, perhaps, she has to sail with a sky-sail less, or but this gives her less top-hammer, makes her very much safer and steadier in a storm. There is only one fear—reference to the Constitution that has been called objectionable, and repeated reference has been made to it. I speak of the Braddon blot. I think the Government is extremely thankful for the Braddon blot. It was a magnificent conception. A refuge it affords the Prime Minister; that a godsend it is to the Treasurer; a bulwark for the Ministry; what a reckless, unbridled extravagance.

You ask the genial and courteous Premier for a cheque for old-age pension and he says—"I should be delighted to give it to you, but here is the Braddon blot which prevents me from doing so." I thought strikes me that perhaps the Government of those provisions expected that he would be the Commonwealth Treasurer. If he has decided against him. In any case that, instead of being regarded as a blot on the Constitution, they should be regarded as its saving clauses. I have listened to the arguments in favour of the establishment of a Federal High Court, and only one which influences me is that of the Australian Court of Appeal. I have sympathy with that object. Nearly all my family were born in Australia, and Australia saved my life when I was a mere child so that I am Australian to the heart. But in dealing with this we cannot escape the fact that we must economize. Notwithstanding the breezy spirit of the Minister for Finance, we, as business men intrusted with the administration of the affairs of the Commonwealth, must show an economy. When in Queensland, I found that an extraordinary idea existed in the minds of my constituents in regard to the federal expenditure. They seemed all to be impressed with the idea that the Commonwealth is heading for perdition because of extravagance, and in the interests of fair play and I hope I shall never be deficient

in the spirit of justice—I had actually to fight the cause of the Government, and to win credit, not from my own side, but from the supporters of the Ministry. I had to explain that instead of the Commonwealth being extravagant it was sometimes, in my opinion, too much inclined towards parsimony. But now that I have returned, and find this proposal for the establishment of a High Court in the forefront of the Government programme, I am forced to reconsider the position. Is this a time for imposing fresh burdens upon the already overburdened taxpayer? Honorable members do not seem to realize the tremendous distress which exists in Queensland. Nearly the whole of the cattle owners there have been absolutely ruined. Wealthy men, who could afford to come to Melbourne and spend their money freely, are penniless. Indeed, the breeders of cattle have been particularly hard hit, because they had no sooner got through the tremendous disaster in which the tick pest involved them, than they were overtaken by the recent frightful drought, which has caused the loss of millions of cattle and of sheep. When I was last at Rockhampton I could not speak for a week, because I felt so disheartened at the signs of distress in the town. Men who had been getting good wages, and whom I had paid myself, were begging in the streets for 6d. to buy a meal. Yet we are asked to throw away a large sum of money in the establishment of a High Court, which perhaps we do not need at all, and which we can, at any rate, do without for the next ten or twenty years.

Mr. McDONALD.—The honorable member does not say that the conditions which he has described exist in Queensland to-day?

Mr. A. PATERSON.—Things are not quite so bad as they were. Rain fell on the day upon which I left Clermont.

Mr. L. E. GROOM.—When was that?

Mr. A. PATERSON.—That was in December last. But any one who has had experience knows that it will be many years before Queensland can recover her former position. Only to-day I was speaking on the subject with a bank manager who has come from that State, and he shares that opinion. Owing to the scarcity of young stock, the effects of the drought will be felt for many years to come. Is this then a time in which to propose fresh expenditure? Many of the States are now exercising the most severe and rigid economy. Look at

the economies which Queensland is effecting. The retrenchments in the public service there have been extremely severe. What a howl we should have heard if one half of what has been done in Queensland were done in Victoria. North, south, east, and west the people are crying for bread, and what do we offer them? A Judiciary Bill! We ask, "What do you want with bread? Look at the magnificent Bill we are giving you. We propose to give bread and butter to the Judges of our High Court, but you can go and work." There are thousands of men still out of employment, while many others have been driven in distress from the country. They ask us, "What are you going to do for us?" and our reply is, "We are going to establish a High Court where you will have justice administered in the purest manner possible." What do these men care for justice? They want bread. They do not want justice at the expense of further taxation. The position reminds me of the trial trip of a steamer which I once attended at home. There was the usual fashionable company on board, and fine speeches had been made by the magnates present, when an inquiring shareholder asked, "But what about the dividends?" He received the reply, "Do you expect dividends with two lords on the board?" We are going to have five new law lords on the bench, though I heard a lawyer say that he did not believe that a Federal High Court was required, or, at any rate, that we could do without it. In my opinion, it is desirable that we should have this judicial court as soon as we can, that is, as soon as we have work for the Judges. But it is a piece of unpardonable extravagance to propose its establishment at a time when every shilling of the revenue is required for other purposes. I mistake the temper of the Australian people very much if they do not show themselves extremely indignant at the attitude of the Government in regard to this question. I feel certain that if a referendum were taken upon it, the result would be an enormous defeat for the Government.

MR. DEAKIN.—Not if the people understood the subject.

MR. A. PATERSON.—Of course, it is said that laymen cannot understand these legal matters.

MR. DEAKIN.—This is a matter which they could easily be made to understand.

MR. A. PATERSON.—Look at the enormous cost of the proposed court. We are to expend £30,000 a year to begin with.

MR. DEAKIN.—I gave the House £30,000 as an estimate which, I explained at the time, would cover not only the salaries of the Judges and their officers, but that of the Crown Solicitor as well; in fact the whole administrative body of the court.

MR. A. PATERSON.—I remember the magnificent oration which the Attorney-General delivered when he first proposed the establishment of this court. The impression which it left upon my mind is so distinct that I can hardly believe that fourteen months have passed since it was delivered. If a vote had been taken on the question immediately after his speech, I am afraid that some of us would have forfeited our reputation for consistency by voting bald-headed for the Bill. But, fortunately, we had time for reflection, and it has done us good. In addition to the £30,000 which is the cost of the court as estimated by the Attorney-General, there are the pensions of the Judges to be reckoned. I never heard of Judges anywhere going without pensions, and the pensions of these learned law lords would amount to a large sum. First we are asked to create a great Valhalla, and then, when these great law lords enter it, we are to hand to them the apples of immortality, in the shape of pensions. It is a singular thing about pensions that, although the poor pensioners who are in receipt of 5s. a week die off like flies, the pensioners who get £1,000 a year are immortal, they live for ever, and when one of them dies by inadvertence the country says, "Thank God!" Is not that a humiliating thing? In my opinion it would be better not to give pensions, but to make the salaries sufficiently large to enable their recipients to make their own provision for old age and infirmity. I would like to see the money which a High Court would cost, not put into the bank, but judiciously and properly expended; and I believe that it could not be invested to greater advantage to the Commonwealth than by increasing our naval defences for the protection of our hearths and homes. On the question of defence I am a narrow-minded Australian throughout. With regard to the Naval agreement, I think that even assuming that all the other conditions are acceptable the proposed term of ten years is too long. I quite understand that when the Prime Minister was at

home he did not wish to appear too mean, and neither do I. I want to see Australia act a generous part rather than otherwise. The amount which it is proposed to give the Imperial Government, £200,000, is comparatively unimportant. As the Minister for Defence asks—"What is £1,000,000?" I ask in the same way—"What is £200,000?"—it is nothing. The only point is that we are called upon to pay £200,000 per annum for ten years. What I do not like is to find that Canada, whose example is always quoted in this House, has made a much more advantageous bargain with the Imperial Government. She has two Imperial squadrons constantly patrolling the seas upon her shores—one on the Pacific and the other on the Atlantic side—and yet she does not pay the Imperial Government one penny. Now, as a Scotchman, I do not like to see Australia overreached by Canada, and I think that if England can do what she has done for Canada, she can extend the same consideration to Australia. The money which we propose to contribute towards the Imperial navy would be applied to infinitely greater advantage if it were used to form the nucleus of a fund out of which we could build ships for ourselves. We shall have to come to that in the end. We cannot possibly continue to depend for the protection of all our ports upon England; we cannot be for ever hanging on the maternal breast. The million of money mentioned by the Minister for Defence would build three of the first class cruisers recommended in Captain Creswell's report. The interest on £1,000,000 borrowed at 3 per cent. was stated by the Minister for Defence to be equivalent to the price of a glass of beer for every inhabitant of Australia, but it would be even less than that. Whatever Government may be in power in the near future will have to face the question of creating an Australian navy. I do not wish to belittle the Australian auxiliary squadron, because it seems to be necessary to us at present, but I am afraid that we shall be increasing the subsidy at the wrong time. Just fancy the position we shall occupy if we ratify the proposed agreement. It is undeniable that if England were in serious straits the ships belonging to the Australian squadron would be taken away from our shores. That is not the worst either, because the squadron would take with it

the only men upon whom we could depend for our naval defence. One of the baits held out to the Prime Minister to induce him to increase our contribution was the provision made for the training of Australians as seamen and as reservists on the vessels of the fleet. But these men would be taken away from us possibly at our time of greatest need. I am just as fond of old England as is any honorable member, and although I am a Caledonian chieftain, I should come down with both feet on any attempt to belittle England. I never mention the name of Scotland, as many Scotchmen do, making themselves ridiculous and odious, but I glory in belonging to England. We should in this matter look to England's benefit. If we ratify the agreement we shall continue to be a drag upon England, whereas if we build our own ships we shall help her.

Mr. HIGGINS.—The question is how best to spend the money we can afford?

Mr. A. PATERSON.—The best financial proposition is to use it to build our own ships. The thought has struck me that if we had passed the tea and kerosene duties—the loss of which I have always regretted—we should have been able to build a fleet for Australia out of the proceeds of those imposts within five years. Why should we be afraid to tackle the question of providing an Australian navy? Look at what we have done for ourselves without the assistance of the Imperial Government. We have built over 16,000 miles of railway, we have registered a maritime tonnage of 345,000 tons, and the value of our land and improvements, not to mention the immense stocks of merchandise and produce, and our flocks and herds, represents the prodigious sum of £628,000,000. Moreover, we have spent upon our railways £217,000,000. I admit that a good deal of this money has been spent badly, and that if we had saved that which has been badly spent, we should have been able to provide a fleet at once. The crowning evidence of our manhood and of our ability to manage our own affairs, is to be found in the fact that we have borrowed £215,000,000. Australians are sometimes accused of getting "swelled head," and I believe the accusation is just, because every one is afflicted with the same complaint, more or less, upon occasions; but in this particular case I think we are too modest. Do not let us forget that of the five greatest cities in the British Empire

Australia owns two. Notwithstanding all these evidences of wealth accumulated by Australians, borrowed by Australians, and expended by Australians, we are standing on the brink, shivering at the bare idea of building a cruiser. I believe England would be delighted if we showed a bold national spirit, and took the defence of Australia into our own hands.

Mr. HIGGINS.—All the naval experts give us that advice.

Mr. A. PATERSON.—Yes. I candidly confess that I had not the necessary experience last session to enable me to judge as to the right course to take in regard to naval and military expenditure, and perhaps some of my votes may be open to considerable criticism. After reconsidering the whole question, I have come to the conclusion that we are making a great mistake in not paying more heed to the navy. I do not say that we should devote less attention to military matters, but as a matter of self-preservation we shall have to spend more money for the protection of our coasts, and the sooner the Government recognise their imperative duty in this respect the better will they study the truest interests of the Commonwealth.

Mr. KENNEDY (Moir).—After listening patiently to the addresses of honorable members, the conclusion has been borne in upon my mind that the Government may safely be congratulated not only upon their administration, but also upon the forecast which they have given us in the Governor-General's speech. If one note has been more dominant than another in the criticisms to which they have been subjected, it is the complaint, perhaps not made directly, but voiced in an indirect way, that they have, so to speak, depleted the political wardrobe, and left the Opposition without any political attire, other than the proverbial fig-leaf, in which to appear on the public platform at the next election. It has also occurred to me that even when honorable members have trained legal minds it is often difficult for them to be logical. The honorable and learned member for Parkes riveted my attention by the masterly way in which he dealt with his subject last evening, but even he appeared to be altogether illogical, because, on the one hand, he accused the Minister in charge of a department with playing the part of an arbiter in interpreting an Act of Parliament, whilst on the other hand he condemned another

Minister for not acting in a similar capacity. The Minister for Defence laid upon us the charge of being parsimonious, and he also made a noteworthy remark in connexion with his references to the federal capital site. He said that it was desirable that we should place the federal capital in close proximity to some striking features of Australian scenery. Anyone who has been intimate with the condition of the country during the last two years must admit that the most pronounced natural features have been river beds without water and the bleaching bones of our dead stock. Looking at the matter from that stand-point it is not to be wondered at that honorable members of this and other legislative bodies in Australia should adopt "economy" as their watch word on all occasions. They are forced into that position. I think it was the honorable member for South Australia, Sir Langdon Bonython, who credited the Government with having at all times displayed economical tendencies. I cannot indorse that statement. I could cite several occasions upon which the Ministry have been compelled only by the feeling of the House to exercise economy. For example, last session they attempted to pass a Loan Bill. It is true that the amount involved was a small one, but it represented the beginning of a bad practice. It was only the opinion of the House which deterred them from following in the footsteps of the State Parliaments by initiating a system of borrowing. While I am at all times prepared to support any expenditure that is calculated to promote the welfare of the people, I cannot vote for any proposal involving increased expenditure without being fully convinced that there is ample justification for it.

Mr. KIRWAN. — How does the honorable member propose to keep faith with New South Wales if the federal capital be not established?

Mr. KENNEDY.—I have not expressed an opinion upon that matter yet, but I will address myself to it presently. First, amongst the Ministerial proposals embodied in the Governor-General's speech is that relating to the establishment of the High Court. It may be necessary to create that tribunal, and I do not say that I will not support a proposal in that direction, but I certainly will not support new expenditure to the extent of £30,000 being incurred in the establishment of a court.

Mr. DEAKIN. — Unless the honorable member is satisfied that it is a good investment ?

Mr. KENNEDY. — So-called good investments do not always prove to be such. In the first instance I shall have to be convinced that our existing needs cannot be met by the States courts. Many honorable members seem to forget that the States and the Commonwealth are composed of the same people. In each instance the taxpayer is identical. That is a fact which is too often ignored in the relations which exist between the Commonwealth and the States. Instead of the Prime Minister and the Premier of Victoria meeting each other in a perfectly friendly spirit, they approach each other through the columns of the daily press—allow the newspapers to “pull their legs” so to speak, altogether oblivious of the fact that in the meantime the public interests which should be their first concern are going to the dogs.

Sir EDMUND BARTON. — The honorable member is at liberty to peruse any correspondence which I have had with State departments, and he will then be able to form his conclusions as to whether I have not on all occasions extended to them the utmost courtesy.

Mr. KENNEDY. — At a later stage I shall read certain extracts which have led me to the opinion I have expressed.

Mr. KIRWAN. — The State Premiers are jealous of the powers of the Commonwealth.

Mr. KENNEDY. — That may be so, but the first concern of statesmen should be the public interest, not personal dignity or matters of etiquette. The establishment of the Inter-State Commission will also involve the Commonwealth in another large and permanent expenditure. There may be a necessity for constituting a tribunal to deal with disputes of an Inter-State nature that are brought about by the operation of differential or preferential railway rates. When the honorable member for Kalgoorlie was speaking the other evening on the differential rates which exist in Western Australia, I interjected that the same conditions prevailed in other States. Undoubtedly they do. Of my own knowledge I can say that, from some stations in Victoria the Railway department charges residents of this State three times as much for the carriage of their wool as it does for the carriage of wool which is grown in New South

Wales. Other merchandise is carried under similar conditions. Secret rebates are made to individuals and to representatives of various firms. In the Railway Commissioners' report for the quarter ended December last appears a statement which is only a repetition of what occurs from year to year. It shows that rebates have been made to individuals upon rates which have already been reduced. There is no doubt, therefore, that a necessity exists for the creation of some tribunal to deal with these questions. But honorable members should not forget that under the Constitution the powers of the Inter-State Commission are restricted to some extent, and that where it can be proved that differential rates are charged for the purposes of development that tribunal would be absolutely powerless.

Mr. POYNIX. — It could deal with cases in which preferential rates are charged. The instances given by the honorable member could not then exist.

Mr. KENNEDY. — At any rate they exist at the present time. In my opinion it is not necessary to incur a large expenditure in order to remedy these evils. The States are practically the sole railway carriers in Australia, so that difficulties which confront the Inter-State Commission in America where the railways are in the hands of private companies could not possibly arise here. Personally I fail to see why the Commission could not be constituted by the appointment of officers who are already in the States services, the cost involved being borne by the Commonwealth. All that is required is a body composed of one of the Railway Commissioners, a first-class commercial man, and a judicial authority. Officers who are already in the service could be appointed to collect evidence upon any matter in dispute, and that evidence could be submitted to the tribunal indicated.

Mr. L. E. GROOM. — Would the honorable member allow a Victorian Railway Commissioner to sit in judgment upon a Victorian railway case ?

Mr. KENNEDY. — Not necessarily. One man would not dominate the whole position. All disputes would be determined upon the weight of the evidence submitted. Passing to the adjustment of the boundaries of the new Federal electorates, I would urge upon the Minister for Home Affairs the necessity which exists for having

the rolls posted in the different districts at the earliest possible moment. Electors will then be able to ascertain whether their names appear upon them, and, if not, will be able to get them on before the elections take place. With regard to the discrepancy which exists between the census returns and the Federal rolls, the explanation may not be far to seek. Let us take the case of Victoria as an illustration. I know that the Federal rolls show an increase of 9,000 male electors over the latest published State rolls, although the qualification is exactly the same in both cases. It is evident that there cannot have been any great amount of negligence or carelessness in the compilation of the Federal rolls. In this connexion I may mention one case which came under my own notice. Two householders in a certain district informed me that no inquiry whatever had been made with respect to the persons in their homes, and they assumed, therefore, that their names were not upon the Commonwealth roll. I suggested that probably the officers charged with making the inquiry had authentic information from some other source. Upon inquiry, I found that the names of all the persons in the homes referred to appeared upon the roll, thus proving that although the officer entrusted with the work had not made a personal visit to the houses, he had full information as to those whose names were entitled to be placed upon it. It is essential that the earliest opportunity should be given to electors to ascertain whether their names are upon the rolls, in order that they may avoid disfranchisement at the next general election. There are two other matters to which I wish to direct pointed attention. The first is that to which the honorable and learned member for South Australia, Mr. Glynn, drew attention the other day, namely, the question of navigation and irrigation. In my judgment, one of the largest questions confronting a very considerable section of the Commonwealth is how we are to utilize the waters of our rivers. In this connexion, however, no alarm need be experienced by representatives from the other States that any financial burden will be cast upon the Commonwealth as a whole. I have no hesitation in saying that whatever financial responsibility may be incurred in respect of irrigation works on the Murray or the Darling rivers, the States which will be benefited thereby are fully prepared to accept it.

Mr. Kennedy.

It is not a question of asking the Commonwealth, so to speak, to expend money for the benefit of one State, or a section of a State. Land-holders within these districts are prepared to accept the full financial responsibility. I do not know how far it is possible for the Federal Government to interfere at the present stage, but I should like to draw the attention of the Prime Minister to the fact that the feeling was present in the minds of a very considerable number of people that, in entering into federation, we were creating a power which might be able to harmonize the relations existing between neighbouring States in regard to joint works beneficial to both parties. The proposed transcontinental railway and the works relating to the Murray basin waters come within that category. The Constitution vests certain powers in this Parliament with respect to navigation, and I presume those powers cover the question of the navigation of the Murray and its tributaries. The question whether the necessities of navigation are to supersede the requirements of irrigation is one that should be determined by this Parliament at the very earliest moment. I think I am right in saying that the Prime Minister attended a conference at Corowa some little time ago.

SIR EDMUND BARTON.—In March of last year.

MR. KENNEDY.—At that conference the three riparian States interested in the Murray basin waters were represented by their Premiers, and an agreement was arrived at that the whole matter of the use of the waters of our rivers should be referred to a commission, on which each of the three riparian States should have a representative. The commission was appointed, inquired fully into the matter, and submitted a report. The members of that commission were men in whom the Governments that appointed them had absolute confidence. They were appointed, I presume, because they were thoroughly conversant with the subject, and knew the way in which to obtain the best information. They made certain recommendations which they embodied in their report, and in April last the Premiers of the three States concerned met in conference in Sydney. Amongst other questions dealt with at that conference was that relating to the river waters—and with what result? The Premiers simply ignored the recommendations of the

commission; they threw the commission's report into the waste-paper basket, and formulated a proposal of their own, which they propose to ask their respective Parliaments to ratify.

SIR LANGDON BONYTHON.—The report of the commission was unfair to South Australia.

MR. KENNEDY.—That is the extraordinary feature to which I propose to refer. I have already mentioned that it was the aspiration of many federalists that the Federal Parliament, when created, should be able to determine issues of this character, that wherever conflicting interests like these existed between two or more States, the Federal Parliament, acting for the whole of the people of the Commonwealth, should be able to determine what was best in the interests of all concerned. As to the constitutional rights of South Australia, I am not going to offer any opinion. The Premiers threw the report of the commission into the waste-paper basket and formulated proposals of their own, which they are going to ask their Parliaments to ratify.

SIR LANGDON BONYTHON.—The South Australian representative on the commission entered a protest against the report.

MR. KENNEDY.—He dissented from the finding of the commission. I have some knowledge of the conditions which prevail over the greater portion of the Murray valley, and I venture to say that the proposals formulated by the conference of Premiers will not be ratified either by the Parliament of New South Wales or that of Victoria. I believe that the position will be as it was. South Australia will not have sufficient water for navigation purposes during a considerable portion of the year, and irrigationists in New South Wales and Victoria will be retarded in their operations for some years to come. If the agreement is ratified, it will not only debar the people of New South Wales and Victoria from entering into further irrigation projects, but in many seasons it will leave irrigation trusts which have already been established in Victoria without a drop of water.

MR. BATCHELOR.—They have at present under way all the schemes that it would be possible to carry out for the next five years.

MR. KENNEDY.—No. That is another creature of the imagination of the press-man who, to use a colloquialism, sometimes "pulls the legs" of the people.

MR. POYNSTON.—Did not the Premier of Victoria say so?

MR. KENNEDY.—The peculiar fact is that the Premier of Victoria, speaking in the State Parliament and also on the public platform, claimed the right of Victoria to divert every drop of water which fell on Victorian territory.

MR. BATCHELOR.—That is a large order.

MR. KENNEDY.—I am not saying whether the Premier was right or wrong. I am merely telling the honorable member what he said. After making that assertion here, he went to Sydney, and actually gave away the rights of the people—rights which had been created under an Act of Parliament—to the use of water for irrigation purposes. I have been associated from my boyhood with farming and grazing in the Murray Valley, and I know something of the conditions which exist there. Had the recommendation of the commission been carried out there would have been a possibility of very material development, not at the expense of the Commonwealth.

SIR LANGDON BONYTHON.—But at the expense of South Australia.

MR. KENNEDY.—No; at the expense of the States concerned.

MR. KINGSTON.—Was not our share to be the dry channel?

MR. KENNEDY.—No. I shall tell the right honorable gentleman what I and others who are not representatives of South Australia think about the matter. Unfortunately we are still imbued with that parochial spirit which, shortly prior to federation, induced some of the States Parliaments to load up some of the departments that were about to be transferred, in order as they thought, to pass on the baby to the general taxpayer of Australia. In dealing with large measures of common concern—measures affecting the people of more than one State—we seem to be still imbued with that spirit.

MR. KINGSTON.—If I object to a man taking my watch, does that show a parochial spirit?

MR. KENNEDY.—No claim is made either by Victoria or New South Wales to the use of the whole of the waters of the Murray. What is claimed is that as the Premiers submitted the matter to the best available authorities, the report given by those authorities should have received some little consideration.

Mr. BATCHELOR.—It was not a unanimous report.

Mr. KENNEDY.—I am aware of that. But it was a report by gentlemen who know more about the matter than does the Premier of any one of the States. I wish to point out the effect of the agreement arrived at by the Premiers. We have on the Goulburn River in Victoria an irrigation trust which was formed some years ago, and in connexion with which there has been some £500,000 expended in the resumption of lands and the construction of weirs and water channels, and other works. After expending a very considerable sum of money in experimenting with irrigation, we are now obtaining some return for our outlay. During the last two or three dry seasons people have realized the true value of water for irrigation purposes, and, as the result of that experience, have continued to impress upon the Premiers of the States concerned the desirableness of coming to some agreement with respect to the use of the waters. It was this agitation that first gave rise to the Corowa conference. A scheme was promulgated by the people of Riverina under which it was proposed to expend about £500,000 in constructing a weir at Bungowannah, together with other water-works, to divert a volume of water sufficient for stock and domestic supplies over an area of 3,000,000 acres, and to irrigate about one-twelfth of that area. The diversion works were to be a joint enterprise on the part of Victoria and New South Wales. The water to which Victoria considered it was entitled—and the report of the engineers supported the contention—would have supplied a vast area. But, as a result of the agreement arrived at by the conference of Premiers in April last, these schemes must be abandoned. For at least twelve or fourteen years there has been a Trust district in existence on the Goulburn River, where we have now almost perfected our irrigation arrangements. But if the Premiers' agreement be ratified by Parliament, the Trust will not be able to divert a single drop of water from the Goulburn for the proper supply of that district. Under one of the provisions of the agreement 150,000 cubic feet of water per minute has to be sent down the Murray to the eastern boundary of South Australia. As a matter of fact, the gaugings taken by the Water Supply department show that in many years there is not a

volume of 120,000 cubic feet per minute flowing along the river at that section ; but as soon as the supply at the eastern boundary of South Australia drops below 150,000 cubic feet per minute both Victoria and New South Wales will be debarred from using the water. Thus, it is an absolute certainty that the agreement, if carried out, would not only deprive the contemplated works of their requisite supply, but would actually cripple those works that are already in existence. It is for this reason that I am urging the Prime Minister to give some attention to the matter. In support of my contention that the ratification of the proposals of the Premiers would not only prevent the States of New South Wales and Victoria from entering into new irrigation schemes, but materially interfere with works which have been in existence for a considerable number of years, I will quote the report of an interview with a gentleman who was at one time at the head of the New South Wales Department of Water Conservation—a gentleman who was very eminent in his profession, and knew exactly what he was speaking about—

Mr. H. G. McKinney, speaking of the decision of the conference of Premiers in regard to the River Murray question, said that the demand made by South Australia in regard to the waters of the Murray and its tributaries had been from first to last extraordinary. In the proposed settlement of the claims of the three States, the quantities of water allotted to South Australia had been proportioned to its demands, rather than to any legitimate rights. Navigation, which South Australia was so desirous of protecting, was chiefly navigation on New South Wales rivers. Practically what New South Wales had been asked to do was to sacrifice the interests of a large area of lands in the central and western divisions in order that South Australia might derive benefit from a precarious trade on the western rivers of this State.

I have already referred to the feeling which seems to exist between the Premiers of the States and the Prime Minister in regard to matters of mutual concern. The following quotation will illustrate my remarks—

The Premier (Sir John See), in replying to adverse criticism on the agreement entered into with respect to the allocation of the River Murray waters, and the assertion that South Australia had got the advantage of the other States, said that the whole matter resolved itself into this : that had some compromise not been arrived at, the conference would have been discredited, and the question of the River Murray waters would have possibly led to litigation in the Supreme Court, and finally, in an appeal to the Privy Council, causing endless delay in carrying out many good irrigation and water conservation works.

ly the same opinion was expressed by the Premier of Victoria. To my mind, the Premiers, in agreeing to let the matter of this matter wait over for five years instead of determining the respective interests of the States at the present time, are to follow the line of least resistance, understanding the fact that the question must eventually be dealt with, and that the result will be settled the better for all parties concerned, because the experience of many years has shown us that the development of the river is impossible without the conservation of flood waters and their use by means of irrigation works. Mr. Irvine's remarks illustrate what I have said about the difference which exists between the State and the Prime Minister—

Mr. Irvine also dealt with some remarks made by Sir Edmund Barton, Prime Minister, in reference to the work of the conference. "I am surprised," he said, "at a statement made by Sir Edmund Barton. He is reported to have said—'The Commonwealth Government could not consent to any of the resolutions which appeared to dispute the powers of the vote of all Australia, with the indorsement of the Acts of Parliament, had conferred matters which were by the Constitution handed over to the Federal Government.' I am aware that there is anything in any of the resolutions which tends to dispute or question the powers—"

SIR EDMUND BARTON.—I did not say that. I rather guarded myself in that direction against saying so.

MR. KENNEDY.—Mr. Irvine con-

It was not the intention of the Premiers. Their intention was to bring respectfully the notice of the Federal Government matters in which the exercise of its constitutional powers would be beneficial, in their view to the whole of the States."

matters of public concern affecting the States and the Commonwealth arise, it would be much better if, instead of speaking in the press of difficulties, they may be merely creatures of the imagination, the heads of the various departments would come to close quarters with the Prime Minister and arrive at some understanding. It is our bounden duty, if the Constitution has given this Parliament power, or we can obtain it from the States, to deal with the question of the waters of adjacent States in the waters of the States which flow between them.

SIR EDMUND BARTON.—The question must first have to be referred to us by the

Parliament or Parliaments of any State or States concerned.

MR. KENNEDY.—I wish to draw attention to the matter publicly so that consideration may be given to it. Feeling on this subject is very strong throughout the northern districts of Victoria and the southern and western districts of New South Wales, because their future prosperity depends upon the early settlement of the question. There is one other matter to which I wish to refer, and it is connected with the oversea mail contracts, and concerns the interests of a large number of the producers of Australia. Of late years I have had a more intimate knowledge of the conditions of the producing interests of Victoria than of those of the other States, and for that reason my remarks must seem to apply more particularly to Victoria, though I think they are of equal application to the other States. The subsidy paid to the companies whose steam-ships carry our oversea mails has been about £90,000 a year for some years past. Practically all we get for that contribution is the regular carriage of our mails to and from Great Britain and intermediate ports. But prior to 1899, and in the early days of our export trade in perishable products, an agreement was made between the Government of Victoria and the steam-ship companies—and I believe that similar agreements were made in the other States—which required them to make certain provision for the conveyance of perishable products. After a considerable amount of experimenting, that trade developed very largely, until it became seriously affected by the drought. But in or about the time of the inauguration of the Federation the agreement I speak of was allowed to lapse. Now, it has been the hope of the producers of Victoria and, no doubt, of those of the other States, that, as soon as one authority was in a position to enter into an agreement of this kind for the whole Commonwealth, they would obtain much better conditions. Last season, which was not a favorable one, the export of butter, fruit, mutton and lamb in the carcass, and rabbits from the departmental freezing works and cool stores in Melbourne, was something like 25,000 tons. But in dealing with the steam-ship companies in their individual capacity as producers, or through agents, our people feel that they are not in a position to obtain the

terms to which they consider themselves entitled. The charge for the transport of butter, for instance, which is entirely in the hands of the mail-boat companies, is £7 per ton, or 3d. per lb. from Melbourne to London, a price which those in the trade term a prohibitive one. Although there has been a considerable increase in the volume of trade, there has been no reduction in rates for some years past. I therefore think it is incumbent upon the Federal Government, now that an opportunity is afforded by the expiration of the mail contract, to enter into an agreement, upon the renewal of the mail subsidy, for the transport of perishable products under better conditions and at lower rates. The export of perishable products is a trade which is yearly increasing in volume, and in which the whole of the States are concerned. Furthermore the interests of the producers are everywhere identical. In the matter of the export of fruit, we have now arrived at the stage when fruit can be sent to the London market with some degree of certainty that it will arrive in good condition. But the freight on a 40-lb. box is as high as 4s., or more than 1d. per lb., which shippers from whom I have made inquiries, term an extortionate charge. I ask the Government to give some attention to this matter. I do not intend to traverse the many statements which have been made by the various speakers during this debate. Some of the issues which have been raised are more suitable for discussion from a public platform at the approaching elections. The old question of free-trade and protection has been revived, but I think its resurrection is due to the fact that free-traders wish to make themselves a decent suit in which to appear before the electors, and so they are using the shroud of a body which I thought was decently buried after the last debate on the Tariff. The view which I take in regard to what has been said about the administration of the Alien Restriction Act, is this: Severe criticism has been hurled at the Prime Minister because at the dictation of the socialistic party he refused admission to the famous six hatters. As I understand the situation, the Prime Minister was in duty bound to refuse permission for the landing of these men until certain conditions had been complied with. Some honorable members have apparently lost sight of the fact that after representations were made by the labour unions,

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and by what has been designated socialistic party, the Prime Minister refused to admit the hatters. It has also recently been forgotten that another lot of men, who came here under exactly the same conditions, were allowed to land immediately upon their arrival, simply because steps were taken with respect to them which should have been taken in regard to the first six hatters. I do not claim to be exonerated from my share of the responsibility attached to placing the Immigration Restriction Act upon the statute-book. When I voted for the provision which the six hatters were first refused admission to the Commonwealth, I was not aware as well what its effect would be as to-day, after all the discussion and criticism which has been passed. Notice of the amendment was given by an honorable member for Bland many months ago, and it was with a view to preventing the recurrence of anything of the kind that I decided to support the proposal. The Lachlan and Darling districts of New South Wales friction which had existed for some years between the squatters and the shearers culminated in 1878 in what was known as the Mossgiel strike. The squatters tried to obtain the upper hand, and the shearers fought them as well as the conditions would permit. The squatters endeavoured to fill their sheds by employing shearers in Victoria and Tasmania, and contracts made in those States. The shearers, who were good and capable men, and were perfectly familiar with the conditions obtaining in the western districts of Victoria and in Tasmania, knew nothing of the circumstances in which they would be placed in New South Wales. When they arrived, the stations representations were made to them that they could not shear with advantage under the conditions to which they had agreed. Many of the men, however, of this, went to work, but before a week over they raised objections, and a strike was the result. That occurred in 1879. The records can be found in the files of the Police Court, because some of the time spent in the gaol there the time would otherwise have been occupied in shearing at Gunbar Station. Some contract men, however, completed their shearing under police surveillance the whole time. That was the

in my mind, and which impelled me to support the amendment of the honorable member for Bland. If the Act is administered, as I believe it will be, in the spirit in which it was passed, it is not only to prevent any one who comes here for a legitimate object from entering the Commonwealth. I think that the Minister of Trade and Customs has, by his reply to criticisms, effectually dispelled those shadows, and, according to the press reports, have a hanging over his head for a considerable time. I think he is to be commended for the line of action he has adopted. I remember distinctly that when the Customs Bill was submitted to the House it was moved by the Minister that, from the information obtained through the Customs officials, the States had been losing something to the extent of £750,000 annually through leakages. It was not a desirable state of affairs, and I thoroughly appreciate the difficulties which confronted the Minister in bringing about various necessary reforms, and in bringing uniformity of practice, I warmly congratulate him upon the great work which he has achieved. No one will question his honesty, or his integrity, and although there may have been a few cases of mismanagement, the general policy pursued by the Minister must have exercised a salutary effect upon the trading community generally, and have resulted in gain to the Commonwealth. I think it will be admitted by those who have had any experience, that there is a limit to what Parliaments can do in any one session, and I do not suppose any honorable member will be beguiled into believing that it is possible for this Parliament, however strenuous may be its efforts, to pass all the measures foreshadowed in the Governor-General's speech during the last few months. I feel confident that some of the most important of them will be carried into law, and I trust that in the administration of these measures, the Ministers will be as fearless as they have been in carrying out the provisions of the Acts already on the statute-book.

Mr. McDONALD (Kennedy).—At this stage of the debate, I do not intend to say very much; but I think some remarks could be made with regard to one or two matters affecting that portion of Queensland which I represent. I have never had the pleasure of congratulating the Government before; but I now offer them my felicitations

upon having promised us an Arbitration Bill. I hope that that measure will be of a comprehensive character, and that it will embody the compulsory principle. I trust, further, that it will be largely instrumental in putting an end to industrial warfare within the Commonwealth. We know that any legislation we may pass upon this subject can be operative only in regard to industrial disputes which affect two or more States, but I can assure the House that the labour party will very soon make it clear that almost any labour dispute may be brought within the scope of the Act. An amalgamation of the various trades organizations throughout the Commonwealth is now in progress, and this, when completed, will bring the whole army of workers into such a combination that any Arbitration Act we may pass will have a much wider application than is now generally supposed. I regret very much that an Act of this character was not in force quite recently, because, if it had been, very much of the trouble which recently occurred in Victoria might have been avoided. I do not wish to say anything further regarding the proposed measure until we have it before us. Those who are opposed to us in politics have frequently told us that we must settle our industrial trouble by constitutional means, but immediately we propose to act upon their advice, we find them still doing all they can to thwart our object. During the 1891 strike, which extended over the length and breadth of Queensland, we were told that if we had any grievances we should seek redress in Parliament. We took the hint that was then given by Sir Thomas McIlwraith, and organized our forces politically instead of industrially. We immediately found that those who had advised us to take this course were more strongly opposed to us than ever before, because they realized that we had become conscious of our power, and that within a comparatively short time we should probably capture the Parliament. I think that there are other matters which should have formed part of the Government programme. Exactly the same conditions prevail to-day as existed two years ago, when mention was made in the Governor-General's speech of a proposal for establishing old-age pensions. If it was right then that any such scheme should form part of the Government programme, old-age pensions should also be among the subjects claiming our attention during the present session. I regret very

much that the Government have apparently abandoned the idea of taking some action to relieve the necessities of those who have done much towards building up this community. It is all very well to say that there are constitutional difficulties in the way of raising the necessary funds, but there is no reason why the money should not be secured by resorting to direct taxation. The Government may say that they do not care to take this course because it would unduly interfere with the revenue-raising powers of the States, but sooner or later they will be compelled to meet the financial requirements of the Commonwealth in this way. It seems ridiculous that if the Federal Government requires £1,000,000 it should have to raise £4,000,000 through the Customs. There are a number of other measures proposed in the speech upon which I do not propose to dilate at present, but I shall certainly strongly oppose several of them, because I do not think they are necessary in the present circumstances of the Commonwealth. There is the question of the naval agreement, but that will come on for discussion later. What I principally desired to speak about, when I rose, was this: that the Electoral Bill was passed last session—I think on the 10th or 12th of October—but it was the end of February before any real attempt was made to prepare the rolls in Queensland. Something was lacking in administration, considering the vast area that had to be traversed in order to collect the names. Any hurried attempt to collect them could only result in a vast number of persons not being able to get their names on the rolls. We now find that there are 18,000 or 20,000 people in Queensland who have not got their names on the rolls. No attempt seems to be made now to show how those particular persons are to be enrolled. Taking into consideration the fact that the number is so large, it seems clear that the department should have been more active in seeing that the whole of the names were collected in a more thorough manner than appears to have been pursued up to the present. There is not one of the States in which it has not been found, in comparing the federal electoral rolls with the census returns, that a large number of people have been left off. In New South Wales there are about 70,000, and in Victoria between 40,000 and 50,000. This is an enormous

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number of electors omitted in the compilation of the rolls.

Mr. TUDOR.—Still, there are more names on the federal rolls in Victoria than there were on the State rolls previously.

Mr. McDONALD.—Yes, and the same is the case in Queensland; but at the same time there has been negligence in collecting names for the federal rolls.

Mr. TUDOR.—The others will have an opportunity given to them to have their names included.

Mr. McDONALD.—There is a difficulty about collecting the omitted names afterwards at the various revision courts; whereas if a proper canvass had been made in the first place the great bulk of these persons would have been placed upon the rolls. There seems to be a desire that the House of Representatives should not be dissolved until after the Senate elections. I hope that such will not be the case. Up to the present the answers to questions put to the Prime Minister have not been at all satisfactory. The question is a very simple one, and might have been answered in a simple manner by the statement that the House of Representatives would go to the country at the same time as the Senate. As it is now, we do not know when we are going to the country—whether in December next or next year. The position will be that the Senate will adjourn some time in October so as to give senators who are retiring an opportunity of again contesting their seats if they desire to do so. The consequence will be that the House of Representatives can do no work beyond that date owing to the Senate not sitting. In the ordinary course of things the new members of the Senate would not care about meeting until the end of January, and we should have to go to the country a month later. There would thus be a period from October practically until the new members of the Senate are returned next year during which no business could be done by us. Apart from the fact that we could do no business here, there would be extra expenditure entailed to the amount of £50,000 or £60,000 by not having the elections for the two Houses at the same time. I should look upon that as criminal on our part. Of course I know that those who hold the opinion that we should go to the country at the same time as the Senate will be met by certain difficulties. We

shall be told first of all that the House of Representatives and the Senate cannot on all occasions go to the country together; that some time or other there will be a dissolution of the House of Representatives, when we shall have to go to the country "on our own." But on this particular occasion we certainly can save £50,000 or £60,000, and it is our bounden duty to do so. Another point that will be raised is that under the Constitution the States have the right to fix the dates of election for the Senate, and that we do not know exactly what dates they will fix. I understand that some of the States are not favorable to having the Senate elections on the same day as the House of Representatives elections. The result will be, if that idea is carried out, that the elections in one State will be on one day, and on another day in another State. But we can easily get over that difficulty. If the States like to plunge themselves into the expense of having two elections, let the onus rest upon them; but we should be fixed in our determination to go to the country on a certain date. Supposing—which up to the present time seems problematical—that the States have power to fix the date for the Senate elections, the course I recommend will compel them to fall into line with the action which the House of Representatives takes. There is another matter as to which I should like to say a word or two. I refer to the legislation in connexion with black labour. All through this debate this subject has been dropped. Time after time we have heard—especially in Queensland—that the passage of the Pacific Islands Labourers Bill was going to ruin one of the largest industries in Queensland. But these facts stare us in the face at the present time: Last year Queensland produced 10,000 tons more sugar than in the previous year. If Queensland had had a normal season instead of a disastrous drought the product would have been very much greater. I am sorry to say that an attempt is being made in Queensland—and that some of the leading members of the Government give countenance to it—to adhere to the position originally taken up that the sugar industry will be ruined by our legislation. All sorts of rumours have been circulated to the effect that white men cannot perform the work. Now the supporters of that view have modified their contention a little

bystating that white men cannot do the work north, say, of Townsville. But the fact is that white men have done the work there. A certain company in the north of Queensland which, owing to the legislation that was likely to take place prohibiting the importation of black labour, indented a large number of kanakas, and which leased these men under agreements to various farmers having transactions with the company, has done some rather remarkable things. A number of these farmers were desirous of working their cane fields with white labour, and so earning the rebate on sugar. But they were not allowed to do so by the company. Further, this particular company has issued a pamphlet, and sent it broadcast—I presume all over the States, because I have seen several copies in Melbourne—setting forth that certain individual white men were given an opportunity of cutting cane in the fields, and failed. It is just as well that the House should understand exactly the position of the whole affair, because this is one of the most disgraceful things that any company could be capable of. They first of all entered into an agreement with a certain number of men to cut a certain quantity of cane. The men had to supply so much cane per day to keep the mill going. The very first thing the company did was to put the men to work in a field of cane which, under ordinary circumstances, would not have been cut at all. It was so knocked about and tangled that it was almost an impossibility to cut the cane, and in the ordinary course of events it would have been destroyed and used as manure, instead of being used for the production of sugar. But the men cut the cane, went through all the difficulties that had to be faced, and supplied the quantity that was necessary according to their agreement. Then the men thought they were going to get something better to do. But what was done then by the company? They put the men on to a field of cane that would go only about $1\frac{1}{2}$ tons to the acre, and where it was almost a matter of impossibility for them to cut the quantity of cane required for the mill. The result was that when after a few days the men were about a ton and a-half short the company told them that the agreement had been broken: that they had not supplied the quantity of cane necessary; and that they would forfeit their deposit of £100. A hundred pounds is a large sum of

money to a few hard-working men who are desirous of making a living at that particular work under such circumstances. They complained, and pointed out the difficulties they had been under, and that it was almost an impossibility to cut the quantity of cane required in that field. It must be borne in mind that the particular section of the field referred to would only run about $1\frac{1}{2}$ tons to the acre, and would not have been cut at all under ordinary circumstances. It would have been allowed to be destroyed. The company would not have attempted it even with cheap kanaka labour. But they put these white men on to it, and because they were about $1\frac{1}{2}$ tons short, the company complained of the work, and said the agreement was broken. The men made an application to get their £100 back, and the company agreed to give them the £100 if they would sign an agreement to the effect that they did not cut the amount of cane required. In the face of these facts the company turns round and issues a pamphlet to the public saying that these men had failed to carry out their contract. They have circulated this pamphlet broadcast. I have seen it stated in the *Argus* upon the authority of this pamphlet, and I presume that the same information was scattered throughout Australia, that white men could not possibly do the work in the north. I deny that. I say that, under ordinary conditions, the white man has been a success in the cane-fields, even in the most tropical portions of Queensland. Wherever we have been able to obtain information we have found that the men have done well, and that some of them have made considerably over £3 a week at cutting cane at the wages paid them per ton. Wherever legitimate and reasonable wages have been paid for this particular class of work, white men were found to do it satisfactorily. I say that it is a scandal and a shame that any company should allow itself to drift to so low a position in party politics—or whatever it may be called—as to issue such slanderous statements as those which I have mentioned concerning white men in North Queensland.

Mr. KINGSTON.—I do not think the honorable member is right as to the amount of shortage— $1\frac{1}{2}$ tons.

Mr. McDONALD.—It may have been a little more; but that is the information which I have—that they were a ton and a

half short. It may have been a little or it may have been a little less; but the fact remains that the crop they were employed to work on was of such character that in ordinary circumstances it would not have been cut.

Mr. KINGSTON.—I am not endeavouring to justify the action of the company in the cutting of the cane, but at the same time I think the honorable member's remarks are out.

Mr. McDONALD.—I received information from a member of the company, and I claim that he should know what he was talking about. There is one aspect of the coloured labour question which I wish to touch, and it arises out of the reply given by the Prime Minister to-day to a question by the honorable member for Herbert. I find that the Government have issued permits to allow certain Asiatics to be employed in the pearl-shelling industry of Thursday Island in place of those who have been driven away. I regret very much indeed that the Government should have issued 211 permits. What the people of Thursday Island required was that the provisions of the migration Restriction Act should be strictly carried out, and that no permits should be issued in connexion with the pearl-shelling industry. If all the black labour were driven out of Thursday Island and the pearl-shelling beds allowed to rest for a time, it would be one of the best things which could be done for the pearl-shelling industry in the northern portion of Queensland; for the experts say that the continuous working of the beds will ultimately result in their becoming useless to the Commonwealth. We are told that these permits are issued merely to allow the Asiatics to work in the pearl-shelling industry. We all recollect that we legislated to prevent coloured aliens, particularly the Chinese, from working in the sugar industry. Does it not seem rather inconsistent that the Government should issue permits to allow coloured Asiatics to work in the pearl-shelling industry? If it is a reasonable thing to allow coloured Asiatics to work in the pearl-shelling industry, it would be equally reasonable to allow them to work in the sugar industry. I do not advocate a change of policy, but it is the logical outcome of the issue of these permits. At one time Thursday Island was the home of a permanent industry, which would

permanent population to settle on these islands, would be established, but the continuous introduction of the coloured alien by a certain syndicate has gradually squeezed out the white man, until to-day hardly a white man is employed in the industry. Whereas at one time we had a population of nearly 2,000 white Europeans, to-day we have a population of only 600 white Europeans. It was urged on by the syndicates that the Asiatics were only required on the boats to dive and tend to the white divers. Eventually the white diver was squeezed out. But that was not the worst evil which resulted. A few years ago nearly 80 white men were employed in building and repairing boats. Just before Christmas I visited all the boat-sheds, and I found that only three Europeans were employed in the boat-building and repairing trade, and that practically the whole of the trade was carried on by Japanese, and that the coloured Asiatics have virtually squeezed out all the European population in that particular industry. But that is not all. Although the coloured Asiatics were imported purely for the purpose of diving and attending to divers, I found that, with the exception of its owner, an aerated water factory, which I suppose was conducted as well as any factory of the kind in the northern portion of the Commonwealth, was carried on by Japanese and other coloured assistants. No matter where you may go on the island you will find that work which one time employed white women or white men, is now done by coloured Asiatics. Originally these men, as I said, were introduced for the express purpose of diving. But it is not possible to keep them employed at that work. Not only have they drifted out of the boat-building trade, but they have permeated every industry on the island and entered the household of almost every person. I may, then, continue the issue of these permits? What has become of the boast of the House last session that the education test would keep out all the coloured people? It has been admitted that we have allowed 30 odd aliens to enter the Commonwealth. If the Act had been firmly administered those 30 odd persons could not possibly have landed. The position which the labour party took up at the time the bill was being considered was that the exclusion of these people from the Commonwealth would depend entirely upon administration. I hold that the granting

of these permits is a very serious act. I know that the people of Thursday Island who are not directly interested in the pearl-shelling industry by owning boats or shares in a company which is getting the shell—I am speaking more especially of the business people—feel very sore about the action of the Government in issuing the permits. They fear that it is only a matter of time when the beds will be completely denuded of any value which they possess, and hold that the presence of this population is a menace to the rest of the settlement. What they desire is that the Immigration Restriction Act shall be administered firmly, and with a desire to keep coloured Asiatics out of the Commonwealth. We are threatened that the pearl-shelling fleet will go over to Dutch New Guinea. It is well known to every one who is interested in the trade that it is an impossibility for the fleet to go to Dutch New Guinea, and that even if they did go they would be compelled, under certain circumstances, to take refuge on the Queensland coast from time to time.

Mr. L. E. GROOM.—There was a telegram published in the newspapers to the effect that they had abandoned that idea.

Mr. McDONALD.—It was used as a threat at the time when we were considering the Immigration Restriction Bill, and it is used even now when we know that the idea has been abandoned and was never intended to be carried out. Interested persons were possessed of sufficient information at the time to know that the industry could not possibly be carried on at Dutch New Guinea. Even if the fleet did go there it would be one of the best things which ever could happen to that part of the Commonwealth, because the scientists state distinctly that the beds in the northern portion of Queensland require time to rest and recuperate. I hope that if the Government intend to take any action in this matter they will proceed in some other way than by granting these permits. There is another feature of this business which ought to be considered. Without going into details I shall briefly refer to the herding of coloured Asiatics on these floating ships. Last session I said that they were floating hells, and I think I was not very far out in making that statement. If it were possible for me to speak without going into details I think I could very soon

shock honorable members by my description of what goes on. Of course it may be said, and said truly, that I have never been on the ships. I do not desire to go on them. Men who have spent the greater portion of their lives among them have given me sufficient information to enable me to say that it is anything but a desirable thing to carry on the industry in the manner in which it is carried on. The herding of large numbers of coloured men on the boats from time to time is simply revolting, and it ought not to have been allowed. I regret very much that even by granting the permits we should have recognised the industry in that respect. I hope that if any action is to be taken it will be taken by a special Bill, which will also provide for the proper inspection of these floating stations from time to time. In that way we might have an opportunity to minimize the evils of the system, and the sooner the work is begun the better. I realize that it is an impossibility for us to deal with the question in this short session. I sincerely hope that at no distant date the House will deal with the question by some comprehensive legislation, which will cover the various phases of the industry. I hope that by the time the next Governor-General's speech is delivered the effects of the disastrous droughts which have been experienced in various parts of the Commonwealth will have been removed, although, as regards stock, some years must necessarily elapse before normal conditions can be re-established, especially in Queensland. Still the mining industry in Queensland, and in other parts of the Commonwealth, has developed to such an extent that it must assist in minimizing the distress which has taken place, and which would have been accentuated if this industry also had suffered severely from the drought. Fortunately it has not done so to any great extent, and therefore it has been able to find employment for a very large number of men. I read with very much regret a statement which appeared in the press yesterday, that it had been found necessary in Queensland to afford relief to a large number of unemployed. I trust, however, that in view of the copious rains which have fallen in Queensland and other parts of Australia, the coming harvest will provide employment for the greater portion of these men. In that way it will afford them an opportunity to tide over their

Mr. McDonald.

difficulties, and probably by the time that we have another speech from the Governor-General, the Government will be able to tell us that the drought has been dispelled, and that the State is in a much more prosperous condition than it is at the present time.

Mr. POYNTON (South Australia).—I rise more particularly to congratulate the Minister for Defence on the vigorous speech which he made this afternoon, and to give him some words of cheer. I do not know that there is any necessity for him to lose heart, because I believe that the Government of South Australia will loyally carry out whatever obligations have been entered into by that State in regard to the construction of the transcontinental railway. I cannot conceive of them ignoring, or endeavouring in any way, to repudiate any arrangement made in the past. But some honorable members seem to be somewhat eager to arrive at a conclusion as to the possibility of this undertaking before they have the actual data necessary to guide them in arriving at a decision. As a member of the State Parliament of South Australia, I took an active interest in this proposal many years ago. I foresaw then the possibility, and in fact, the necessity of connecting the two States by rail. You will remember, Mr. Speaker, that on one occasion a proposal was made to provide artesian bores and other means of water service between South Australia and Western Australia, as a forerunner of the necessary work which must at a subsequent date take place. That proposal was lost in the South Australian Parliament, I believe, by only one vote. At a subsequent date, I moved for a return showing the probable expenditure that would be involved in constructing this line, and giving an approximate estimate of its earnings. I was so impressed with the nature of that return that I moved with respect to the construction of what must be the first section of that line. I have the fullest confidence that the line will be constructed, and that at no very distant date we shall have links of steel connecting the two States. I am equally confident that it will not be the white elephant which some people imagine it will be. It will not traverse a wilderness: it will run through a vast area of mineral country. I have travelled over a large section of the track, and know something of the country at the South Australian end

other end it will not go into man's land, but will connect a which has a population of something 000 people within a very small area. I believe that the representatives of Australia sitting in the State Par- will repudiate any implied agree- understanding, or promise made by you, Mr. Speaker, or by the for Trade and Customs, as Premier State. There seems to be some easiness, however, as to the route will take. It is feared that the line connected, not with that portion of Australia which has been indicated, it will be carried across the continent New South Wales. That matter, e to be absolutely in the hands of le of South Australia.

FOWLER.—Western Australia will t her part of the contract. There no fear about that.

POYNTON.—I feel sure that she propose now to say a word or two, efence of the speech made by my e the honorable member for South a, Mr. V. L. Solomon, in reference line; but in regard to the stand e has always taken. I would point t the honorable member should at credited with this degree of consis- hat he opposed the proposed con- of the line in the first speech that e during the federal elections. I know why we should bring this o conflict with the railway to rthern Territory. It seems to t the two lines stand distinctly r own merits, and really do not in any way. In view of the fact South Australian Government has —unwisely, I think—into an ar- nt for the construction of the e line, it seems to me that com- cannot be made between the two. now to say something of the criti- which have been levelled at the ent during this debate. Speaking from this side of the House, I wish e members of the Opposition to give t for being sincere in the remarks e have to make. I have listened y to the criticisms made, and di- chiefly against the administration of oms department, and it appears to they wholly miss the point. I think cs have discovered the defect, but ve not directed their energies—they

have not brought in their cannon—against the true cause. I say that the cause of the complaints that have been made is to be found in the Act itself, and not in the administra- tion of it. If there be any necessity for attack, it should be levelled against the Act, and against that particular part of it which gives no discretionary power to those who have to administer it. The Act makes it impossible for the Minister to differentiate between cases of absolute fraud and simple cases of error. In my opinion, an effort should be made to amend that part of the Act which draws no distinction between those who make innocent mistakes and those who are guilty of fraud. I have sat with the Minister for Trade and Customs in the same Parliament since 1893, and as you know, Mr. Speaker, I have had my differences with him. But I have yet to learn that in any official capacity he was ever guilty of favoritism. No one, not even his greatest enemy in politics, has ever accused him of showing favoritism. I cannot conceive of any other method of dealing with Customs offences which would not have brought about complaints similar to those that are being levelled against the right honorable gentleman at the head of the depart- ment. The same complaints would have been levelled against the present Minister for Trade and Customs, or any one else administering the department, if he had been called upon to judge the offences. I do not want to see the introduction of that method of administration which prevailed in some States prior to federation, and under which men willingly submitted themselves to the jurisdiction of the Minister, and agreed to pay fines, extending in one case to £1,200, which he inflicted. Under that system, offenders were put on the carpet, but they were dealt with in private. There was no publicity, and none of that exposure which would have occurred if their cases had been dealt with under the present method. I assert that the Minister for Trade and Customs, whoever he may be, is not the right man to decide matters of this kind. Much has been said about a fine which was imposed upon a South Australian citizen, and a very fine citizen he is. I refer to Mr. Raleigh; but what else could have been done? If the Minister for Trade and Customs, who is a representative of the State from which I come, had allowed that gentleman to be dealt with in a differ- ent way—if he had told those under him,

that the case was so trivial—and it is one of the most trivial that has been mentioned during the debate—that it should be decided without going into court, what would have been said? Would he not have been accused of favoring a citizen of his own State?

Mr. KINGSTON.—And a personal friend.

Mr. POYNTON.—And a personal friend. In my opinion, very great danger would be involved in giving power to the Minister in charge of the Customs department to say whether this man or that man was right. It would be equally, indeed, more dangerous, to allow the whole rank-and-file of Customs officers to arrive at determinations as to the particular values of goods. That, to my mind, would be intolerable, I am pleased to notice—and here again I shall come in conflict with some of my respected and honored friends on this side of the Chamber—that the Governor-General's speech contains a reference to a Conciliation and Arbitration Bill. I hope that it will be of a compulsory nature. We heard the other evening something of the jingoists of labour, but did it not occur to the honorable member who used the expression that, if it could be used in that sense, he could have spoken with equal force of the jingoists of capital? Is it not a fact that the very necessity for something in the nature of compulsory arbitration is that these people will not come to a meeting? With all due deference to the acting leader of the Opposition, to the honorable and learned member for Parkes, and to the honorable member for the Grampians, I am inclined to think that those honorable gentlemen are not in a position to fully realize the aspirations of the workers of these States. In saying that I do not intend any disrespect to those honorable gentlemen, but I say their life has been on a different plane altogether from that of the great mass of the workers who will be affected by this proposal. I would ask honorable members who are inclined to oppose the measure if they have been behind the scenes and have seen the conflicts and the suffering that have occurred simply because one side would not agree to meet the other? Have they known anything about the starvation and the want which have been brought about in many instances? If they have I believe their hearts are big enough and broad enough to enable them to decide that it is well that we should try to put an end to all that kind of thing. That is the object of

the measure proposed, and I trust it will be passed during this session. I look upon the High Court and the Inter-State Commission as natural corollaries of the Constitution. We may differ as to how they should be constituted, but as I stated from this place last year Inter-State free-trade will remain a misnomer while the war of cut-throat rates is carried on between the States; and the full benefit of the Constitution cannot be realized until we have a court with authority to decide technical points which may arise. Take the question agitating the public mind so much in three of the States to-day. I refer to the question of riparian rights which concerns South Australia, Victoria, and New South Wales? Which honorable member of this House is prepared to say just what is included in the Constitution upon this point? Who will define exactly what is meant by "the reasonable use" of the waters of the River Murray? Whatever meetings of Premiers may take place, whatever conferences may be held, and whatever decision even this Parliament may come to, the final say upon the question must lie absolutely with those who will be appointed to interpret the Constitution. I am not quite clear that in order to secure a Federal High Court it is necessary to create a number of new Judges. I believe that we have in the various States men capable of filling these high positions, and I feel very much inclined at the present time to support the proposition to give federal jurisdiction to State Courts, at any rate until we have grown somewhat bigger than we are now.

Mr. L. E. GROOM.—What would the honorable member do for a Court of Appeal?

Mr. POYNTON.—There is the Privy Council as a Court of Appeal.

Mr. KINGSTON.—On the other side of the world.

Mr. POYNTON.—Under any circumstances, even if we constitute a Federal High Court of three Judges, and there is some idea amongst honorable members that that should be done, or if we constitute a High Court of five Judges, and their decision upon some important matter is against a particular State, we shall find that there will still be appeals to the Privy Council. I am not altogether in harmony with the Government proposals for increasing the naval subsidy. I admit that my mind

made up on the subject. The question is whether we should initiate a scheme of our own, or continue so far as I can see, has not been a successful arrangement in the past. I shall wait with an open mind to hear what is to be said upon the subject. I shall not now say anything about the federal elections, because we shall have an opportunity later on of dealing with the subject. In reference to the great question occupying the attention of the leading men of Australia to-day, and about which we have seen so many paragraphs and columns of matter flashed across the cables of the old country, and repeated all over the world—I refer to the question raised in the speeches of the Secretary of State for the Colonies, Mr. Chamberlain, and of the Prime Minister of England, Mr. Balfour. My conclusion may be due to a want of knowledge, but, to my mind, the proposal is within the range of practical politics. I will give the reasons which lead me to this conclusion. Honorable members who have heard the report of Mr. Balfour's speech will know to us the other day, will know the conditions laid down three conditions as preliminary to the proposed preferential arrangement. One was that the working men of the United Kingdom must agree to keep their eyes open to submit to an increase in the cost of their food supplies. Another condition was that the States which were to be admitted as protectionist States must be prepared to admit British manufactures.

KINGSTON.—Oh, no; the Tariff is to be raised against the foreigner.

POYNTON.—That is distinctly the duty of the Minister for Trade and Customs. The right honorable gentleman has definitely made that proposal, but he says that as a way in which what has been proposed might be given effect to. The right honorable gentleman thinks that it could even in this House increase the value of manufactured lines beyond the rates they stand to-day?

KINGSTON.—Against the foreigner?

POYNTON.—I do not think so; I think that honorable members behind the Ministry, so long as they prevent it, will ever allow even the admission of English goods. I believe the question is beyond the range of practical

politics; and honorable members will probably see some evidence of that in the cablegrams which are now arriving, and from which it appears that it is now to be left absolutely to the people to say whether they are going to accept the proposal or not. The elections will probably take place before any decision upon the subject is given in any State of Australia. If the lines of trade referred to are allowed to come into the Commonwealth free, the Minister for Trade and Customs will be faced with the problem of raising revenue, and he will already have noticed that the Premier of his own State has said that he will at once object to the proposal on revenue grounds. I personally believe that, if England waits until the Australian Parliament agrees to the proposed preferential arrangement, she will wait a very considerable time. Like those who have preceded me, before I bring my remarks to a close, I would urge honorable members to allow the debate to terminate so that we may proceed to business.

Mr. MAUGER (Melbourne Ports).—I intend to yield to the desire expressed on both sides of the House by being brief, and assisting in bringing this protracted debate to a close. There are, however, one or two matters of some importance upon which I should like to say a word or two. In the first place, I congratulate the Government on their promise to introduce the much talked-of Conciliation and Arbitration Bill. I listened with the very closest attention to the honorable and learned member for Parkes last night, and although he appears to have had such a vast experience in connexion with industrial matters, he also appears to have shut his eyes to the terrible labour wars which are going on all over the world. They are not confined to Australia or to Great Britain. We all know of the terrible struggle which America has just gone through, when 150,000 men were on strike, when some 750,000 persons were involved, and the whole industry of the nation was on the verge of a standstill. It seems to me that the Government would have been lacking in their duty if they had failed to recognise this important industrial difficulty, and had made no effort to provide against it in Australia. I think it is Washington Gladdon who says that there are three stages in industrial evolution. The first stage is when the workers are slaves, and mere chattels; the

second stage is when the employers, the masters, on the one hand, and the working people banded together in their organizations on the other, struggle for the mastery; and the third stage, that of universal co-operation. I quite recognise that the Bill which it is proposed to introduce will not get rid of all the difficulties and struggles pertaining to this evolution; but surely, in view of the terrible issues, it is worth while trying? We have the experience gained in New South Wales, Western Australia, and New Zealand, and, notwithstanding the efforts made to deprecate the experiments made and the experience gained from them, that experience goes to show that these efforts will tend to bring about the third stage, namely, mutual co-operation. If I understand the aspirations of the working classes aright, they have no desire to stifle conciliation; they welcome conciliation. In all my experience I have never yet known any body of representative working men refuse to meet their employers in order to talk over a trade difficulty. But I have known them to be forced either to yield to conditions that destroyed their manhood, and were likely to destroy their homes, or to resort to a strike. I say that all that the honorable and learned member for Parkes said last night with regard to conciliation will be heartily welcomed by those who desire arbitration. But they feel that voluntary conciliation is not sufficient, and that they should have some court of appeal to which they can go when the first tribunal has failed to bring about what they so much desire. Without entering upon a fiscal discussion, I should like to say a word or two about the effect of the Federal Tariff upon Victorian industry. I know that it is exceedingly undesirable to open a general discussion on the Tariff; but we have now had some eighteen months' experience of its operation in what is admittedly an industrial centre. Without discussing whether it is more so than New South Wales or not, I think that even our New South Wales friends must admit that Victoria is an industrial centre, and that Victoria has a great deal to lose by any proposed alterations in the Tariff. It was urged upon every platform throughout Victoria that the industrial life of the State would not suffer if we entered the Federation and joined hands with our neighbours, inasmuch as the wider markets which would be open to our manufacturers

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and producers would be of infinite advantage to us; and statistics which have been recently published have been used, notably by the leading free-trade journal of Melbourne, to show that our people have lost nothing by the reduction of the Tariff. The report of the Chief Inspector of Factories for last year goes to show that at the beginning of 1902 there were 59,000 people engaged in the various industries in Victoria. That, says the journal I refer to, is a larger number than were ever before in our history so employed, and it argues that the increase is due to the reduction of the duties. But it must be remembered that the figures I have quoted were for the beginning, not for the end, of 1902, and that at the time to which they applied the Federal Tariff had been in existence only four months. What they really go to prove is that, notwithstanding our industrial legislation, under which the wages paid are higher, the hours worked shorter, and the environment of the workers better than in any other State, our industrial position is higher than ever before. The figures prove nothing as to the effect of the Federal Tariff on Victorian industries. I believe, however, that when statistics on that head are obtainable, Victoria will not be found to have lost much. I think that she will be found to have lost some of her local trade, but she will have gained in interest trade as much as she has lost at home. These remarks, unfortunately, do not apply to all her industries. There are branches of the boot trade, and of the coach-building trade—axle and spring works, and spoke factories—which have been absolutely closed as the result of an undue reduction of duties. The axle and spring making industry, which was giving employment to 120 men, no longer exists. That fact might be urged as a reason why Victorian protectionists should attempt to re-open the fiscal question at the next elections. But I do not think that it is a sufficient reason. I believe that the Commonwealth has more to gain by leaving the Tariff as it is for the next four or five years, and both free-traders and protectionists, who are wishful for the prosperity of the country, might come to an agreement to that effect. At the end of that time we could deal with the duties in the light of the experience we had gained.

Mr. WILKS.—Should not the people be given an opportunity at the next general

elections to express their opinions upon the Tariff?

Mr. MAUGER.—I am sure that if the question is brought before them they will not vote for plunging Parliament and the country into another long Tariff discussion. Furthermore, I am of opinion that the passing of a measure like the Navigation Bill is of much more importance. Ardent protectionist as I am, I am strongly of opinion that by waiting and watching the development of our industries, we shall do more than by re-opening the Tariff discussion. I wish now to briefly refer to some of the remarks of the honorable member for Parramatta upon the question of preferential trade between the various parts of the Empire. He told us that Great Britain was never in a more prosperous condition than it is in now, that wages there had increased, that the length of the working day had been shortened, and that the working classes were generally in a much better position than they had ever been in before. He also said that Mr. Chamberlain would have to bring round the great bulk of trades unionists and members of the working classes generally to his way of thinking, before the change which he proposed could be incorporated in the statute-book. I have never been to England, and, therefore, cannot testify from personal observation, as the honorable member for Parramatta did on one occasion, to the terrible condition of that country. But I should like to read some extracts from a debate which occurred in the House of Commons in April of last year. The men whose words I am about to quote are not the members of the Ministry who are now proposing trade reciprocity, but the great leaders of the liberal party. Sir Henry Fowler, upon the occasion to which I refer, said—

I do not know whether honorable members have read Mr. Booth's valuable report on the poor of London, or Mr. Rowntree's valuable contribution with reference to the poor of York. Those two statements show that there are large numbers of the population of this country whose wages are not more than 18s. a week. It is not a question of thousands, but of millions, and there are still larger numbers whose wages run between 18s. and 25s. a week.

Mr. FOWLER.—The other day a man living in a suburb of Melbourne was found to be earning only 14s. a week.

Mr. MAUGER.—His case was an unfortunate exception; such wages are not

the rule here. What I am speaking of is a chronic condition, a reiteration of the bitter cry of outcast London. Then Sir William Vernon Harcourt said on the same evening—

In 1900, according to the last return I have seen, there were 1,000,000 paupers (out of 40,000,000 of people) receiving outdoor and indoor relief.

On the 14th May following, Sir Henry Campbell-Bannerman, the leader of the Opposition, said—

Thirty per cent. of the population has been shown to be in a state hovering on the verge of poverty, if not actually plunged into it, and it is these people who will suffer. Let the House realize for a moment what this *jd. a loaf* means.

Mr. FOWLER.—That is unskilled and disorganized labour.

Mr. MAUGER.—I am sorry to learn that these conditions are affecting the labour connected with the clothing and boot trades, which is not unskilled and disorganized. Private letters by the last mail advise me that there is great distress in Nottingham, the centre of the bootmaking industry. The secretary to the Nottingham Boot Union, which has a membership of 6,000, has shown that there are now a larger number of unemployed there, and that the wages in the trade are lower than ever they have been before during the last ten years. I do not say that this state of things is entirely due to the fiscal policy of Great Britain. I know that the reaction which has followed the war, and other circumstances, are having their effect. But the facts show that it is the height of absurdity for honorable members to try to prove that the working people of England are in such a prosperous condition that there is no need for a change in the fiscal policy of the country.

Mr. WINTER COOKE.—Will the honorable member tell us what wages are paid in Berlin, under a protectionist policy, in the trades to which he is referring? Unless he makes a comparison of that kind his figures prove nothing.

Mr. MAUGER.—I hoped that I would not be dragged into a discussion of the fiscal issue generally.

Mr. WINTER COOKE.—Then why introduce it?

Mr. MAUGER.—It was not introduced by me. One side of the question has been stated, and it is only fair that I should put the other before honorable members. We on this side of the Chamber have said very

little on the matter. I do not contend that protection will do everything that is necessary to improve the condition of the workers. Protection at the Custom-house is only a beginning. Let me quote another authority—one of the staunchest free-traders in England. Presiding at a lecture upon free-trade on the 26th October, 1901, Mr. Leonard Courtney is reported to have said :—

We had a long experience of prosperity, which had been the most eloquent and convincing argument that could be used in favour of free-trade. He did not himself put his faith in that line of argument. If they had nothing but prosperity to refer to in support of the argument that free-trade was right, any change in prosperity would have a very damaging effect on the force of their argument and turn aside the force of their conclusions. We are not quite so prosperous now as we have been, and it would seem as if we were on the eve of a period of largely diminished prosperity. So one of the arguments in favour of free-trade would tell more feebly than it has told.

That is not an extract from the *Age*; the words are those of one of the leaders of the free-trade party in England. It is because of the existence of facts such as those which my authorities speak of that a proposal is emanating from the British Government for preferential trade within the Empire, and it is strange that opposition to that proposal should come from Australia. The idea is not a new one. In 1894 a conference was held in Canada at which representatives of New South Wales and of the other States were present. That conference unanimously agreed to the following resolutions :—

1. Resolved that provision should be made by Imperial Legislation enabling the dependencies of the Empire to enter into agreements of commercial reciprocity, including power of making differential tariffs with Great Britain or with one another.

2. That this conference is of opinion that any provisions in existing treaties between Great Britain and any foreign power which prevent the self-governing dependencies of the Empire from entering into agreements of commercial reciprocity with each other, or with Great Britain, should be removed.

3. Whereas the stability and progress of the British Empire can be best assured by drawing continually closer the bonds that unite the colonies with the mother country, and by the continuous growth of a practical sympathy and co-operation in all that pertains to their common welfare.

4. And whereas this co-operation and unity can in no way be more effectually promoted than by the cultivation and extension of the mutual and profitable interchange of their products.

5. Therefore resolved, that this conference records its belief in the advisability of a Customs

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arrangement between Great Britain and her colonies, by which trade within the Empire may be placed on a more favourable footing than that which is carried on by foreign countries.

6. Further resolved that, until the mother country can see her way to enter into a Customs arrangement with her colonies, it is desirable that, when empowered to do so, the colonies of Great Britain, or such of them as may be disposed to accede to this view, take steps to place each other's products, in whole or in part, on a more favoured Customs basis than is accorded to like products of foreign countries.

On that occasion it was not the representatives of Australia, but the representatives of Great Britain who objected. But now that Great Britain comes forward with a proposal, the representatives of New South Wales are the very first to raise their voices against it. I could understand opposition coming from Great Britain, because to working men trained in the nursery of free-trade such a proposal would no doubt come as a great shock. Those who can read the signs of the times, however, must admit that the whole question has assumed a phase that would not have been dreamt of ten years ago. I agree in some measure with many of the proposals made by the Government, and I shall take an opportunity of discussing them when they come before us. The Government are to be congratulated on the way in which they have administered the Acts passed last session. It must be quite new to Ministers to have fault found with them for over-active administration. We have often heard Ministers reproached with laxity and with ignorance of the law, but the worst complaint directed against the present Ministry has been that urged against the Minister for Trade and Customs, that he has been too active and too eager to protect the revenue. My own feeling is that he has done his duty fearlessly and well, and I hope that he will long be spared to continue in the same course. I believe that the public generally are with him heart and soul, his detractors being found only among those who are directly interested in bringing goods into the Commonwealth with as little trouble as possible. So long as Ministers carry on the work of administration fearlessly and without favour and continue to bring forward progressive legislation they shall have my support.

Mr. WINTER COOKE (Wannon).—I had fully made up my mind not to speak on this occasion, but the honorable member for North Sydney asked me to put the

the Colonial Sugar Company before the House, and especially before the Minister for Trade and Customs. I was very carefully to the Minister's last evening, and it struck me as very energetic, and full of wild and words. On the whole, however, it was a very good case. At the same time, the right honorable gentleman turning his mind towards those of Scripture which he sometimes fondness for quoting, would remember—“In quietness and confidence shall be your strength.” The right honorable gentleman has very much confidence, very little quietness, and as a result, it is very difficult for one of my moderate to follow him. I understand that he is not at liberty to prosecute in cases of fraud. We all desire that any one guilty upon the Customs shall be prosecuted without fear or favour. The right honorable gentlemen also made it clear that in cases of misconstruction he was not to prosecute, but I understood that there were cases of mistakes which he had exercised discretionary. He did not, however, tell us upon principle he had proceeded. From what I see in the newspapers many cases have been taken into the courts which should have been sent there. The magistrates over and over again expressed their necessity for imposing fines, although breaches of the law had not been committed, they seemed to consider that the action of the Minister had not been exercised, but that his treatment was somewhat harsh. With regard to the Colonial Sugar Company, I understand from the manager of the company in Melbourne. I understand that the company is not so much with the laxity of the Customs authorities in collecting the duty, as with the delay in coming to a decision as to what should be done. Over and over again the attention of the Minister, or of certain of his officials, has been drawn to the alleged facts, and the only statement made by Mr.

On the 1st October, 1901, I received a telegram from the general manager, Sydney, reading—“I am glad to inform Doctor Wollaston we have authority for stating that about 8,000 tons of white sugar being whole stocks other manufacturers have been recognised by the Customs in Queensland as free excise.”

He will see impossible for us accept this situation, and some action on our part imperative before taking this. Wish him understand our position.”

I went, the same day, to the Custom-house, and interviewed the Comptroller-General, Dr. Wollaston, and exhibited this message to him. He said the subject had been referred to by Mr. Knox, when they met a few days previously in Sydney, and that it had since been receiving his earnest attention. He said he had not consented to the exemption of this sugar from duty. He asked if I could give him particulars as to owners and whereabouts of this sugar. I said I understood the Brisbane collector knew all about it. He said he would immediately forward telegraphic instructions to the collector at Brisbane that he must collect excise duty on it. He said that an official decision on the question as to the liability to duty of Australian sugar actually existing in a manufactured condition at the time the Tariff was introduced would be given shortly.

On the 7th November I saw Dr. Wollaston again at his office. He said he had issued instructions to the Brisbane collector to levy excise duty on the sugar in question, that that official had hesitated to act on them and had asked that they be confirmed, and that he had not yet been able to obtain the Minister's orders to confirm them. I said the effect of the delay in confirming the instructions to the Brisbane collector to levy the excise duty on this sugar was that our Brisbane trade had practically ceased for the past fortnight. I asked him to represent this to the Minister at once, and to tell him we trusted that definite action would not longer be delayed. He said he would do so.

On the 8th November I saw Dr. Wollaston again at his office, when he said he had failed to move the Minister. I said I must press him for some definite action. I afterwards wrote him as follows :—

Melbourne, 8th November, 1901.

The Comptroller of Customs, Melbourne.

Dear Sir.—Referring to the subject of my frequent calls upon you of late, I desire to point out that when, ten days ago, I informed you we had reliable information that about 8,000 tons of sugar, being the whole stocks of other manufacturers, had been recognised by the Customs authorities in Queensland as free of excise duty; that it was impossible for us to accept such a situation; and that some action on our part was imperative, you undertook to instruct the authorities there to at once levy duty on this sugar, and so relieve us from the admittedly unfair position we were placed in by the fact that this duty was demanded on our stocks.

Though ten days have since passed, this promised action has not yet been taken; and we are still in the manifestly unfair position of having to compete with sugar which you are allowing to escape all duty, while at the same time demanding £3 per ton on our sugar which has been grown and manufactured under exactly similar conditions to the other.

It is surely not necessary for me to repeat that the position is an improper and intolerable one, and I would beg that, in common fairness, there be no further delay about putting our sugar and the sugar referred to on the same level.

I remain,

Yours very truly,

A. ASTLEY, Manager.

On the 12th November I called on Dr. Wollaston again at his office, and asked him to give me a reply to my letter of 8th idem.

On the 18th November I waited on Dr. Wollaston again, when he said the Minister had not yet given any decision in these matters.

On the 22nd November I saw Dr. Wollaston again at his office, when he said the Minister had not yet announced any decision.

On 29th November I wrote to the Comptroller-General as follows:—

Melbourne, 29th November, 1901.

The Comptroller-General of Customs,
Melbourne.

Sir,—

You will pardon me for reminding you that I am still awaiting your answer to the complaint I made of the unequal incidence of your action in the collection of excise duty on sugar in store on the 8th October.

The matter is of the first importance to us, seeing that our business in Queensland remains in a crippled state, and will so long as the unfair disadvantage you have placed us at continues; and it is surely not unreasonable if I press you for a decision—either that the other sugar I have referred to be taxed as ours has been, or that ours be set free.—I remain, yours faithfully,

A. ASTLEY, Manager.

I handed this letter to him, and he said he would lay it before the Minister on the following day.

On 10th December I received a letter from the Comptroller-General saying "that the matter relating to the collection of excise duty on sugar in stock on 8th October last is now under the consideration of the Minister for Trade and Customs."

The gravamen of the charge is that the company directed the attention of the Customs authorities to what they believed to be an important fact, and asked that action should be taken. The Comptroller-General of Customs sought for the authority of the Minister, and after two months had elapsed an intimation was given that the matter was still under the consideration of the Minister.

Mr. KINGSTON.—All stocks in factories or mills were similarly treated.

Mr. WINTER COOKE.—I cannot go beyond the facts stated in the letter. This is not the only case in which delay has occurred at the Custom-house. No right-thinking man will find fault with the

Minister for taking care that the revenue and honest traders are alike protected, but the delays which occur at the Customs constitute a great grievance amongst commercial men. I am not an importer, and I know very few importers, but from what I can gather their complaints do not relate so much to being brought before the courts as to having to submit to unnecessary delays.

Mr. KINGSTON.—The constant delays have been inseparable from the initiation of the administration.

Mr. WINTER COOKE.—I quite understand the Minister when he says that he cannot compress 48 hours' work into 24; but if it is impossible for him to do the work, surely the Cabinet is sufficiently strong to permit of the administration being shared by some other Minister.

Mr. KINGSTON.—The troubles connected with the initiation of the new administration, and inseparable from it, are now being overcome.

Mr. WINTER COOKE.—I understand that the work is still so excessive that the days are not long enough for the Minister.

Mr. KINGSTON.—I did not say that as regards the present administration.

Mr. WINTER COOKE.—When federation was first talked of there was some fear that under the new condition of affairs the system of responsible government, as understood in the States, would break down. In this connexion I was very much impressed by a remark of the honorable member for Bland. He urged on the Ministry that they should be more methodical in the work they brought before the House—that we should have a Bill put before us, and that we should carry that Bill through, and not have other Bills introduced so that members forget all about the earlier measure. There was one thing that the honorable member for Bland could not find fault with, and that was the method of the Ministry in obeying his orders. Over and over again during the last session this Government yielded to the very skilful and courteous leadership of the honorable member for Bland.

Mr. L. E. GROOM.—Did not the opposition do the same?

Mr. WINTER COOKE.—The opposition are not in a position of responsibility, but the Ministry is; and if the Ministry comes down to this House with certain principles in a Bill and presses that they shall be carried, it is not right to accept

section of the House a principle to the wishes of the Government. There was the question of lascars on the male steamers. The Postmaster-General in the Senate did his very best to get out that that provision was not to be made. He opposed it. The member for the Ministry in this House gave in "towed" to the leader of the Opposition. We had again the question of the duty. The Cabinet did their best to resist the abolition of that duty instead of keeping eight of their members they allowed them to vote for the removal of duty from the Tariff. With that?

ANNEDY.—What are we here for if we are to have an individual opinion?

INTER COOKE.—The Government has just said that it was important that that duty should be carried for the benefit of certain States of Australia. It is the section in the Immigration Bill about contract labour, but not in the measure as originally introduced. Worse than all, we had the Deakin Committee thrown back to the Government. I say, without fear of contradiction, that if a Ministry of the Commonwealth goes on doing that kind of thing, responsible government will be at an end. Instead of the Swiss system we shall have the end of the Swiss system and responsibility. This first Commonwealth has done more harm to responsible government than any Ministry has ever done throughout the British Empire. I do not know what the motive could be; whether the Government thought it was not good for the Commonwealth to have a swopping of the stream, or whether they should be sorry to attribute to the Government were actuated by the desire for power which is innate in most Governments. But there is the fact: on our separate occasions—and as the memory might recall others—the country yielded to a section of the Government, therefore, that section which may, but does not, represent the feeling of Australia. I do not know; but it does not represent the feeling of the majority of this House—all events—has been dictating the Government of Australia. I hope that I shall be able to show my way to vote for the measures of the Government, and that they will be the measures of the Government, and not of a section. There is one Bill

upon which I will touch for a moment, namely the High Court Bill. I have still an open mind on that question. At present I feel pretty strongly against it; but I am going to keep my mind open until I hear what the Attorney-General says with regard to the economical side of it. One reason why my feeling at present is against it is that we can very well use the courts of Australia for deciding Commonwealth cases. In using them we should obtain the services of men of judicial experience in deciding very important questions; whereas if we establish a new High Court in all probability its members will not be drawn from the benches of Australia, but will be largely, if not altogether, lawyers who have not had judicial experience. I think that it would be better for litigants—whether States or individuals—that their cases should be brought before men of judicial experience rather than before those who have only just left the bar or the political arena. However, I am not going to say how I shall vote. There are other measures which I shall await with interest. There is the Conciliation and Arbitration Bill. I do hope that we shall be able to pass a Bill which will once for all do away with the barbaric method of settling labour disputes by means of strikes or lockouts. I have long thought that things should not remain as they are in that respect. This is not a new idea of mine. I have expressed it on the platform. I think that nothing could be more barbaric than the way in which the people of the civilized world have hitherto settled their industrial disputes. I have spoken longer than I intended to do, and I now conclude these remarks with the expression of the hope that we shall have a very successful session, and that we shall have a Government leading.

Mr. O'MALLEY (Tasmania).—At this late hour I shall not take up much of the time of the House, and I doubt very much whether I should have discussed the matter before us at all, had it not been for the fact that the honorable member who has just preceded me, has questioned the right of any person living or breathing on earth to have anything to say in this House unless he possesses a patent of nobility which represents a big banking account or a fly-blown estate. I want for a few moments to question this doctrine. To my mind it is an utter farce for honorable members to stand up in this House and say that the

honorable member for Bland controls the Ministry. The honorable member for Bland is the parliamentary leader of sixteen men—perhaps not as intellectual as the honorable member for Wannon, perhaps destitute of all those divine and aristocratic feelings that are requisite for legislators. But still, they are human beings, endowed with the same sort of feelings as other men. They are men whom the great Creator had the same amount of trouble in bringing into the world as He had in the case of the honorable member. The question arises—suppose there were sixteen men in this House, not members of the labour party, not members of the steerage party, not members of an autocratic party or an aristocratic party, but sixteen representatives who had as able a man as the honorable member for Bland to lead them. If those men went, through their leader, to Ministers—supposing the honorable member for Wannon was a Minister—would they not have something to say in the moulding of the legislation of this Parliament? Surely to goodness sixteen of us in this House and eight in the Senate ought to have some voice in the moulding of legislation. And that is all we ask. The honorable member for Bland has never yet attempted to dictate to the Ministry, and the Ministry has never yet been dictated to by the honorable member for Bland. But, in a compromising and conciliatory manner, the honorable member for Bland has occasionally suggested compromises with regard to proposals before Parliament, and the Ministry have often said that they thought the suggestions were fair, and have accepted them. I venture to say that if the honorable member for Wannon were a Minister, and sixteen members came to him occasionally, all his feelings of antipathy to us as unfortunate specimens of democracy would not prevent him from listening to us. He would not be able to stand out against the call for progress which our party represents, and which this age requires. The day of death and stagnation and grave-yard politics is passing by. We represent universal trouble, and universal trouble represents universal progress. We represent the policy that will lead men to meet trouble, and the honorable member for Bland is one of those who will show the way. If we are not to have any voice in the framing of the legislation of the Commonwealth, will the honorable member

for Wannon, and those with whom he sympathizes, select candidates to come and try and put us out at the next election? But if we are in this House, we are going to take part in its business, and shall have something to say in framing its legislation. We are going to do this in a humble and Christian and submissive manner, though not in a crawling manner. Now, for a few seconds, I want to congratulate the Ministry on their administration. I congratulate the Prime Minister on having had the pluck to question the right of persons to bring servile labour into Australia. I congratulate the Minister for Trade and Customs on having had the pluck to administer the Customs Act, and on having destroyed that sneaking little hole-in-the-wall policy that has been pursued for years, and under which certain persons have occupied front seats in church on Sundays, saying "Amen" in the right place, and then swindling the revenue during the rest of the week. I do not, however, congratulate the Government on not having placed in their policy the question of old-age pensions. I am sorry that they did not have the pluck to put that in their programme instead of saying that they could not do so because of the "Braddon blot." What has the "Braddon blot" got to do with this matter? If the Ministry had embodied old-age pensions in their programme they would have had a good chance of carrying it this session. Let me tell them that we of the steerage party are prepared to-morrow to re-impose duties on tea and kerosene if for the purpose of paying old-age pensions. We will pay it—the great multitude will pay it; out of the tea and kerosene duties the Government can pay old-age pensions if the States are willing to hand over the money to the Federal Ministry to pay the pensions with. It is wrong for us who have enough in this world not to think of the thousands of destitute old men and women throughout the Commonwealth who are to-night going to bed without sufficient to eat. Honorable members may have noticed the other day that that unfortunate man killed his wife and children and then himself because he was trying to live upon 14s. a week in a Christian country, where men go down to church Sabbath after Sabbath, turn up the whites of their eyes, and thank God that they are not labour chaps. I am in favour of the establishment of the High Court. At the close of last session I was not in favour

establishment, and the reason why I support its creation is the introduction of the famous coercion Bill into the Victorian Parliament for the suppression of the people.

FORREST.—The existence of the High Court would not have affected that.

O'MALLEY.—My honorable friend has written the writ of *habeas corpus*. We are the people of the Commonwealth and then of our State. The paramount power is the Commonwealth and the subordinate is the State. The arrogance of one becomes so terrific that it thinks of the Commonwealth, but it has upon me than has the bite of an an mosquito on the tail of the eagle. I am in favour of the High Court, when I see a rat is crawling in the gutter in the power of the press, proposing people in gaol without a trial. I know no country where a policeman, for a cause, can arrest a man and get him out of gaol without a trial. Talk about Turkey! Victoria is worse than Turkey. I know of no precedent for such a thing. What can we do? We can do what can be done in the United States. We are deprived by the States of rights which they are entitled under the Constitution to apply to a circuit Judge in the United States for a writ of *habeas corpus* and be discharged. If I thought the power would not exist in the High Court of Australia, I should not vote for it. I believe in the establishment of the High Court. Only the other day, in the Employers' Federation of Victoria and the "Deform" League sent out agitators. These two paid agitators deceived the people, and brought on the strike. If I were not sure the agitators would be entitled to apply to a Judge for a writ of *habeas corpus* I should not think of voting for the Bill. What did they do here the other day? In the guise of a man of law, they brought a suit in the High Court against the Miners' Union for £1,000, and the heroic and brave Judge a'Beckett, in the face of the manufactured public opinion, boldly gave judgment for the Union. That is what it is to have an honest Judge. I am beginning to have faith in Judges. We want more Judges like Judge a'Beckett. I believe that

the power to issue a writ of *habeas corpus* will exist in the High Court. We can, if we like, give federal jurisdiction to the Supreme Court of a State. When a Judge of the High Court is on circuit he can sit in the State Supreme Court, and if any man thinks that he does not get justice in Perth, Brisbane, or Sydney, he can appeal to the Full Court at the federal capital. I propose to close my speech with a reference to the naval subsidy. I desire to show the Prime Minister that, as a matter of business, he is making a bad bargain. The original cost of the seven ships comprising the auxiliary squadron was £854,000, and the annual interest on that sum at 3 per cent. was £25,620. During the last ten years we have paid £1,500,000 for the maintenance of the fleet, and we have nothing to show for it. Supposing that ten years ago we had bought the seven ships with borrowed money and paid £80,000 a year into a sinking fund. At the end of the period we should have owned the ships and paid off the original cost of £854,000, and our naval expenditure would be costing £197,620 a year instead of, as proposed, £200,000 a year, which we are to pay away for nothing. Or, supposing that we were to borrow about £6,700,000 to-morrow. And I guarantee the money can be got in America on the bonds of the Commonwealth at 3 per cent. if it cannot be obtained in England. If we pay England £200,000 a year for ten years for the maintenance of this fleet, we shall pay away £2,000,000, and at the end we shall have nothing; whereas if we borrow £6,700,000 at 3 per cent. we shall pay about £200,000 a year, and we shall have £6,000,000 odd to put into a fleet. Establish a sinking fund, and within twenty years the loan will be paid off.

Sir JOHN FORREST.—What about the upkeep of the fleet?

Mr. O'MALLEY.—I am allowing £91,000 a year for that purpose. I look at this proposal of the Prime Minister as a bad investment. I am speaking as a straight-out supporter of the Government. I ask my honorable friends in the Ministry to consider these figures like business men, and see if it is not better for us to build a navy that will relieve England of the necessity of having to keep warships here. We can look after our own coast. Take the history of the civil war in America.

When did the *Shenandoah* and the *Alabama* destroy American commerce? They came into our ports when the American fleet was fighting at certain points. If the subsidized navy can be sent to China, or some other part of the world, a fast cruiser can sail into Port Jackson, shell Sydney, pay tribute on the people, and perhaps loot the banks. That is the danger we have to face. I urge the Government to start to build a little fleet, to train the seamen, and to have men ready to jump on to the warships, and do their duty when the necessity arises. I trust that they will carefully consider what I have said; otherwise, at the end of ten years, we shall be £3,800,000 out of pocket, and we shall not have anything to show for that expenditure.

Mr. RONALD (Southern Melbourne).—At this late hour, and at the far end of the debate, I shall not enter into details, or detain the House at any length. There are several things I wish to say in connexion with the proposed legislation. We may divide parliamentary work into two great sections—the legislative and the administrative. The legislative, which we are now anticipating in this discussion, is altogether irrelevant to the matter before the House. I wish to say a few words about the administration of the Acts of last session. We have had proof of the wisdom of the couplet—

For forms of government let fools contest;
What'er is best administered is best.

Whatever may be said about the Government, one thing they may be proud of is the record of their administration, for without fear or favour they have endeavoured to give practical effect to the Acts on the statute-book. The member of the Cabinet who has come in for most abuse in connexion with the administration is necessarily and inevitably the Minister for Trade and Customs. I would say that we have every reason to thank God that we have such a Minister presiding over the department of Trade and Customs. As a protectionist, I remember the time when we had a highly-scientific Tariff in Victoria—a Tariff which was to all intents and purposes protective in the true and literal sense of the word, but it was laxly and loosely administered. Time and again, I have seen in this State a Minister for Customs who was an avowed free-trader—a man administering a policy to which he was utterly opposed. Consequently, every anomaly that could be laid

to the charge of protection was possible. But at last we have a Minister for Trade and Customs a man who practises what he preaches. Unfortunately there are men who are free-traders who believe in it, and practise it, and who what the law of the land requires. I rejoice that at length honest men are going to mark political life in Australia, and that there is to be no such hypocrisy as that associated with a man administering a tariff with which he is utterly without sympathy. It seems to me that it is the right and proper time to stand for political honesty in these matters. It is high time that we should stand up against men who seek places in the Government of the country and bind themselves by oath to obey the law of the land, and yet, when their interests are at stake, play fast and loose with that law which pleases them. Again and again, when this subject touched upon and discussed at a distance, but no one apparently having the courage to “bell the cat.” It is, however, must be spoken. We must stand for our political honesty and political integrity by protesting against such impudence as is shown by the Minister in the law and policy of the country. Therefore, I say that in regard to the administration of the department, we have reason to thank God that at length it has reached a time when the law is administered in a Minister's room, when all who have occasion to be in the department are required to go before a Minister that knows no man either by his name, his colour, or his politics. We have heard from the Opposition accusation against the Minister for his failure to attend to cases in the Minister's room, and we have heard of the great enormity of the Minister's highly reputable and respectable company of drunkards and bachelors in the common police court. It reminds me of the story of an unfortunate Irishman who got the worse of drink. His priest came along at the time quietly laid him down in the pig-stye. When he saw the priest frequently, he said to him, “That was the spree you had Paddy.” “Begorra,” said Pat. “When I saw you,” said the priest, “you were lying with the pigs. What did you do when you woke up?” “You get up?” “No,” replied the priest, “the pigs got up.” They got up because they were so ashamed of their company.

the drunkards in the police court to be ashamed of the company of men, while professing to be law-makers and law-breakers. There is no righteous action which can be too strongly ex- against such a striking iniquity as associated with men who enter Par- to assist in making laws, and swear them, but yet violate them whenever we have an opportunity to do so to their profit. I wish to say a word or two with respect to the legislation to be before us. I am glad to learn that there is to be some effort on the part of the Government in the way of a spirited home policy. The meaning is this: At the present time the country in Australia is in a state of depression. We know that there are alternating periods of prosperity and adversity. We are now in a cycle of adversity. The Ministry have put forward a vigorous policy and will spend money in useful reproductive work in a time like this, rather than when commerce is bright and labour is plentiful. I may illustrate my argument— I will state it with some sympathy—in this way. Fifty years ago the method adopted by the medical profession in treating fever was to bleed and blister the patient in order to break the fever. But the result was that nine cases out of ten they killed the patient as well as the fever. The new method of treating fever is to feed and comfort the patient—and a very comfortable result it is—to enable him to fight down the fever and survive it. That is the intention of the Ministry. In times of depression they should push ahead with constructive works. But when business is bright and labour is plentiful the political world is prosperous—there are other enterprises outside—the time when we can preach economy. Therefore, I am glad to hear the way in which the honorable member for Swan—I was going to say the Minister for Defence, but in this case he is the Minister for Railways—spoke of the great transcontinental railway which is not only a big enterprise, but will be of great use to the whole of Australia, provided that it is carried out on commercial principles. I am perfectly sure from what I have seen in travelling from the west to the east—from what I have seen of the enormous regions of auriferous land there—that the line will tap at the far end a very resourceful country, and that if we carry that railway over the

continent, we may make it the means of opening up agricultural, horticultural, and mineral resources of Australia yet unthought of. Let those who are promoting the scheme take a lesson from the past, and this will be not only the biggest thing that Australia has ever undertaken, but it will also be profitable. Let us remember the lessons of the past—let us remember the disastrous consequences of building purely political railways running to a stump and to other places where there is no need for railways. I believe honestly, from what I have seen of the western terminus of the proposed railway, that there are large, infinite, and boundless possibilities there, and that the line will be valuable, not only as a means of defence—and with that matter I have nothing to do—but will serve many other purposes. It will be useful, not merely as a conveyance to travel overland, because the sea is always preferable, but as a means of conveying marketable and perishable products to market; it will be useful in developing the wealth and resources of a wealthy country, and in bringing the extremes of Australia together. It will be not only a matter of sentiment, but a work of utility to the Commonwealth, provided, as I have said before, that it be constructed on commercial principles. I had no intention of occupying the attention of the House for any length of time at this late hour. I rose merely to say that I think the Ministry are to be congratulated on the splendid programme they have put before us. I am sure I have the sympathy of the party which has been referred to in a disparaging way by the leader of the Opposition when I say that if the Government adopt a vigorous policy and carry out works at the present time when there is a great depression upon us, that work will bear fruit, and that it will reflect to the credit of the Commonwealth and will be for the good and the welfare of Australia. I rejoice also at the prospect of the establishment of Courts of Conciliation and Arbitration. It is said that we in Victoria have suffered on account of a drastic Factories Act which is not uniform throughout the States. The enemies of that Act have again and again asserted—with what truth I am not prepared to say—that it has driven capital from this to neighbouring States. There is just a possibility that if there be anomalies or differences in regard to factories legislation in the

different States of Australia, one State may profit at the expense of another, because of that advanced legislation, but what we desire above all things in connexion with this matter, is uniformity throughout the length and breadth of Australia. When we have secured that, we shall have taken away the strongest weapons which the enemies of industrial legislation have—and I grant you there is a lot in what they say—in regard to capital being driven from one State to another on account of drastic factory legislation. Let us have this legislation, and let it be fair and uniform. Let there be some court of appeal between master and man. We know that the fight is never equal when the cupboard is pitted against the safe. The cupboard goes in always, and there is no equal struggle, but if we have the dignity of justice—and let us thank God that in British communities law and justice are as nearly as possible synonymous—if we have a man raised above the suspicion of corruption to hold the balance between capital and labour as a final court of appeal, we may be perfectly sure that he will command the confidence of both master and man, and that we shall in that way solve one of the greatest socialistic problems of the present day. It is a laudable effort, and I wish God-speed to this proposed Conciliation and Arbitration Court for the federated States of Australia. I sincerely trust that the Bill will be passed and that it will show to the world that here at least we are prepared to listen to reason, that we have in truth some socialistic legislation. There are some who have an awful fear of the bogey of socialism. We have high authority for saying that we are all socialists nowadays, and so we are more or less—professedly so, and very visibly so at the time of the elections. We want more evidence of this spirit of socialism as a rational way of settling disputes. A court of arbitration is nothing more nor less than a substitute for the antiquated barbarism of war, and as all disputes are capable of being settled by reason, so there is no dispute which can arise between capital and labour in this continent, or in any part of the world, that is not capable of being settled by rational means. The question of the federal capital is one which I am not called upon to refer to at any length, but still I shall say this, that if it was promised—and I believe it was—by the promoters of federation in Australia, that the building

Mr. Ronald.

of a federal capital would be exacted, that promise should be kept. I am perfectly sure that at the present time it might serve a very good purpose. I dread the influence of either the great metropolis of Sydney or Melbourne in connexion with the Federal Isolation to some extent gives independence, and we shall never be independent of their influences until we have a territory of our own, and can from that exalted height look down on the whole of the federated States of Australia. As one of the members for Melbourne, I may, in saying so much, be what is distinctly opposed to the interests, but I do say here, publicly, if there has been this promise given to South Wales, let the Government of the Commonwealth be marked in future by a Government who look upon a promise as equal to a pledge or an oath. There is one for reflection, prudence, and forethought. It is not a thing to rush. The federal capital is not going to be for a day, but let us wait for ever, and therefore let us see that we have all that is necessary for the foundation and building of the federal capital. I am very much of the opinion that it is a question very much whether we can have it, but it should be kept before us as an ideal and our goal. I am the more urged to this conclusion on account of the pin-prick policy of those who have kept us here in our possession of these promises. Again and again it has been stated publicly that we are mere intruders who have ousted other men from their rightful place. That impresses upon us the urgency of the settlement of this matter. The Government ought not to be regarded as an intruder in any State of Australia, and certainly, the gentlemen who lead in these matters as I have referred to, will, by their action, inevitably hasten the settlement of the question of the building and the location of the federal capital very much more than can any words of mine. I find that it is not, so far, referred to the six hatters, but no speech at this time can be complete without some reference to the gentlemen. What a god-send they have been to the Opposition! What would have been heard from honorable members if it had not been for the incident of the six hatters? This matter again brings the question of the administration of the Government. They found themselves armed with a certain law, and they have told by honorable members oppos-

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I therefore rejoice to think that
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Australia. I hope that the Govern-
will continue to carry out, without
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ion resolved in the affirmative.

SUPPLY.

ed (on motion by Sir EDMUND

the House will on Tuesday next resolve
o a committee to consider the supply
nted to His Majesty.

WAYS AND MEANS.

ed (on motion by Sir EDMUND

the House will on Tuesday next resolve
o a committee to consider the ways and
r raising the supply to be granted to
esty.

LEAVE OF ABSENCE.

Resolved (on motion by Mr. AUSTIN
CHAPMAN, for Mr. PAGE)—

That leave of absence for one month be granted
to the honorable member for Oxley, Mr. R. Ed-
wards, on the ground of urgent private business.

Resolved (on motion by Mr. WINTER
COOKE, for Mr. SKENE)—

That leave of absence for one month be granted
to the honorable member for Kooyong, Mr.
Knox, who was detained in London on urgent
private business, but is now on his way to Aus-
tralia.

Resolved (on motion by Mr. L. E.
GROOM)—

That leave of absence for one month be granted
to the honorable member for Brisbane, Mr. Mac-
donald-Paterson, on the ground of urgent pri-
vate business.

DAYS OF MEETING.

Resolved (on motion by Sir EDMUND
BARTON)—

That, until otherwise ordered, this House shall
meet for the despatch of business at half-past
two o'clock on each Tuesday, Wednesday, and
Thursday afternoon, and at half-past ten o'clock
on each Friday morning.

ORDER OF BUSINESS.

Resolved (on motion by Sir EDMUND
BARTON)—

That on Tuesday, Wednesday, and Thursday
in each week, until otherwise ordered, Govern-
ment business shall take precedence of all other
business; and that on Friday in each week, until
otherwise ordered, General business shall take pre-
cedence of Government business.

That on Friday in each week, until otherwise
ordered, general business shall be called on in the
following order, viz:—

On one Friday—

Notices of Motion.

Orders of the Day.

On the alternate Friday—

Orders of the Day.

Notices of Motion.

CHAIRMAN OF COMMITTEES.

Resolved (on motion by Mr. PHILLIPS)—

That the honorable member for Riverina, Mr.
John Moore Chanter, be Chairman of Committees
of the whole House.

COMMISSIONED OFFICERS.

Ordered (on motion by Mr. TUDOR for
Mr. CROUCH)—

That a return be laid upon the table of the House
showing—

1. The persons appointed since 1st January,
1901, as permanent commissioned officers of the
Defence forces of the Commonwealth and their

present rank and salary and past service, excepting those appointed only for South African service, and those who, before that date, were officers in the Defence forces of the States.

2. The number of officers of the permanent forces of the Commonwealth who have served in its permanent forces under the rank of commissioned officer.

LT.-COLS. BRAITHWAITE AND REAY.

Motion (by Mr. CHANTER for Mr. HUME COOK) proposed—

That a copy of all the papers and documents connected with the proposed retirement of Lt.-Cols. Braithwaite and Reay be laid on the table of the House.

Sir JOHN FORREST (Swan—Minister of Defence).—These papers seem to me to be of such a character that it is scarcely in the public interest that they should be placed on the table of the House. The Government personally have not the slightest objection to the printing of the papers, and the only reason which would influence me in advising the House not to print them would be the interests of the parties concerned. There are statements contained in the papers affecting the efficiency of persons who have done good service in this State, and who have been for a very long time connected with its citizen forces, and I think their publication will serve no good purpose. I asked the honorable member for Bourke not to move his motion. He had an opportunity, as other members of the House have had, of seeing all the papers, but he is not satisfied, and desires that they shall be placed on the table. Having made these observations, I propose to allow the decision of the matter to go on the voices.

Question resolved in the affirmative.

SPECIAL ADJOURNMENT.

Resolved (on motion by Sir EDMUND BARTON)—

That the House at its rising adjourn until Tuesday next.

ADJOURNMENT.

ORDER OF BUSINESS: QUEENSLAND TEACHERS' VOLUNTEER CORPS: CHAIRMAN OF COMMITTEES.

Sir EDMUND BARTON (Hunter—Minister for External Affairs).—I move—

That the House do now adjourn.

I wish to fulfil a promise which I made to the honorable member for Wentworth that

I would indicate to the House the in which we propose to introduce more immediate measures in our program. In making this statement I want it clearly understood that it applies to immediate business. It is in no sense implied that any measure which I mention to-night will be abandoned or slighted. I do not wish the idea abroad, or to have the inference that the Government is not going to take measures because I do not mention them to-night. All that I have promised to state the order of immediate business. I wish to explain, however, that no measure which the Government lays down for the conduct of its business can absolutely be deferred to a later time. It is sometimes from dealing, as necessarily with some short Bill, or some measure of sudden urgency, or some matter brought from the Senate. That, of course, is always understood. I have further to premise that I cannot yet find an exact time for bringing in the resolutions about the federal territories. The report of the commission is ready. I have it from the Minister for External Affairs that he confidently expects to report within a fortnight, and then his members must be afforded reasonable time in which to consider it before any measure is placed before them for discussion. I have cleared the way with those statements. I have to say that the Attorney-General will move the second reading of the Juvenile Bill on Tuesday. As the measure does not differ very materially from that which was introduced by him in an exhaustive and very elaborate speech last session, I intended to go on with the second reading of the Bill without an adjournment. I have an understanding between the acting Premier of the Opposition and myself. The Education Bill is almost part of the Juvenile Bill, and must accompany it, and be introduced with in succession to it. Then two or three short measures are necessary to enable the Treasurer to know his position in dealing with some matters of importance. They are a Bill to abolish the rebate on sugar, and a Bill to convert into a loan from the beginning the payments which have been and are now being made. Without discussing those measures, I explain that they are to be introduced in accordance with the policy which has already been announced of treating each matter with which they deal as a matter of business.

o Bills are to be introduced, both are extremely short, in order to y constitutional objection which e taken if the subject were h in one measure. There will e Conciliation and Arbitration he proposed naval agreement. I t that statement gives honorable notice of what they will be asked th for some time to come. It is however, that I should mention s proposed shall be done in the When the other Chamber has h the standing orders—which, I ill take but a very short time—the r-General will introduce the Senate Bill, and the Naturalization Bill and ts Bill will follow. I make this for my honorable colleague subject eration which may be necessary to h matters as the approval of tele- r mail contracts—which will not time—to be dealt with. That is, s far as I am called upon to indi- niture and order of the business e Government will more imme- troduce.

E. GROOM (Darling Downs).—I raw the attention of the Minister ce to the disbanding of the Queens- chers' Volunteer Corps, and par- to bring under his notice the hich appears in the Brisbane f the 2nd June. It appears that s has been in existence about years, and about 417 State have passed through its ranks, it has done very useful work tate. I think it was the desire ble members that, in cutting down mates, retrenchment should not e in connexion with useful bodies nd, so much as in the permanent staff. I will not go into the the case, but I shall be pleased if ater will inquire into the matter, e some statement to the House in it at a later date.

HANTER (Riverina).—I take this ity to tender my sincere thanks to rable member for Wimmera for nominated me to the high and t office of Chairman of Com- and to honorable members for o graciously accorded that nomina- r unanimous support. I wish to em that I shall in the future, as in

the past, endeavour to do my duty faith- fully and impartially. I thank them for the generous support which they accorded me during the long session which termi- nated in October last, and ask them to again give me that support during the present session. I assure honorable mem- bers that at all times, when sitting in the chair, I shall know no party, but shall endeavour to uphold the great traditions of the British House of Commons.

Sir JOHN FORREST (Swan—Minister for Defence).—So far as I recollect, the matter to which the honorable member for Darling Downs has directed my attention was dealt with while I was in England, in connexion with the reduction of the Defence Estimates in accordance with a vote of this House. I do not think that it has come under my notice. I will, however, look into the case, and let him know exactly how the matter stands.

Question resolved in the affirmative.

House adjourned at 10.37 p.m.

House of Representatives.

Tuesday, 9 June, 1903.

Mr. SPEAKER took the chair at 2.30 p.m., and read prayers.

TEMPORARY CHAIRMEN OF COMMITTEES.

Mr. SPEAKER, in pursuance of Stand- ing Order 25, laid upon the table his warrant nominating Mr. Batchelor, Mr. Kirwan, Mr. McDonald, Mr. Salmon, and Mr. V. L. Solomon to act as temporary Chairmen of Committees.

TELEGRAPHIC DELAYS.

Sir LANGDON BONYTHON.—Com- plaints are frequently made as to the delay which now occurs in the transmission of telegrams between the eastern States and Western Australia. I would like to ask the Prime Minister whether it would be possible to make an arrangement by which public business could be facilitated without in any way prejudicing the revenue of the States concerned by using the cable be- tween the Grange, in South Australia, and Fremantle?

Sir EDMUND BARTON.—So far as I am at present advised, I think that such an arrangement is possible. I intend to look into the matter to see if such relief can be given.

Mr. KIRWAN.—I should like to know from the Prime Minister whether the interruptions complained of do not occur between Eucla and Port Augusta, on the South Australian portion of the telegraph line, and whether they are not due to the nearness of the telegraph wires to the sea? If that be so, will the Postmaster-General consider an additional method to that suggested by the honorable member for South Australia, Sir Langdon Bonython, for improving the service, namely, the removal of the line further inland or the erection of an inland line, so as to get away from the climatic influences which now occasion the interruptions?

Sir EDMUND BARTON.—I am not sufficiently in possession of the departmental facts to be able to answer the question without notice, but if the honorable member will give notice of it I shall obtain the information for him.

ELECTORAL ROLLS.

Sir WILLIAM McMILLAN.—I have not had sufficient time to make myself acquainted with all the ins and outs of the position in regard to the alleged discrepancy between the census returns of the different States and the names upon the electoral rolls. The matter, however, is of the utmost importance, especially since the Senate elections must take place at the close of the year, and I shall therefore be glad if the Prime Minister will make a statement on the subject, so far as he can do so at the present moment.

Sir EDMUND BARTON.—It is difficult for me, at the present moment, to make a statement which would be of any value, but the Minister for Home Affairs will be present to-morrow, and I think that if the honorable member will then repeat his question, my honorable colleague will be able, from his departmental knowledge, to make a fuller explanation than it is now in my power to make. I stated what I knew of the matter in answer to a question which was asked when the honorable member was not here. The course which I now suggest will be the best in the public interests to follow, so that the fullest information may be given.

THE GOLDRING CASE

Mr. SYDNEY SMITH.—On last I called attention to a case which occurred in Sydney, in which a person Goldring was put to some trouble in connexion with the non-delivery of goods signed to him. Both the Attorney-General and the Minister for Trade and Customs promised to look into the matter to-day, and I ask now whether any answer has been arrived at in regard to it by the Government?

Mr. DEAKIN.—As upon inquiry I found that the papers dealing with the subject were not in the Melbourne house, I telegraphed to Sydney for them. They may arrive by this afternoon, and in any case they should be here to-morrow. It is necessary to obtain the facts before I can come to a decision in the matter.

HIGH COURT PROCEDURE

Bill presented.

Motion (by Mr. DEAKIN) proposed.

That the Bill be now read a first time.

Mr. CONROY (Werriwa).—I think we should have some little time to discuss this measure.

Mr. SPEAKER.—It is not the practice to debate the motion for the first reading of a Bill.

Mr. CONROY.—I think that it is within the rules of the House in doing so.

Mr. SPEAKER.—The honorable member will have an opportunity to raise the question upon any point on which he desires information upon the motion. The second reading be made an order of the day for to-morrow."

Question resolved in the affirmative.

Bill read a first time.

Motion (by Mr. DEAKIN) proposed.

That the second reading be made an order of the day for to-morrow.

Mr. CONROY (Werriwa).—I shall ask the Attorney-General to give us as much time as possible to look into this Bill.

Mr. DEAKIN.—Copies of the Bill have been circulated in a few minutes, but consideration will not be proceeded with to-morrow. It is necessary for the members to have this Bill before them to enable them to understand the provisions of the Judiciary Bill.

Mr. CONROY.—I understand that the measure is supplementary to the J

that we must make ourselves acquainted with its provisions to understand it. If the matters with which the Bill deals were to be the subject of regular debate the position would be altogether different; but when it is proposed to legislate in haste with all due solemnity, so that amendments or repeals can be effected by the passing of Acts of Parliament, it should be given longer notice.

SPEAKER.—The only question is whether any member can now debate it. The second reading be made on the day for to-morrow or for some other day.

CONROY.—I am endeavouring to find reasons for deferring the second reading until some later date.

DEAKIN.—The motion now before the House is only a formal one. There is no objection to the Bill being proceeded with.

CONROY.—As I have the assurance of the Attorney-General that the Bill will be taken this week, I withdraw my objection to the motion.

Division resolved in the affirmative.

QUEENSLAND TEACHERS' VOLUNTEER CORPS.

JOHN FORREST.—On Thursday last I stated that the disbanding of the Queensland Teachers' Volunteer Corps in Queensland was a mistake, I thought, when I was absent in England. I have since ascertained that it was not, and that the disbandment was effected by myself not very long ago.

MESSAGES.

SPEAKER reported the receipt of a message from His Excellency the Governor recommending that appropriations be made from the Commonwealth revenue for the purposes of the Sugar Bonus Bill, the Judiciary Bill, and the Naval Agreement Bill.

PAPERS.

Papers laid upon the table the following day:—

A paper from the Treasurer regarding the refund of rebate of excise duties allowed on sugar grown by white labour.
A paper from the officers of the permanent defence force appointed since 1st January, 1901.

Sir JOHN FORREST.—In laying upon the table, in pursuance to an order of the House,

Papers connected with the retirement of Colonels Reay and Braithewaite, I would like to say that an order has been made by the Senate for the laying of these papers upon the table of that House, too. As I do not want to have a second copy made, I suggest that perhaps there will be no objection to my removing them for a short time to-morrow so that they may be placed upon the table of the Senate.

Mr. SPEAKER.—I will see what can be done in the matter.

JUDICIARY BILL.

SECOND READING.

Mr. DEAKIN (Bailarat—Attorney-General).—I move—

That the Bill be now read a second time.

When I moved the second reading of this measure in March of last year its principles and details were exhaustively explained. There is practically nothing to be taken away from what was then urged, because the Bill remains substantially the same, and it is now necessary for me only to call attention to a few minor changes, and to address myself to the criticisms offered during the debate upon the address in reply to the Governor-General's speech. A full understanding of the Bill in all its details will, no doubt, be assisted by the consideration of the measure which accompanies it, and of which the first reading has just been agreed to. That Bill provides all the necessary mechanism to enable the High Court, if established, to enter upon the discharge of its duties. It deals with the registers proposed to be established in every State, the method of the trial of issues, the taking of evidence, and the security to be furnished upon appeal, and it has attached to it, in the form of a schedule, a very full set of rules of court dealing with questions of practice, and similar matters which are usually provided for by that means. The two measures taken together would provide for the creation of a High Court of a high character, and at the same time fully equip it with all the necessary powers for exercising the jurisdiction which it is proposed to confer upon it. The first will be supplemented in the Procedure Bill and its appendix, by all the necessary provisions to

enable suitors to commence without delay and prosecute without difficulty any and every case which they may wish to submit to its judgment. These measures appear to us to absolutely complete the equipment of the proposed High Court of Australia. I ask honorable members to be good enough to take as read the remarks made by me last year in expounding the general principles of this measure, and in endeavouring to properly estimate both historically and by comparison with other Constitutions the functions of the High Court. Since that time events have marched, and I find that the greater portion of the scrutiny which the measure now receives at the hands of honorable members leads them to question the urgency of the creation of a High Court, and to further question whether, if a High Court is established, the most economical means have been adopted to give effect to that design. While admitting that at any time questions of expense merit the most careful attention of honorable members, and paying due regard to the untoward circumstances in which many of the States of the Commonwealth have been placed owing to the physical circumstances and climatic conditions of the last few years, I submit that in connexion with this measure there are some considerations preliminary even to these. I admit to the utmost extent not only the right, but the duty of all honorable members to criticise this and every other proposal from the stand-point of the expense likely to be involved, but conceive it to be my first duty to call attention to the fact that we have first to look to our duty under the Constitution and the obligations therein specifically imposed upon us. The provisions of our Constitution with regard to the High Court differ from those relating to the High Court of Canada, to which attention was called during the recent debate. In Canada the appointment of the High Court was a comparatively subsidiary matter. The time and manner of appointment were both left wholly to the discretion of the Canadian Parliament. The provision was "The Parliament of Canada 'may' appoint a High Court." But in the Constitution sanctioned by the people of Australia, the form of words occurring in the Constitution of the United States was adopted deliberately and with set purpose, that the judicial powers of the Commonwealth "shall" be vested in a High Court.

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This has been held by judicial decision by universal interpretation to imply date—not simply the choice of Parliament to create or not to create, but a demand from the people from whom the Constitution came that the Federal Judiciary should be created. In point of fact, if we look at sections of the Constitution relating to the three great powers of the Federal Government we shall find them significantly framed in the same words. In the first section of the Constitution proper, it is provided—

The legislative power of the Commonwealth shall be vested in a Federal Parliament, and a Federal Parliament has been accordingly. There was no choice of option, but it was mandatory that the legislative power should be vested in the Parliament. If we turn to sections 62 we shall find similar language employed with regard to the Executive, with the point of time preceded the creation of legislative power. According to 61—

The Executive power of the Commonwealth is vested in the Queen, and is exercised by the Governor-General as the Queen's representative, and extends to the execution and maintenance of this Constitution and of the laws of the Commonwealth.

Section 62 provides—

There shall be a Federal Executive Council to advise the Governor-General.

Therefore it is provided that there shall be a Legislature, and that there shall be an Executive, and exactly the same form of words is applied to the Judiciary.

71 provides—

The judicial power of the Commonwealth shall be vested in a Federal Supreme Court of Australia, called the High Court of Australia, and in other Federal Courts, &c.

Mr. JOSEPH COOK.—Two years have nearly elapsed since the Commonwealth was established.

Mr. DEAKIN.—Yes. The Legislature was not brought into existence until months after the establishment of the Commonwealth; whereas the Executive was created on the very first day. Surely it is a high time that the third co-ordinating and complementary power of the Commonwealth, the Federal Judiciary, should be established in obedience to the mandate contained in the Constitution?

Mr. CONROY.—Should we not provide to make our Supreme Courts a High Court? We gave them the necessary jurisdiction.

Mr. DEAKIN.—Not in the sense in which the words are employed in the Constitution, because if the honorable and learned member will look at the section he will see that it is provided—

The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other Federal Courts as Parliament creates, and in such other courts as it invests with federal jurisdiction.

Therefore we have three classes of court to provide for. First, the High Court, supreme over all; secondly, the Federal Courts, which may be invested with local jurisdiction under the High Court; and then the courts of the States, to which the honorable and learned member has referred, which may be invested with federal jurisdiction within the discretion of Parliament. The three great powers to which I have referred are provided for in exactly the same terms, and stand upon exactly the same footing, thereby representing complete federation. Honorable members require to look at the words of the Constitution very closely and to weigh their import very seriously, because it is not possible that the Legislature and the Executive called into existence under the same set of words should now proceed to hold that the third great power provided for in exactly the same way should be treated in a different fashion. The creation of the High Court occupied no inconsiderable portion of the time of the Federal Convention in 1891, and when the Constitution was submitted to the people—particularly in the less populous States—it was continually pointed out from the platform that one of the guarantees afforded by the Constitution for the fulfilment of the many business compacts contained in it was embodied in the provision for the appointment of a High Court. It was represented that this tribunal would secure the full performance of the obligations imposed upon the Commonwealth Parliament, and thus safeguard the interests of the less populous States, which might find themselves in a minority in the legislative body. That aspect of the matter was, to my own knowledge, placed before the public in Victoria from the inception to the close of the struggle, and as far as I was able to follow the course of the electoral campaign, it was represented to the citizens of the other States with equal fullness. When the people of Australia accepted the Constitution, they did so, not

only with the provision for the High Court writ large across its face, but on the assurance that the guarantee and security afforded by the Judiciary would be provided for, as well as the Legislature and Executive which they were about to call into being. It would, therefore, be a very grave departure from the Constitution submitted to the people if we either sought to escape or attempted to postpone that fulfilment of our obligation beyond that reasonable time necessary to call the High Court into existence. In the third year of our federal existence we have certainly reached a period at which the third power of the Constitution, the only remaining great power not yet organized and established, should be launched on its career. Under these circumstances I am relieved from the necessity of making that apology which might, under other conditions, be called for in bringing forward a measure involving public expenditure at such a time as this. The Constitution, irrespective of all vicissitudes or events which may follow, contains what are practically instructions to Parliament. The creation of the judicial power was not made conditional, as it might easily have been. No time was mentioned, no conditions were imposed such as abound in other portions of the Constitution. The High Court was regarded as one of the paramount parts of the Constitution, and as one of those which it would be necessary in the very first stages of the Federation to call into existence. Since that is the case, the burden lies upon the opponents of this measure, if they propose to evade the Constitution, to satisfy this House and the country that the mandate, as I read it, in section 71, is capable of being escaped from without a breach of faith, and without a disregard of our obligations. From a practical stand-point it must be admitted, even by those whose knowledge is gained only from the news columns of the daily press, that Federal issues, to the legal decision of which much importance attaches, are multiplying. Under these circumstances we have to ask ourselves how long it is right or reasonable that these issues should be dealt with by purely local courts, and how long it is desirable that the Federal Constitution should be interpreted by the local courts. The law, as it is interpreted by the State Courts, requires to be acted upon in their territory. Should any question be pressed further to a Court of Appeal,

decisions from that quarter cannot be ignored. At the same time we are faced with the very serious responsibility of allowing questions relating to the construction of the Constitution, in regard to some of its most important principles, to be prepared for that oversea tribunal upon arguments perhaps of a relatively casual and incomplete character in some State court. Under these circumstances can we afford to rely upon these Courts supported by an oversea appeal? But before dealing with that aspect of the question, I should have called attention to the few alterations which have been effected in the measure before us. The provisions contained in clauses 20 and 24 have been transferred from a later portion of the Bill, and now appear a little earlier than they did previously. Upon examining the Practice and Procedure Bill, honorable members will find that it is proposed to add to this Bill four of the clauses which it was intended to embody in that measure. They will also notice that clauses 17, 40, and 41, whilst remaining the same in substance, have been recast. Clauses 40 and 41—perhaps the two most important in the measure—have been recast in the Bill, whilst clause 17 has been redrafted in the sheet of amendments which has been circulated. Honorable members will further observe that clauses 12 and 13 are new additions to procedure. Clauses 56 and 57 are also new, whilst the last portion of clause 36 from line 30 to the bottom of the page has been added. The sheet of amendments shows that in clause 7 we propose to omit the last three lines referring to the avoidance of the office of Justice of the High Court, as this method of discharging the office does not appear to be consistent with a reading of the Constitution. Another amendment is proposed to clause 44, under which an order for removal can be obtained as a matter of right. With this short list, I think I have directed the attention of honorable members to every alteration that has been made in the Bill that is more than verbal in character. In this connexion I have to express my indebtedness to the Chief Justice of Queensland Sir Samuel Griffith, the honorable and learned member for Indi, and the honorable and learned member for Darling Downs, who have been good enough to call attention to questions of phraseology and of power, and some of whose suggestions have been embodied in these amendments. This

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little list should have been introduced earlier. I interposed it when submitting to the House that the discharge of our obligations under the Constitution required the immediate establishment of this court. If honorable members will look at the Constitution, or recall to mind the views which I have expressed, they will notice how much this view is supported by the very nature of the chapter relating to the Judiciary. It has not been the intention of the Government to establish some court after its own mind, but according to its own will. The measure upon which this tribunal is to be established is contained in the Constitution. Parliament is allowed to fix the time of its initiation, and to exercise certain powers which are left to it under the Constitution, but speaking broadly the High Court, as it is intended to be, is already created. Its powers and its nature are strictly defined. If honorable members look at the Constitution they will find in section 71, in addition to containing the direction that the judicial power shall be vested in the High Court, adds that the number of Justices shall not be less than three Judges appointed for that Court—two, besides the Chief Justice. If they examine section 72 they will find it provided that these Justices shall be appointed by the Governor-General, and they shall not be removed except upon certain conditions, and that they shall receive such remuneration as Parliament may determine without reduction during their continuance in office. It will also be noticed that in section 73 the Court is to have jurisdiction as a Court of Appeal over the whole of the jurisdiction covered by the States, and that the hands of Parliament are so bound so that no exception or regulation proposed by it shall prevent the High Court from hearing and determining appeals from the States Supreme Courts in any matter in which an appeal lies from those Courts to the Privy Council at the time of the making of the Constitution. In the next section it is provided that no appeal shall be admitted from the High Court upon constitutional questions arising between the Commonwealth and the States. The reason has to be advanced to permit of appeals being taken to the Judicial Committee of the Privy Council, and a leave of appeal is required in order that any other questions may be taken on from the High Court to the mother country. The following section provides

e matters enumerated therein, the court shall have original jurisdiction. Section 80 it will be found that the indictment of offences against any one Commonwealth shall be by jury, the same form of words—peremptory and mandatory—runs through the whole of the matter. Parliament is directed both as to the character of the original jurisdiction, and as to the appellate powers of this court. The matters which are left are important, but they are not such as enable the bold design of the Bill, or it is much more than an outline completely filled up. I have already drawn attention to the first option that is presented to Parliament. There must be three options, but there may be more. The next option is to be found in the fact that while the judges must have a fixed remuneration, Parliament has to determine what that remuneration shall be. Under section 76 the High Court may make exceptions to the provisions relating to the hearing of appeals from the States Courts generally, and in section 74 there is an option that Parliament may make laws limiting the matters in which a leave to appeal to the Judicial Committee of the Privy Council may be granted. This is a very important option indeed.

HENRY WILLIS.—Is that provided for in the Bill?

MR. EAKIN.—We are not taking advantage of that power in this measure. The option is contained in section 75, which confers the original jurisdiction on the High Court. Under section 76 a further jurisdiction may be conferred on it, and this Bill proposes that the whole of that jurisdiction shall attach to the High Court. Section 77 contains three very important options indeed. This Parliament must determine the jurisdiction of any Federal Court other than the High Court. It is not intended to exercise that option, because, for political reasons, we do not intend to confer authority for the establishment of any Federal Courts other than the High Court. At the proper time comes such tribunals as may be created, and under this section their jurisdiction may be defined. Under the second option this Parliament has power to determine the matters in connexion with the jurisdiction of any Federal Court other than the High Court. The third option is that Parliament has ample opportunity of conferring any court of a State with original jurisdiction. Of that advantage no use has been taken. This Parliament may

authorize suits to be brought against the Commonwealth, or against any State, in respect of matters within the limits of the judicial power. The federal jurisdiction of any court may be exercised by the number of Judges which this Parliament chooses to fix. Advantage is also taken of these. Honorable members, therefore, will see that there remain practically only two options of which it is not proposed to take advantage. It is not proposed under section 73 to restrict—as Parliament may, if it thinks fit—the appeals from the Supreme Courts of the States to the High Court in matters of their ordinary jurisdiction; nor is it proposed to ask the House to curtail the right of appeal which is created from the High Court to the Judicial Committee of the Privy Council in England. Neither of these appeals is sought to be restricted by this Bill, but practically every other power which the Constitution presents is accepted. - Advantage is taken not only of that part of it which says that jurisdiction shall be vested under these conditions, but also of those portions which provide that the Parliament may exercise the powers conferred upon it by the Constitution. In point of fact, nothing has been omitted which could add to the dignity, scope, or influence of the High Court. The whole range covered by the jurisdiction of the States Courts prior to the accomplishment of federation, or at the present time, in matters which are altogether outside of Federal affairs, are made subject to appeal to the High Court, at the discretion, of course, of the litigants. In addition to that, the whole of the federal jurisdiction which this Parliament is authorized to confer upon the High Court is here conferred upon it. Consequently it is, in the amplest sense, all that the Constitution designed that it ought to be or might be — an Australian Court of Appeal for the whole of the courts of the States, and a Federal Court fully exercising the whole of the jurisdiction which the people have placed within its power. How would its creation alter the existing state of affairs, and what is the prevailing condition of affairs in the various States in respect of their reliance upon their judicial tribunals? Honorable members do not require to be reminded that each of the six States of the Commonwealth has its own Supreme Court. They do not require to be told that the jurisdiction of those

courts extends over the area of each State and no further. They do not need to be informed that each of these courts is at perfect liberty to pursue its own line of interpretation, its own reading of Commonwealth legislation, or of the legislation of its own State, subject only to the fact that from each and all of these six separate and independent courts an appeal lies to the Judicial Committee of the Privy Council in London, whose judgments are binding upon all. But except in regard to matters in which that appeal is taken, the Supreme Courts remain free. Of course, as a matter of fact, they do in practice follow to a very large extent the decisions of the English tribunals, and particularly those of the House of Lords, the final court of appeal for the citizens of the Empire who are resident in Great Britain, but not for her citizens over-sea. And they do so far as they choose, follow judgments which have been given in neighbouring States. Here we have six separate and independent tribunals whose recognition of each other's judgments, or of any others except those of the Privy Council, is purely a matter of their own choice. It is a matter in which they are free to exercise their discretion. They are in point of fact absolutely unfederated at present; and unfederated they must remain—as unfederated as the six States were, or as any of their powers were, before this Constitution came into force—unless in this, as in the political sphere, federation is brought about by the creation, not only of an Australian Parliament and an Australian Executive, but of an Australian Judiciary. As a matter of fact, this condition of affairs has been unsatisfactory enough for the last 30 years, since it led to a proposal for the establishment of an Australian Court of Appeal, which, even if no federation took place, should undertake to do, in a large measure, for the Australian people themselves what at present the Judicial Committee of the Privy Council is often left to do if it is done at all. As long ago as 1870 a commission in this State reported strongly in favour of the creation of what would then have been called an Intercolonial Court of Appeal. While laying stress on the change which has been brought about by the passing of the Federal Constitution, and all it implies, it must not be forgotten that long before federation came within the sphere of practical politics, and quite

Mr. Deakin.

independently of the whole federal movement, looked at simply from the stand-point of the States themselves, and the litigants in those States, it was proposed, and has been generally supported by high authority, that a Court of Appeal should be established, because it was seen that some kind of legal federation was necessary, even if political federation were ignored.

Mr. GLYNN.—That was to be a Court of Appeal from the States Courts.

Mr. DEAKIN.—There was to be a Court of Appeal from the States Courts, and the proposal made in Victoria was, that it should consist of Judges taken from the different States.

Mr. GLYNN.—As it is in New Zealand now.

Mr. DEAKIN.—Yes. The Prime Minister reminds me that a conference of the Chief Justices of the States was held in this State some ten or eleven years ago, and that this project was then set aside by the Chief Justices themselves for reasons which at the moment I do not recall. But at all events the need had been felt, and the proposal had been made before federation, and therefore those who deal with this question, strong as is the case from the federal stand-point alone, cannot ignore that fact.

Mr. G. B. EDWARDS.—It was discussed by the Federal Council.

Mr. DEAKIN.—Yes, but nothing followed. If such a Court were established it would naturally deprive the States Courts of a portion of that independence which they now enjoy, and would make their jurisdiction subject to another tribunal which would be created between them and the Judicial Committee of the Privy Council. In the same way now that federation has taken place, now that the Federal Constitution has become the supreme law of the land, and contains upon its face a mandate for the creation of a High Court, it becomes peremptorily necessary to undertake a step which previously was one merely of convenience or opportunity. The High Court now proposed to be created is not by any means to exercise a wholly new jurisdiction. A large proportion of its authority will be carved out of the jurisdictions of the States Courts on the one side, and to a smaller extent, from the Privy Council on the other. The High Court which is to be created between the Supreme Courts of the States and the

Privy Council will be debtor to both, and it will relieve both of some of the duties and responsibilities which they now have.

Mr. HENRY WILLIS.—Will five Judges be able to do all that work?

Mr. DEAKIN.—I shall consider that aspect of the question in a moment. But what the five Judges or any other number that may be appointed will do will be work of which the Supreme Courts and the Privy Council will be to an extent relieved, and that is an important consideration, as honorable members will see at a later stage. For the present, however, I wish to point out that this does not imply a reflection upon the Supreme Courts as unqualified to deal with the bulk of the tasks which they have been discharging. Some of these courts have been more fortunate than others in having a smaller proportion of their judgments overruled. Some of our Supreme Courts have been remarkably fortunate. Others have not because all State Benches are not upon the same level, nor are the Benches of the same State maintained invariably at the same standard. The fact that it would be possible and profitable to have an Australian Court of Appeal above them does not necessarily imply a reflection upon the States Courts so far as they are States courts. But it offers a very obvious contrast between the kind of tribunal which will be necessary in order to discharge what, so far as they are concerned, may be termed extra territorial duties and the tribunals purely local in character and constitution, if they were called upon to deal with matters outside their own boundaries. Nor do I wish it to be taken as a reflection upon the Privy Council that the desirableness of a High Court now being embodied in the Constitution, its creation is being pressed forward. The honorable and learned member for Darling Downs reminded us how much the Judicial Committee of the Privy Council, and particularly Lord Watson, had contributed to the interpretation of the Constitution of Canada. That debt may freely be acknowledged. But it is also to be remembered that the High Court under our Constitution has a different position and a higher authority than the Supreme Court of Canada. The provisions contained in section 74, if no others, place it distinctly above and beyond it, and outside the category in which the great Supreme Court of Canada is placed. Because the

Privy Council is sought to be retained as the sole tribunal of appeal, and because its great services to Canada may be admitted, it does not necessarily follow that the Privy Council, as constituted, is beyond improvement. In the first year of the existence of the Union a conference was held in London, at which the Commonwealth was represented, and admirably represented, by Mr. Justice Hodges, of the Victorian Supreme Court Bench. The conference, by a majority of voices, decided that they would not ask for any present change in the constitution of the Privy Council, and Mr. Justice Hodges, on behalf of Australia, entered a strong but respectful protest. This may serve to indicate some of the matters in respect of which the Privy Council, even as strengthened of recent years, is not an entirely ideal body. Twenty or thirty years ago it was very much less so, but it is not necessary to speak of that time. Mr. Justice Hodges sent in a protest against the present practice of maintaining two courts of final appeal, one for India and the self-governing colonies—the Judicial Committee of the Privy Council—and another for the citizens of Great Britain—the House of Lords—for these reasons—

1. Because of the danger of inconsistent and conflicting decisions by two tribunals each final, and the uncertain and unsatisfactory state of the law that would result therefrom.

2. Because there is a feeling that the home tribunal is favoured at the expense of the Indian and colonial one, and because the legislation on this subject to some extent justifies the feeling.

3. Because, even if legislation left perfect equality, the Lords of Appeal in Ordinary would naturally be more interested in questions arising in the United Kingdom than in those arising abroad, and would decide any doubt as to which court required their presence in favour of the home tribunal.

4. Because even if there could exist absolute impartiality in this respect, there is likely to be some distrust, and possibly there will be some suspicion that the home tribunal is getting most attendances from the best men.

5. Because as long as these tribunals remain separate it is difficult, if not impossible, to provide satisfactorily for the appointment of Indian and colonial experts.

6. Because the Privy Council is a board, and not a court. I should further add, that as legislation is desired and expected by the majority on this subject, care should be taken that the legislative rights or judicial power of the Commonwealth of Australia are in no way impaired thereby.

What Mr. Justice Hodges was advocating was the substitution of one Imperial Court of Appeal for the two Courts of Appeal

which at present exist in the mother country, and for myself I heartily concur with his representations on the subject. But I wish to point out that these considerations not only suggest certain imperfections which necessarily attach to the Privy Council as it now stands, but also indicate certain imperfections which must necessarily attach to any Imperial tribunal when it is established in London, gathering into one all the different kinds of law from all parts of the Empire—the Roman-Dutch law at the Cape, the French-Canadian law of Canada, the Hindoo law, and many other systems. In such circumstances honorable members will realize that frequent appeals, even to a single tribunal in London, will not be sought after; that English legal authorities do not call for that frequency of appeal. What is sought is to establish a single Court of Appeal for the whole Empire, which shall be moved only in respect of cases suitable for the consideration of such an exalted tribunal. Those, it is unnecessary to say, will in our case be few and far between, since the bulk of the work undertaken by the Privy Council at the present time would be far better transacted in the interests of litigants by an Australian Court of Appeal than it could ever hope to be by any oversea tribunal. The class of cases to which I allude are those which are more particularly based, not upon those general principles of law which are common to us and to the mother country, but those special to the development of Australia on its own lines, and in particular directions. Law is only the reflection of the community from which it springs, and especially is it so in a democratic community. In Australia not only do we live under different conditions of social growth, of national development and of climate, not only have we differences of political conditions, but different problems. The laws which we pass possess an Australian atmosphere, and require to be interpreted with a knowledge of the circumstances under which they are passed and applied.

Mr. G. B. EDWARDS.—The Church lands case of New Zealand, for example.

Mr. DEAKIN.—It is no reflection upon a great Court like the Judicial Committee of the Privy Council to say that it must necessarily labour at a disadvantage in some respects when compared with competent courts nearer home or on the spot. One of

the first considerations which we face is that its distance involves delay, and what those delays are I have taken opportunity of ascertaining. Having looked out all the appeals sent from New Wales to the Privy Council during the last five years, I have noted the delay which has elapsed between the judgment at Sydney and the judgment in London—the shortest—and they are only two—under one year; the longest is only four months under four years.

Mr. HIGGINS.—Has the honorable gentleman ascertained how much delay was owing to the inaction of the appellant?

Mr. DEAKIN.—No, but I consider I am relieved from the necessity of investigation, because I have taken for the last five years, and am going on the average.

Mr. HIGGINS.—But that does not answer my question.

Mr. DEAKIN.—Practically not. Of these cases has been tried in less than a year; the longest case has taken four years, and the average time has been just under one year and a few months.

Mr. GLYNN.—How many cases have been set down for hearing and not proceeded with? I think that point was mentioned in the Convention.

Mr. DEAKIN.—That does not answer the question. I have taken the cases which have been decided. I have not followed those which have not been pushed to a hearing.

Mr. GLYNN.—Some were not set down for hearing, and some were not set down for hearing by the litigant.

Mr. DEAKIN.—As to that I am not prepared to speak.

Mr. GLYNN.—It was mentioned in the Convention, but the argument was not conclusive.

Mr. DEAKIN.—Of course it is not conclusive. The only case we have—part of the delay has been owing to the substitution of another defendant—we have any experience as a Commonwealth is the case of Kingston against Gadd. Judgment was given on the 9th Dec. 1901; an appeal went to the Privy Council, and, as far as I know, it has not yet been decided. I believe that Mr. Gadd is deceased, and that the company of which he was a member has been substituted as defendant, and may be the cause of a very short

Here is a case which left us on the 9th December, 1901, and of which I have heard nothing.

Mr. CONROY.—Is it still going on?

Mr. DEAKIN.—The case is still going on, so far as we know. Take the next difficulty under which a court oversea must always labour, and that arises out of its remoteness. Of this we have a very striking illustration immediately to hand. From the *Times* of the 29th April, which has just arrived, I find that the Chief Justice of New Zealand had cabled to London, by means of Reuter, a *précis* of the important pronouncements recently made by himself and his fellow-Judges on the decision of the Privy Council in the case of Wallace against the Solicitor-General of New Zealand. Sir Robert Stout, who was not one of the Judges whose judgment was appealed against, and who, therefore, was quite dispassionate, sums up the case as follows:—

1. The Council makes the cardinal blunder of assuming that the Maories could dispose of their lands, but Royal charter and instructions of 1846, issued by authority of 9 and 10 Vic., c. 103, as well as 3 N. Z. Statutes, clearly prohibited the disposition of even Maories' occupancy titles.

2. The Council shows its ignorance of the fact that the title was in the Crown, and that only by a grant could the bishop in question obtain the land, and that the Crown was for the foregoing reasons a donor.

3. The charge of misconduct made by the Council against our Solicitor-General was made in ignorance of the fact that, by our procedure, the Solicitor-General, being defendant, had a right to show, in any suit to settle a scheme, that the land had reverted to the donor, and was not a bequest of general charity.

4. The amendment in the pleadings asked by the Solicitor-General, which the Council so severely condemned, was made by the court with the consent of both parties.

5. The Council rely, in aid of its conclusion, upon a Maori war where a war never existed, and on the absence in England of Bishop Selwyn when, in fact, he did not leave New Zealand for nine years after he had given up the trust.

6. That the colonial court, in this case, is charged with grave misconduct, although this alleged misconduct consists only in its own numerous precedents extending beyond 1847, and treated unquestioningly by the courts and legal profession as settled law.

7. That the court did not, as the Council declares, decline jurisdiction, but determined that the land had reverted to the Crown.

Reuter's report goes on to say—

The Chief Justice then, in proof of the Privy Council's ignorance of our laws, gives a series of blunders they have made, most of them in recent years, in deciding other New Zealand appeals. One case, that of Plimmers, is cited, in which the

Council, in ignorance of a colonial statute of 1854, expressly forbidding the making of a certain class of contract, decided that such a contract could be made.

The report concludes with some general observations. That shows what errors are possible in a court removed by many thousands of miles from the scene of litigation, when the subject-matter, is peculiar to the country in which it arises.

Mr. A. McLEAN.—It shows also how imperfectly the barristers did their work.

Mr. GLYNN.—They must have been very badly briefed.

Mr. DEAKIN.—I can only speak of that which I know. Take the famous New South Wales case, *McLeod versus the Attorney-General of New South Wales*. That went, on a question relating to bigamy committed abroad, from the Supreme Court to the Privy Council. The Privy Council chose to decide the case, not on any of the points raised before them in argument; but on a question of jurisdiction. They turned up the Criminal Law Amendment Act of New South Wales; they took the jurisdiction laid down in that Act as being the whole jurisdiction claimed in New South Wales, and gave their judgment accordingly. As a matter of fact, the point had never been taken in Sydney, and, therefore, the question could not have been argued; but if it had been taken, it would have been known at once that the jurisdiction was claimed under an un-repealed section of a British Act—an Act which had been repealed and re-enacted in Great Britain, but was still held to be in force in New South Wales. Consequently, in looking only to the local Act and ignoring an Imperial Act, probably because it had been repealed and re-enacted in Great Britain—the Privy Council chose to give judgment on a point never raised before them, and gave it in entire ignorance of the local law, which would otherwise have determined it. I shall not labour these points, because to do so, unduly would make it appear as if I were endeavouring to base my argument on an attack upon the Judicial Committee. I have already said that I have no such intention, but we cannot forget the risks to which all litigants expose themselves when dealing at such a distance with intricate questions of purely local law, or determining any right under purely local law.

Mr. A. McLEAN.—Or any other law.

Mr. DEAKIN.—They must take the same risks that we all take in our business or other pursuits when they enter a court; but they take a special risk when they allow questions of this sort to be decided over-sea. I admit that a great part of the danger can be removed if each question is first thoroughly thrashed out before a competent court of high standing in Australia, so that every point which can be discovered on either side is carefully taken, so that all the over-sea body is asked to do is to review data which are not disputed. That is a different state of affairs, and to that I do not address myself.

Mr. CONROY.—The Bill will still allow an appeal from the High Court to the Privy Council.

Mr. DEAKIN.—Yes. What I am concerned to point out is that, even allowing for the high prestige of the Judicial Committee in certain matters, it is an undesirable tribunal without a preliminary investigation of the case, which requires to be of a broader and more thorough character than that which has sometimes obtained in all the Supreme Courts of the States. With an Australian Court we should have local judgments sifted more rapidly and more cheaply, a smaller number of cases would go to the Privy Council, and the cases that did go would be better prepared for inquiry and investigation. Honorable members will recollect that in answer to the interjection just made—that we do not propose to abolish the appeal to the Privy Council—I have already called attention to the last part of section 74 of the Constitution, under which—

The Parliament may make laws limiting the matters in which such leave may be asked.

When the High Court is established; when it has felt its feet, so to speak, in its new jurisdiction; when we are fully informed as to the character and class of cases that come before it, to what extent it, of itself, by the inducements it holds out to suitors, is able to attract appeals which would otherwise go to the Privy Council; then we shall know not only the extent, but the manner in which it is desirable to exercise the power intrusted to the Parliament under that section. How far it will be desirable for us to limit appeals from the High Court to the Privy Council has to be determined. The power of limitation rests in our hands. It is not sought to be exercised at this stage, because it is felt

that there should be some practical experience of the working of the court about to be established, and some better idea of the standing it will acquire before we take advantage of it. That is a power of which no doubt Parliament will take advantage hereafter. It is to be remembered also that the power as of right to appeal to the Privy Council has gone under the Constitution. The only appeal that remains is the appeal by special leave—what is sometimes termed the appeal as of grace.

Mr. HIGGINS.—Does the honorable and learned gentleman say the appeal has gone?

Mr. DEAKIN.—The appeal as of right from the High Court. I am speaking only of the High Court. The appeal as of right has gone, but the appeal as of grace remains. This appeal is what remains in Canada; and, in regard to Canada, the Privy Council itself has already declined to be made the channel for every suit which Canadian litigants wish to send to it. I do not wish to take up the time of honorable members by labouring this point, but the legal community know the cases which are quoted in Wheeler's *Confederation of Canada*. Honorable members will find there cases in which the Privy Council, without being moved from Canada has sought to restrict the area within which it will grant special leave to appeal. There is not the least doubt that the same principle will apply with an even greater force in regard to appeals from the High Court of Australia. Even before the establishment of the High Court, we have this guarantee that the Privy Council itself, so far from lending itself to the multiplication and encouragement of our appeals, desires to restrict them. If the High Court of Australia be a body of the standing and reputation which this Bill supposes, that tendency on the part of the Privy Council will be strengthened more and more. The consequence is that, what between our legal power of restriction—by legislation—and the restriction which the Privy Council itself imposes, crowded as it is with business from all parts of the Empire, we have every reason to believe that within a very few years a High Court of Australia established on this scale would be practically the final court of appeal in ninety-nine out of every hundred cases arising in Australia, and that a great number of those cases which are now taken to the Privy Council

will stop short in Australia. As I have said, the High Court is partly built up by the jurisdiction which it will acquire from the Privy Council. There are first of all the appeals on constitutional questions which cannot go to the Privy Council without the consent of the High Court. The consent of three Judges is required. Then there is the special leave to which litigants are limited; and then there are a large number of cases which will prove to be too precarious when they have been examined by the High Court to justify litigants in going to the large expense of further appeal. These cases, coupled with the power of restriction which we possess, should make this High Court the final court of appeal for Australia within a few years, and should secure to it sure cases except important issues involving points of general law in which it may be desirable to have a Privy Council decision. The Supreme Courts of the States are the other judicial bodies which are asked to part with a portion of their jurisdiction under the Constitution. By the creation of the High Court—under clause 41 of the Bill—which gives the courts of the States federal jurisdiction—but only as courts of first instance—they part, first of all, with some of their appellate jurisdiction. They may also part with power in suits between residents of different States, such as those relating to matters of admiralty or maritime jurisdiction; suits which are brought under the Constitution for its interpretation; or suits which depend upon the interpretation of federal law. If honorable members look at clause 40 of the Bill they will see the matters in which the Federal Courts will have exclusive jurisdiction. They are matters relating to States arising under any treaties; matters affecting consuls in their representative capacity; matters between States and Commonwealth, or of State against Commonwealth, or in which officers of the Commonwealth are concerned.

Mr. CONROY.—“Suits against the Commonwealth,” that is very sweeping.

Mr. DEAKIN.—If the honorable and learned member turns to the previous Bill, he will see that this provision has been curtailed, but he must not ask me to discuss details at this stage. With regard to the whole of this original jurisdiction, it is to be remembered that if litigants so desire, they may pass by the Supreme Courts of the States

altogether, and begin their suits before the High Court. They are enabled to do this by clauses 40 and 41 of this Bill. Under these provisions they may commence their cases in a Federal Court without touching the Supreme Courts of the States at all. The States Supreme Courts may now lose the jurisdiction they have exercised over appeals from a single Judge. These appeals may be taken direct to the High Court. The jurisdiction which the States courts part with will be taken up by the High Court of Australia, in addition to that jurisdiction which it possesses under the Constitution. We have power to take over matters relating to bankruptcy and insolvency, and also divorce and matrimonial causes. As honorable members know those are branches of the law in which our courts are kept pretty busily occupied; and their transfer to the High Court would mean another large body of business taken from the Supreme Courts and attached to the High Court. The new business of the High Court is extremely important. But it is this existing business to which I desire to first of all call attention; because there cannot be the least doubt that, if this High Court possesses the strength which we desire it to possess, it will by the attraction of its reputation and standing more and more divert business from the Supreme Courts of the States, particularly from any State in which the Bench of Judges at the time may not be thought to be equal in standing and ability to a Bench such as the Federation will supply.

Mr. CONROY.—I should think that the High Court will attract the greater part of the cases.

Mr. DEAKIN.—The greater part. We come to the question of economy, that is an aspect which I ask the House to consider. If we look at section 73 of the Constitution, we find that the High Court is to be a body capable of hearing appeals from the Inter-State Commission on questions of law. It needs very little reflection on the part of honorable members to realize how difficult it would be either to send questions of law, such as would arise from the Inter-State Commission, either to the Supreme Court of any one State—and probably more States than one would be interested in such a decision—or to the interpretation which the Judicial Committee of the Privy Council would give upon questions requiring the

Australian stand-point and knowledge of the peculiar physical, climatic, and other conditions of Australia. What alternative is suggested to the creation of this High Court? If honorable members look at the exclusive jurisdiction mentioned, and at the other appellate work from the States, it will be clear to them that a High Court of the standing which our Constitution contemplates, is a body in which there would be entire confidence throughout the Commonwealth, and to which both people and States would turn with complete satisfaction in the knowledge that they would receive justice from it—which they would receive from other courts—impartial treatment, which would also be meted out to them by other courts; but that they would receive that justice from a body of high standing, far removed from all possibility of suspicion. The probabilities are that there would be no hesitation in submitting to it the most important issues that could arise. I ask again—What is the alternative? One suggestion is that we should be content with things as they are—that we should take the existing courts, with their varying decisions, and be satisfied, in case of any doubt, to abide by the ultimate decision of the Privy Council.

Mr. HIGGINS.—That is for the first few years, until the proper organization of the High Court.

Mr. DEAKIN.—My honorable and learned friend says we should abide by that state of things for the first few years. I do not know how long a "few years" may be; but I believe that in the whole of the Convention debates when this question was threshed out, as the honorable and learned member knows, with great thoroughness—because he took a conspicuous part in the discussions—no such proposal was put forth as that we should wait for years until we established the High Court. As far as I know no such suggestion was ever made at the Convention.

Mr. HIGGINS.—But the Constitution has been changed since then by Downing-street, and also by the blunder of the draftsman at the final revision.

Mr. DEAKIN.—If I were to grant all that it would not remove the remarkable fact that at the time when the Commonwealth Bill was under consideration and when all courses for its amendment were open no member of the Convention urged that while these States should be federated

in every other respect we should leave the Courts unfederated. And what is said even by the most economical or the most federal—

Sir EDWARD BRADDON.—I think the suggestion of the kind was made at the Convention.

Mr. DEAKIN.—No. The original native proposal, was that made by the honorable and learned member for New South Wales, Mr. Glynn, who proposed the creation of a High Court, composed of State Judges, with a Federal Chief Justice presiding over it.

Mr. GLYNN.—But I also proposed to abolish the appeal to the Privy Council, and so give the Judges of the High Court something to do.

Mr. DEAKIN.—There was a proposal for the creation of a kind of High Court, which I shall presently consider—A High Court built up out of the State Judges. That was a nominal High Court. But I proposed that there should not be a simulacrum shadow or phantom of a High Court.

Mr. HIGGINS.—No one thought that you would leave an optional appeal to the Privy Council.

Mr. DEAKIN.—The Convention consisted of federalists who were determined to unite these Australian States and did not fail to realize that legal unity was one of the most important direct results which federal unity could occur.

Mr. GLYNN.—It was stated that the Convention did not abolish the appeal to the Privy Council a Federal High Court was necessary.

Mr. DEAKIN.—No one contemplated that we should be asked to rely on unfederated courts, and that we were to have the advantage of State tribunals without the bond of union except that derived from their common subjection to the Privy Council. For us to do, as now recommended, would be almost a violation of the Convention; it would be an intimation that we did not intend to give effect to its provisions, and it would be imposing upon the courts an obligation which might result in a serious loss to litigants, and a grave injury to the Commonwealth.

Sir JOHN QUICK.—State courts have complained of federal jurisdiction being imposed upon them.

Mr. DEAKIN.—The federal jurisdiction will impose upon them a liability to

ral cases. There are cases in which to me highly improper to impose ties upon the States Courts, though courts would, no one doubt, decide adiciously.

HIGGINS.—They were imposed upon adian courts.

DEAKIN.—But the Canadian consist of Judges appointed by the Government, not by the States ments as in Australia. The State of Canada are under the High Court Dominion. The Canadian legal differs from ours.

CONROY.—What is the position of irts in Germany?

DEAKIN.—I should be led too far f I were to contrast the conditions gs in Germany. The proposal here for the time being, until we get the a of the Privy Council, we should e under these different sets of courts ith its territorial obligations and though no decision of any one of eing binding outside the State in it was given. My honorable and friend the member for Northern rne interjected a little earlier this y that the Supreme Courts of the ay regard to each other's judgments. EDWARD BRADDON.—Is not that in nstitution?

DEAKIN.—No. They do pay re- o each other's judgments, that is y true, but in what position does ce us? We are subject to the possi- hat the first court to deal with an ant question might be the weakest o the weakest in Australia. That ives a lead to all the rest, and they extremely unwilling to disturb the nt arrived at. In answer to the ction of the honorable and learned r for Bendigo that the Supreme Courts t complained, I am reminded that the ole and learned member is in error. x that the Supreme Court of New Wales has complained on two t occasions that a High Court has n constituted to relieve them of the ibilities cast upon them.

JOHN QUICK.—They have not com- of the work.

DEAKIN.—They have complained High Court exists.

GLYNN.—They have complained that ve not been invested with Federal tion.

Sir JOHN QUICK.—That is the point. They have complained that no jurisdiction has been conferred upon any of them.

Mr. HIGGINS.—And we could give them that jurisdiction.

Mr. DEAKIN.—I should be very sorry to do so. That is the very thing to avoid. I say that the jurisdiction given them under this Bill is ample. That is their jurisdiction as courts of first instance, dealing with matters in their first stage. That involves a Federal appellate jurisdiction, and I venture to say the Federation will not be complete unless the Bill gives it. I was speaking of the difficulty of having six different courts, and my learned friends cannot but admit that if an important point is first raised before the weakest court in the Commonwealth, any decision given by that court may be followed by the other courts, or else we shall have varying decisions.

Mr. HIGGINS.—The other courts will simply look at the decision carefully before they decide to reverse it.

Mr. DEAKIN.—Exactly. I venture to think they would look at it carefully before they refused to follow it. But what will follow if they do decide to reverse it? We may have four, five, or even six different interpretations of the same section of the Constitution.

Mr. HIGGINS.—We have the same thing with regard to commercial matters now. We have six different courts and no great inconvenience.

Mr. DEAKIN.—We have six different courts and a very great deal of inconvenience. Why was a Federal Court of Appeal proposed, quite independently of federation, if not because of the difficulty arising from varying decisions in the different States Courts? Besides, in the matter of commercial and mercantile law we have in the Privy Council one of the highest tribunals in the world. Its members have been dealing almost daily with questions of mercantile law, and have given decisions of great value, of light and leading. In dealing with a question arising under our Constitution, we might, until a decision of the Privy Council is registered upon it, be at the mercy of any one of six States Courts. My esteemed friend the honorable member for Gippsland, in his powerful speech the other night, was good enough to refer sarcastically to myself as having thrown a halo over Hades. That I

take it would be a great strain upon my capacity; but to throw a halo over six Hades at once is certainly beyond my capacity.

Mr. BATCHELOR.—The difference is between six and seven. There will still be six.

Mr. DEAKIN.—I gather from the interjections of honorable members that in their judgment there are no cases in which the Supreme Courts of the States could not deal with the issues submitted to them as well as could a High Court. Let us take the matters which we propose for that very reason, under clause 40 of this Bill, to make exclusively federal, and ask whether the States Courts could deal with these questions in any manner that could be comparable to that in which they could be dealt with by a Federal High Court, no matter how excellent the States Supreme Courts may be. First of all there are matters arising under any treaty. They arise very rarely, but there is one of them above the horizon already. It has arisen in regard to the *Vondel* case.

Sir JOHN QUICK.—There has been no litigation about that.

Mr. DEAKIN.—There has been no litigation about that yet, but it has been threatened. I wish to ask the honorable and learned member whether he thinks that such litigation should be brought before the the State Court of South Australia? The Government of South Australia advance the doctrine that the only executive power vested in the Commonwealth Government is to administer the laws passed by this Parliament. Although we claim an endowment of executive power under this Constitution, direct from the King himself through the Governor-General, it is suggested that we have no authority whatever, except as a committee to enforce laws passed by this Parliament. Are we to be deprived of that executive power, which every State possesses direct from the Sovereign, and every Government in Australia possesses? Are we to be a helpless Executive, incapable of any action until there has been legislation upon the subject? Is a question of that sort to be decided by any State Court in Australia, or even by the Privy Council, until it has been threshed out before an Australian Federal Court capable of weighing the issues.

Mr. GLYNN.—Does the honorable learned gentleman think that the case is a judicial question at all?

Mr. DEAKIN.—I know that the Government of South Australia expect an intention to make it a judicial question.

Mr. GLYNN.—But does the honorable learned gentleman think it is a judicial question?

Mr. DEAKIN.—That is a different question. I do not think it can be settled that way, but the South Australian Government believe it can be so settled, and then the compliment of referring the case as an illustration.

Mr. GLYNN.—Good men as they are cannot settle everything.

Mr. DEAKIN.—Next we have affecting consuls in their representative capacity. I shall not trouble about as few cases are likely to occur. But the next matter of cases between States. It may be said that these have not occurred. They have not occurred yet, because they were not provided for. But they are provided for in our Constitution and in this measure. Where are these cases to be tried? Is the possibility of a difference of opinion between the Victorian and Tasmanian Governments with regard to a consular revenue.

Mr. HIGGINS.—Could not one of the State Supreme Courts decide that?

Mr. DEAKIN.—I agree with the honorable and learned member that we could ask either a Victorian or a Tasmanian court to decide such a question, which could ask a Federal Court.

Mr. HIGGINS.—I should ask either a Victorian or a Tasmanian court. I have the least doubt that either would do justice in the matter.

Mr. DEAKIN.—I have not the least doubt that either court would intend to do justice. But I do say that it would be entirely improper matter to submit such a question to a State Court, and that it is one which ought to be recognised as improper for decision by a State Court. Otherwise should not a Judge sit in his own court? What foundation principle is there more sacred than that which says that no Judge shall sit in his own cause.

Mr. HIGGINS.—Our Judges in this country are as much Australians as Victorians.

Mr. DEAKIN.—I believe they are, but it does not follow that with their territorial jurisdiction and limited experience

these matters they are the proper parties before whom to bring a neighbouring State. Whether we are dealing with the profession or not, and, in fact, even leaving the profession aside, I take it that the majority of the people would feel that that was not a proper question to submit to either of those tribunals.

Mr. CONROY.—The case would go on to the Privy Council if that were done.

Mr. DEAKIN.—Exactly, it would go on to the Privy Council.

Mr. A. McLEAN.—Where is the honorable gentleman going to get men of more extended experience?

Mr. DEAKIN.—We propose, under this Bill, to select the best men from the benches and bars of the States and to put them in a position to do impartial justice to all Australia.

Mr. A. McLEAN.—The Bill will not make different men of them.

Mr. DEAKIN.—No, it will not make different men of them, but it will put them in a higher position. Amongst the different State benches there are some distinctly weaker than others, and there are some members of every State Bench distinctly weaker than other Judges upon the same bench. The object of this Bill is to get five of the strongest men picked from all the benches and the bar, so to make up the strongest court Australia has ever seen. No such court exists to-day in Australia as could be created from all the benches of Australia.

Mr. A. McLEAN.—It will after all be only a matter of the opinion of those who select them.

Mr. DEAKIN.—But sentiment moves the world, and opinion moves the world.

Sir JOHN QUICK.—There are very few disputes between the States.

Mr. DEAKIN.—I am very glad to know that, but there are some already on the carpet, and others are foreshadowed.

Mr. FOWLER.—Western Australia may have a big case against South Australia over the railway shortly.

Mr. DEAKIN.—I shall not deal with that, but refer honorable members to a question in connexion with which litigation is threatened between some of the States, and that is as to the disposal of the waters of the River Murray. The three States of South Australia, Victoria, and New South Wales are concerned.

Mr. CONROY.—We could not appoint a court in any one of those States to decide that case.

Mr. DEAKIN.—The question of the disposal of the Murray waters would not be a proper one to submit to a tribunal in any one of those States.

Mr. TUDOR.—The Chief Justices of the remaining three States could perhaps settle it.

Mr. DEAKIN.—I shall deal with that proposal later on, but that is not a High Court.

Mr. CONROY.—What about actions by the States against the Commonwealth?

Mr. DEAKIN.—If honorable members have any doubt upon this question, I hope they will take the opportunity of reading as they may in the library what Story in his famous work upon the *American Constitution* has to say in regard to cases between States. The passages are too numerous and too lengthy to read, but I shall take one or two of them.

Mr. JOSEPH COOK.—They are written after 100 years' experience.

Mr. DEAKIN.—Yes, they are written in the light of experience. In Volume 2, page 492, dealing with controversies between citizens of different States, *Story* says—

Although the necessity of this power may not stand upon grounds quite as strong as some of the preceding,

and I have been dealing with some of the preceding here,

there are high motives of State policy and public justice by which it can be clearly vindicated. There are many cases in which such a power may be indispensable, or in the highest degree expedient, to carry into effect some of the privileges and immunities conferred, and some of the prohibitions upon States expressly declared in the Constitution. For example: It is declared that the citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States. Suppose an attempt is made to evade or withhold these privileges and immunities, would it not be right to allow the party aggrieved an opportunity of claiming them, in a contest with a citizen of the State, before a tribunal at once national and impartial?

An HONORABLE MEMBER.—In some of the States the Judges are elected.

Mr. DEAKIN.—In some of them. In different States there are different practices. *Story* goes on to say—

These cases are not purely imaginary. They have actually occurred, and may again occur, under peculiar circumstances in the course of State legislation.

Our Constitution contains prohibitions upon the States themselves. It contains also immunities of citizens which may require to be enforced upon the States, and are these questions to be tried before States Courts? Are such courts proper tribunals for the trial of such cases?

Mr. O'MALLEY.—In many of the courts of America the Judges hold office at the will of the Legislatures of the States.

Mr. DEAKIN.—*Story* goes on to point that out, but to my mind the objection applies equally, whether the States Judges are elected or appointed.

Mr. A. McLEAN.—Cannot the honorable and learned gentleman trust them?

Mr. DEAKIN.—I say that the request is an improper one to make to them. The honorable member seems to forget that the Federal Court will represent the whole of the States.

Mr. A. McLEAN.—They are the same people.

Mr. DEAKIN.—Of course they are the same people, but this is the essence of the matter: That instead of having a tribunal, which, in the public opinion, will be exercising its jurisdiction under a possible bias, we shall create a national and impartial tribunal, national and impartial in every man's eyes. Little thinking that there would be so much discussion upon this particular point, which is taking much more of my time than I anticipated, I consulted *Story's* book on the subject to-day, and could refer honorable members to a dozen passages in which, taking those very particulars which we propose for exclusive Federal jurisdiction, he gives the strongest reasons, gained by experience in the United States, for the necessity of having them dealt with by a national and impartial court. Every court is impartial, but a Federal High Court would be national and impartial by the very circumstances of its creation. If we take the next class of cases, those of the Commonwealth against a State, we shall see that if we are to remain subject to the jurisdiction of the States Courts, whatever protection we have gained under section 74 against the determination of constitutional questions by any other than an Australian tribunal goes by the board at once. The only power we were able to gain over appeals to the Judicial Committee was this. The British Parliament has carefully exempted all questions as to the

constitutional powers between the wealth and the States or between themselves. It has given to the Court the power to pronounce an a final decision upon all these cases, and that itself limits the matter which can be taken to the Judicial Committee.

Mr. GLYNN.—Is not the honorable learned member making too large a matter of it? Is not the matter only a matter of constitutionality between the States?

Mr. DEAKIN.—I used the words "constitutional powers." I was referring to their limits *inter se*. From the federal point of view those are the most important questions of all, and they are constantly occurring. We have in our Constitution the right to finally decide such cases by a national tribunal, and if that tribunal is created, section 74 becomes a dead-letter. It might as well have been passed. The great effort to secure it will have been made. If I am told that we may go for a few years, my reply is that in a few years many of these cases will have been decided and decided against us, in defiance of the Constitution. Take the very instance of judgment which has been given in the *reme Court of New South Wales*, the Commonwealth has no power to impose duties upon goods imported by another State. Will honorable members say that that is an important and vital matter is not decided by that judgment, quite apart from the amount of revenue involved? At the loss of revenue is immaterial, the money collected goes to the States in any case, but in the future it will be of importance.

Mr. McCAY.—The Tariff, as proposed, decided the question straightway in favour of the States, because the Government put State imports under the head of special exemptions.

Mr. DEAKIN.—Our original intention was to make the special exemption apply to State importations of temporary goods. But it came to be seen that to do so would create a dangerous precedent, and the proposal was withdrawn. For the next few years, and possibly for a longer period, duties upon State importations could have practically no effect upon their revenue, and it therefore at first seemed to us a very courteous thing to provide that the duties of the States should be all exempted from import goods free of duty. But w

of the precedent which would be observed, the Government, on their initiative, withdrew the proposal. That is in which the Commonwealth and States are at issue, and upon which it is the highest value to have the very impartial national tribunal.

—The question is whether the Court will be more impartial than the Council.

DEAKIN.—I believe that the High Court will be as impartial as the Privy Council.

—Will it be more so?

DEAKIN.—All these courts are impartial.

A justice of the peace is impartial to the extent of his ability and conscience.

WARD BRADDON.—Is not the learned member questioning the impartiality of the States Courts?

DEAKIN.—No; but I question the impartiality in their impartiality when they decide questions arising between the Commonwealth and the States, or between the States. Take the difference which exists in Western Australia in regard to interpretation of its Tariff, and about to be decided by the courts in any case should be decided by the tribunal, that is one. Then take the case which occurred in New South Wales, and to meet which we passed the Act of 1902, temporarily endowing the States Courts with federal jurisdiction. I find that Act with great reluctance, as a temporary emergency, and we have no particular reason to be satisfied with the result. The Act, perhaps, created a necessity to carry us over, but the provision for which it was passed is the subject of an appeal. As it is *sub judice*, I shall not speak of it further.

—Unless the States Courts have jurisdiction, claims against the Commonwealth for an amount of only £50,000 to be prosecuted in the High Court.

DEAKIN.—Yes. But when the learned member learns how the Court is to work, he will have no objection.

Take the latest case which has come in Sydney, that of Goldring, who does not propose to allude to it because, if it is not *sub judice*, it will probably be so. It comes under the last heading to which I refer, one of those cases in which an

officer of the Commonwealth is being sued. In that case the State court held that it had no jurisdiction to issue a mandamus against a federal officer. I am of opinion that in cases of that kind the proper tribunal is Federal. I have now given honorable members two or three instances of recent disputes under each head of the proposed exclusive jurisdiction of the High Court. The cases I have cited will, I think, commend themselves as those which can be dealt with more satisfactorily by a Federal High Court than by tribunals of the States. Some honorable members have indicated that they will not look with favorable eyes upon any proposal to allow or to encourage the interpretation of the Constitution by the courts. They would rather see Parliament left to provide for amendments from time to time when necessary. But such a position ignores the fact that a precise and reliable interpretation, which means a judicial interpretation, is necessary before Parliament can tell what amendment is needed. Before we can rely absolutely on our reading of the Constitution it must have been submitted to the courts. Little satisfaction would be gained by asking Parliament to amend the Constitution if we could be told by those who held a different view that the amendment was not necessary, because, by a proper interpretation, the power that was sought would be seen to be already there. What we need before endeavouring to obtain an amendment is a final interpretation. Such an interpretation would come, as a rule, under section 74, defining the constitutional powers of the Commonwealth and the States respectively, or of the States in relation to each other, and should be obtained from an Australian tribunal whose decision would be absolutely final.

Mr. THOMSON.—What about the cost?

Mr. DEAKIN.—I am coming to the question of cost, but first it was necessary to explain what the jurisdiction of the High Court will be. I have endeavoured to show how much will be taken from the Supreme Courts of the States and from the Privy Council. I have indicated the provisions which are more or less new, and have called attention to certain classes of cases which, while dealt with by a Federal Judiciary with particular appropriateness, would be inappropriately dealt with by the State courts. I have alluded to the importance, from the Parliamentary standpoint, of

obtaining interpretations of the Constitution which will be consistent. If we rely upon the courts of the six States, it may happen that one part of the Constitution will be questioned in one State, another part in a second State, another part in a third State, and so we shall have perhaps six interpretations by courts whose experience in dealing with federal issues will depend upon the number of such issues arising within the States in which they have jurisdiction. There will not be such a body of federal business in each State as will suffice to give to its courts that breadth of experience and knowledge which must come to a body of men, the greater part of whose time will be taken up in dealing with federal issues arising in all the States. Each State will pour into the Federal Court its flood of problems, and thus the Judges of that Court will become practised in dealing with federal questions, and will be able to deal with them consistently. Let federal issues come from what State they may, and impinge upon what provision of the Constitution they may, they must all come to the High Court, whose Judges will be able to lay down lines of consistent interpretation which will establish an authoritative decision upon its dubious passages. For that purpose alone the creation of a High Court is largely justified. If we wish to see all their scattered strings drawn together and twisted into a rope of interpretation which will stand any strain, it must be done by able men whose energies are specially devoted to that end. I come now very close to the question of cost. Honorable members who have done me the honour to follow me so far will have no doubt but that the High Court will have an extensive jurisdiction, which will be taken largely from that of the Supreme Courts of the States. It will relieve them of work which they are now doing, and of some of the work which they did before federation was established.

Mr. HIGGINS.—That is very questionable.

Sir LANGDON BONYTHON.—Will the result be economy in the administration of the States courts?

Mr. DEAKIN.—I think so.

Sir LANGDON BONYTHON.—How?

Mr. DEAKIN.—In the same way as economies have been effected in other departments affected by the Constitution.

Mr. A. McLEAN.—The economy effected by the proposed arrangement will be just

about the same as the economy which has been effected in other directions!

Mr. DEAKIN.—When the jurisdiction which has been conferred upon the courts is transferred to the High Court, the Governments of the States will, to a great extent, which they think necessary, curtailments and retrenchments.

Mr. G. B. EDWARDS.—They say so now, but they do not.

Sir EDWARD BRADDON.—They say so, but they cannot be retrenched.

Mr. DEAKIN.—Within the last few days Victoria has lost one of the members of her Supreme Court Bench, and the Government of this State has announced that it is not intended to fill the vacancy. There are Judges of advanced age who will shortly have to retire, and therefore an opportunity to retrench by removing Judges, but by taking advantage of the termination of the services of those who retire.

Sir EDWARD BRADDON.—These retrenchments are often long deferred.

Mr. DEAKIN.—In one of the States two-thirds of the Bench are expected to retire within the next twelve months or thereabouts. Honorable members keep too constantly before their eyes the circumstances of the State from which they come. If they look their eyes over the whole Commonwealth, they will see abundant opportunities for an increase of population or the more rapid prosperity does not bring more work to the Supreme Courts of the States—for a reduction in the expenditure upon the courts.

Sir LANGDON BONYTHON.—If the Minister suppose that in the case to which he has just referred there will not be a large number of Judges in the future?

Mr. DEAKIN.—I presume there will always be three, but I do not think that the State concerned may not take advantage of the example set by the Government of Victoria a few years ago in a measure altering the remuneration of future Judges because of the circumstances of the State, and the work which the courts were asked to do. I have to deal with this subject quite delicately, because it is a matter which affects the responsibilities of other representative bodies. It is not for me to tell them what they should do, but I will do what they think right. It is for me to indicate the opportunity

en to them if they choose to take work that is now being done by the Supreme Courts is transferred to the Federal Court. If the whole of the Federal Court, which will undoubtedly be of some use before very long, has to be supported by the States Courts, the States Courts will have to be enlarged, and the cost of legal administration in the States may easily be so great that it will exceed the amount required for the High Court. I am reminded that the Commonwealth of Australia will have to pay in either case, which is perfectly true, but the argument is not in both ways. The people will accept that they pay to the Federal Judges, which they would otherwise have to pay to the State Judges. I know that the people pay the money in either

Mr. DEAKIN.—But we do not want them to be over.

Mr. DEAKIN.—No. But when it is the Federal High Court is the best, and that its work should be done through federal channels, the way that is open for those who are charged with the local administration of justice to do so if they choose. The people of the Commonwealth are now insisting upon economy in the expenditure of State, and properly so, too.

Mr. McLEAN.—I venture to say that out of every twenty of the citizens of the Commonwealth would declare themselves in favour of the creation of the High Court on the ground of economy.

Mr. DEAKIN.—I am confident that it would not do any such thing. In the first place, provision for the creation of the High Court was deliberately placed in the Constitution, and in some of the States provision was used as an important argument in favour of entering the federal system. I have very little doubt that the people were induced to cast their vote in favour of adopting the Federal Court because of the reliance they placed on the national tribunal which it was to appoint to deal with national cases.

I believe, further, that if they had appealed to upon the subject of the High Court the proposal to appoint a High Court as wise and judicious from an economical standpoint. I can say a few words as to the cost of the High Court. Honorable members, in making their criticism to the expense of the High Court have taken the figures which I

gave last year without paying regard to the explanation which accompanied them. I shall now quote for the first time from the remarks which I made last year as to the estimated cost of the High Court. After going into considerable detail I said—

Honorable members will notice that we put down only the sum of £6,000 per year to provide for all its officers, say £7,000, including the salary of the Crown Solicitor.

I allowed £1,000 for the salary of the Crown Solicitor, but I advertised for applicants for the position at a salary of £800, and hope to receive the nominations of the Public Service Commissioner in the course of a day or two. I went on to say:—

That, added to the £15,000 paid as salaries to the Judges, after allowing for their travelling expenses, associates, &c., will bring the amount up to £30,000 as a maximum.

Every gentleman who has done me the honour to quote my remarks, has left out the words "as a maximum."

Mr. A. McLEAN.—We have known one maximum of £300,000 to be increased to £700,000.

Mr. DEAKIN.—As Rudyard Kipling says—"That is another story." What I am pointing out is that my estimate of £30,000 was given as a maximum. I do not expect that for the first few years the cost of the High Court will nearly approach that figure, but as the result of some experience make a point, when using figures, of stating the case against myself. I named a sum that would be ample for several years, but have already pointed out that while £30,000 provides for a comparatively full equipment in every way, the actual proposal of the Government is to take advantage of State officials and local judicial administrations, to utilize the State buildings, and to avail of existing legal machinery in every possible way. As a consequence, for the first two or three years at all events, the cost of the High Court will not much exceed £20,000.

Mr. A. McLEAN.—It is a pity the Government do not propose to use the existing Judges as well.

Mr. DEAKIN.—I will give reasons for not following that course. I have referred to the estimate which you, Mr. Speaker, laid before the Federal Convention at Adelaide, which was the subject of many conflicts during the federal campaign. There

the sum set down for the cost of the High Court, excluding the Bankruptcy and Patents administration, for which another £12,000 is provided, is £23,715.

Mr. A. McLEAN.—That was for three Judges, and now it is proposed to appoint five.

Mr. DEAKIN.—I beg the honorable member's pardon. That estimate was for a minimum of three Judges.

Mr. CONROY.—A Bill could be drawn in such a way that the expenses of the proposed High Court would not exceed that sum. The Bill which is now before us does not meet that requirement.

Mr. DEAKIN.—I am now confident that we shall not exceed the sum named in the estimate given by Mr. Speaker. If we have five Judges instead of three, so much more economical we are now in providing for their necessities. After having carefully considered the whole of the surroundings, I can see my way to assure honorable members that I do not anticipate that the expenses of the High Court will exceed £23,715. Having said so much I would ask honorable members what they suppose is the amount spent upon the administration of justice in the six States of the Commonwealth. It totals £1,750,000 per annum, taking into account all branches of that administration.

Mr. A. McLEAN.—That is surely enough to spend. Why add the expense of a High Court?

Mr. DEAKIN.—But when I am told that a proposal which involves £20,000 a year is the height of extravagance, by what standard am I to measure it—by the cost for the whole of Australia or by the cost for a single State? Even little Tasmania, which spends the least of all the States upon the administration of justice, devotes to that purpose a sum little less than that which it is proposed to spend upon the judiciary of the Commonwealth. Reducing the amount which I have mentioned for the whole of Australia by £1,000,000, the amount spent upon the police, there is £750,000 left. From that I deduct the cost of maintaining the gaols, which brings the amount down to £446,000 per annum. After also deducting the cost of the minor courts, I find that the Supreme Courts of Australia cost £186,000 per annum. Now when a proposal to spend £23,000 upon the Federal Judiciary is denounced as gross

extravagance, I want to know where the combined States standard of 4 is kept in view.

Mr. A. McLEAN.—The proposed expenditure would be an additional enormous cost.

Mr. DEAKIN.—It will not. It is now spent upon the existing Courts, and the total cost of the Judiciary will not exceed £23,000 per annum, the greater portion of which could certainly be saved by reducing expenditure upon the States courts.

Mr. O'MALLEY.—What is the cost of the Victorian Supreme Court?

Mr. DEAKIN.—The expenditure of the Supreme Courts of the States is as follows:—Victoria, £43,000 per annum; New South Wales, £79,000; Queensland, £27,000; Western Australia, £10,000; South Australia, £10,000; and Tasmania, £8,000. Included in the Tasmanian expenditure, to which I referred some time before, is the cost of the minor courts and the gaols, the total being £23,000 against the proposed expenditure of £23,000 upon the Federal Judiciary.

Mr. JOSEPH COOK.—The Minister says that the effect of establishing the High Court would be to relieve the State Courts of half their work.

Mr. DEAKIN.—I did not say anything. I did not say that the State Courts would be relieved of a half their work or any other proportion of their work.

Sir EDWARD BRADDON.—The Attorney-General's statement with regard to the cost of the proposed High Court includes the cost of the gaols, which does not afford a fair comparison.

Mr. DEAKIN.—That is included in the cost of the administration of justice. I do not say that half the work of the State Supreme Courts would be performed by the proposed High Court, but that half the work of the State Supreme Courts would be taken from the State Supreme Courts; that is a very different matter. There are many matters which the High Court will have exclusive jurisdiction over and which the State Courts are unable to touch, but much of the work which is now transacted in the State Courts could be brought before the proposed High Court. The volume of such business depends entirely upon the extent to which litigant suitors feel that they can repose confidence in the High Court and rely upon it to serve their purposes.

ly. Of course there will be business for the minor courts under Federal jurisdiction; but I do not wish to allude to that now. The question at present is whether, with £100,000 spent upon the States Supreme Court, an opportunity is not presented for cases which may make up a good deal of the £23,000 required to meet the cost of the Federal Judiciary. Honorable members will see that a very small percentage of the money in the States would be sufficient to make up that amount.

MR. WILKS.—That would be robbing to pay Paul.

MR. DEAKIN.—It would not be robbing any one. The same people pay in the States; but if they pay through the new channel proposed, they will have a Federal High Court. I have already explained reasons why the Federal tribunals will be better, and have shown how the States, with great advantage and profit, meet the expense of the Federal Judiciary without having to incur any great outlay, but simply by savings. In the States in which private practice have assured me that if the residents had an opportunity of appealing to a High Court of Australia a great deal of business would be taken to the Federal Tribunal. They are States in which the professional men do not think that the present Bench is as of high a standing as it might be, and these openly declare that if the High Court were established, a great part of the business which is now done by the Supreme Courts would be taken to it.

MR. McLEAN.—They say that they do not know who will constitute it.

MR. DEAKIN.—It will be constituted by gentlemen chosen—

MR. McLEAN.—Not by competitive examination or by any test?

MR. DEAKIN.—They will be chosen by the tests which it is possible to apply, and those of present position and social status. Certainly no man will be appointed to it who has not served his apprenticeship in the public service, whether on the Judicial Bench or in the legal bar. Not a word has yet passed in the Cabinet in regard to any particular arrangements, but if the honorable member is satisfied with the selection which has been made by the States Governments in the past, he may rest content that the

Commonwealth Government will do its duty none the less well in choosing its Judiciary. The Constitution declares that there shall be at least three Judges, but there may be more. The whole difference, therefore, between myself and the advocates of economy, is as to whether there should be three Judges or five.

MR. HIGGINS.—If we establish the High Court, it will be necessary to have five Judges, and the tribunal will, therefore, cost far more than £30,000 annually.

MR. DEAKIN.—I agree with the honorable and learned member that we must have five Judges, but have my doubts as to the expenditure, and will explain why. The Government have decided that five Judges is absolutely the smallest number with which it would be wise to launch this court, because it must be an Australian tribunal in the sense that its members must visit every State in the Union. For this purpose it is proposed to establish a district register in every State capital. Our intention is to take advantage of the State judicial offices, and of their machinery. There is to be a register in every State, and each State is to be visited by a Judge of the High Court.

SIR JOHN QUICK.—How often?

MR. DEAKIN.—As often as may be necessary. When I speak of a Judge visiting the States, perhaps honorable members would like to refer to that portion of the Bill which deals with this question. Clause 14 says—

The jurisdiction of the High Court may, subject to the provisions of this Act, be exercised by any one or more Justices sitting in open court.

Clause 15 provides—

Subject to the provisions of this Act, and to any rules of court, any Justice of the High Court sitting alone, may exercise in court, or in the cases hereinafter specified, in chambers, all or any part of the jurisdiction of the High Court.

If we appoint five Judges to the Federal Judiciary, we shall be able to provide for judicial visits to every State of the Union at comparatively short intervals. The quorum needed to hear ordinary appeals will consist of three Judges. These can be engaged in transacting business whilst the remaining two are visiting the different States. But when appeals come from the States Supreme Courts, which themselves consist of at least three Judges—sometimes, indeed, of four or five, and upon special occasions of six—we require that they shall be heard by not less than four Judges of the High Court, and

that the concurrence of three of them shall be necessary before a judgment of the Supreme Court of any State can be reversed. Honorable members will see that if we created a tribunal consisting only of the number of Judges named in the Constitution, they would require to be travelling the whole of their time in order to deal with the cases coming within their jurisdiction in all the States. Three Judges would constitute an inadequate Court to hear appeals from the States Courts. In this connexion I would point out that the quorum of the Judicial Committee of the Privy Council consists of three members, but most cases of appeal are heard by five Judges, and very often by more. If the High Court of Australia is to fill the position outlined for it under the Constitution, it must be an appeal court so strong that in going to it after their cases have been heard by the Supreme Courts of the States, people will feel that they are going to an appeal court of a higher grade than is at present to be found in Australia.

Mr. HIGGINS.—We cannot get that.

Mr. DEAKIN.—I think we can.

Mr. CONROY.—Shall we not want ten Judges at first?

Mr. DEAKIN.—I think not. I have said that when this Court is equipped, and in full swing some years hence, I think it will cost £30,000 a year.

Sir EDWARD BRADDON.—It will have no local habitation till the federal capital is established.

Mr. DEAKIN.—It will have a local habitation under the Bill until the capital has been built.

Sir EDWARD BRADDON.—What will that cost?

Mr. DEAKIN.—It is intended that we shall use either the States Courts or any public building of which we may have control till the seat of government is removed to the federal capital. If honorable members reflect upon the matter, I think that very few will hold that less than five Judges are adequate to constitute the High Court. They will feel that five Judges, sitting together if necessary, will be able to deal with the business coming before them, and that the decision of Australian appeal cases, instead of occupying one year and nine months, as they sometimes do when they are taken to the Privy Council, will not absorb more than six months.

Mr. A. McLEAN.—Litigants will take their cases home afterwards.

Mr. DEAKIN.—I think not. A tribunal were in existence such as was to be established, very few litigants whom an adverse decision had been made would be bold enough to proceed. When the Judicial Committee of the Privy Council is satisfied as to the quality of the judgments which it receives from Australia, it will be very slow to alter them. That tribunal, so far as it can, upholds the decisions of the States Supreme Courts. How much more will it uphold those of the Federal Judiciary?

Mr. McCAY.—Does the Attorney-General include New Zealand?

Mr. DEAKIN.—Occasionally there are lapses, I admit. The High Court of Australia has been well supported by the Committee of the Privy Council, and there is not the slightest doubt that the Australian tribunal will be similarly supported. When we seek to appoint five Judges to the High Court, what do we ask? In the States there are still five Judges, notwithstanding that this State has just parted with a high judicial dignitary; in Queensland there are five, in New South Wales there are five, and I am told that applications have been made for the appointment of an eighth Judge in New South Wales. I believe that the establishment of the High Court will render the appointment of an eighth Judge in New South Wales unnecessary. In Western Australia there are five Judges. Altogether there are 27 State Court Judges in the Commonwealth. If we compare the proposed strength of the Federal Court with that of the Supreme Courts of the States, it is admitted that five is not an extreme number of Judges to appoint, and when a court is in existence, the number of State Supreme Court Judges will be open to a reduction as the States Parliament think fit to effect. I find that the States already occupied more than double the time I had intended to take up. I had proposed to direct attention to what is a very important part of the Bill, namely, the provisions from clause 42 onward, relating to the removal of causes from the State courts to the High Court. Honorable members will realize that the proposal of vesting the States Courts with federal jurisdiction has been taken full advantage of. Almost the whole range of federal jurisdiction has been intrusted to the States Courts.

of first instance, in order that those not desire to wait for the visit of a Court Judge may find in their own Courts a means for taking necessary action in any suit in which they may be concerned. But we require that all such suits shall be subject to appeal to the High Court.

We utilize the States courts to the best advantage, because I have been arguing that federal jurisdiction cannot properly be delegated to the Supreme Courts of the States. The honorable members must not assume that we are depriving them of jurisdiction. On the contrary, we are investing them with the whole range of federal jurisdiction subject to an appeal to the High Court. I trust that honorable members will not look at this measure too much from the point of view of their respective States. The States have very strong feelings, with which the people are satisfied, and which they are content to intrust their cases to. But it should be remembered that there are six different States, and that the conditions do not obtain in all. If there is comparatively little work in some States, there will be a good deal in others where there is less confidence in the local courts. I therefore ask honorable members not to criticise the Bill in a parochial spirit. The power of removal is provided for by this measure. Under clause 45, any matter involving a matter of federal jurisdiction may at any stage of the proceedings be removed from the States Court into the High Court. Clause 42 deals with the removal of causes as of right. It pro-

vides that in a suit involving a matter of federal jurisdiction which is at any time pending in the Supreme Court of a State may, subject to the provisions next hereinafter contained, be removed to the High Court as a matter of course. Provided that the removal may not be made—

1. In a case where a defendant who is a resident of the State in which the suit was brought, if the only matter in dispute is of original jurisdiction of the High Court, it is that it is a matter of admiralty or maritime jurisdiction, or that it is a suit between residents of different States or between a State and a resident of another State.

In these cases the removal may not be made because the suit is being brought in the State in which the defendant himself is a resident.

Underlying that provision is a desire to prevent ordinary and simple debt cases or matters of marine jurisdiction from being removed to the High Court when the only object in so transferring

them would be to cause delay. Under paragraph (b) they may not be removed—

By any defendant if the suit, not being a matter of admiralty or maritime jurisdiction, relates to the possession or administration of property real or personal which is locally situated within the State, or relates to the granting of administration of the property of a deceased person.

Sir LANGDON BONYTHON.—But, as a rule, will not increased expenditure prevent their removal?

Mr. DEAKIN.—I am not able to understand why the honorable member for South Australia assumes that there will be increased expenditure in cases coming before the High Court, as distinct from those coming before the States Supreme Courts. I take it that the scale of fees would be the same.

Mr. HIGGINS.—There would be an increased expenditure if we had to pay fees both to the States Supreme Courts and to the High Court.

Mr. DEAKIN.—It might be so in that case.

Mr. HIGGINS.—If there is a removal it must mean more expense.

Mr. DEAKIN.—It might not mean more expense. By taking their cases to the High Court, instead of to the Supreme Courts, litigants remove the risk of an appeal being necessary. If they chose first to go to the Supreme Courts of the States, and subsequently to the High Court, the expense would be greater than if they took their cases to the High Court in the first instance. But any expense directly involved in the removal of causes would be relatively small.

Mr. GLYNN.—The main expenses in matters of original jurisdiction are those relating to witnesses.

Mr. DEAKIN.—But as every capital is to be visited by a Judge of the High Court there can be no greater expense in bringing a witness before him than there would be in bringing him before the States Court.

Mr. GLYNN.—There will not be much use, in that case, in having a High Court.

Mr. DEAKIN.—It appears to me that it will be of great use. While the State courts can be utilized to the full, this power of removal provides a safeguard. If a litigant is satisfied, there will be no removal; but if either party is dissatisfied except in the cases named, there will always be an opportunity of removing the case to the

High Court. I pass hastily from this subject to deal with the alternative proposal, which I really should have reached long before. There are many other points, but leaving them untouched, let me thus briefly dismiss the proposal that there should be no High Court; that we should trust to the Supreme Courts of the States as they are, and to the final appeal from them to the Privy Council.

Mr. HIGGINS.—Only for some years to come.

Mr. DEAKIN.—I understand that. But there is another alternative. It is that we should have a High Court in name—not a High Court such as is shaped in the Constitution, but one constituted by taking its members from the Benches of the different States. Some have said that the court should consist of the Chief Justices of the various States, while others have said, "Choose your Judges from the States Benches." We should thus create a High Court of a certain number of State Judges sitting together from time to time.

Sir EDWARD BRADDON.—That is implied in the Constitution.

Mr. DEAKIN.—In my opinion, it is not only not implied, but presumptively forbidden. The Constitution says that the judicial power of the Commonwealth shall be vested in certain courts, and may be vested in others; but it goes on to say that the Justices of the High Court shall be appointed by the Governor-General in Council. Would these various Judges be appointed by him? There would be no great difficulty in doing so; but, having been appointed, their positions would be permanent, until proved misbehaviour or incapacity. This High Court is not one that we can have to-day, and get rid of next year, or whenever occasion arises. Commit yourself to this once, and you commit yourself to it indefinitely, because the Constitution provides that our Judges shall not be removed except on an address from both Houses of the Parliament praying for such removal on the ground of proved misbehaviour or incapacity. If we are going to create a High Court consisting of Judges who are to act for and serve as Judges of the High Court under this Constitution, they must be appointed in this way and upon these terms. They must be appointed by the Governor-General in Council; they will not be subject to removal except on an address by both

Houses of the Parliament, and the remuneration must be such as this directs.

Sir EDWARD BRADDON.—But we have such other federal courts that the Parliament creates.

Mr. DEAKIN.—That provision in the Constitution does not refer to a Court. Of course I am not expressing this matter to my right honorable friend. He has foreseen the consequences of the proposal.

Mr. GLYNN.—They could be easily come if we wished to carry it out.

Mr. DEAKIN.—I do not know how they would be overcome. Does my honorable and learned friend propose to ask the Judges to place their resignations in the hands of the Government before they are appointed, so that their services may at any time be dispensed with? Or does he propose that we shall be bound to the Judges for the terms of their natural lives, in the case of proved misbehaviour or incapacity?

Mr. GLYNN.—There would not be any inconvenience if we did that.

Mr. DEAKIN.—In which course?

Mr. GLYNN.—In any course.

Mr. DEAKIN.—I contend that a temporary appointment is prohibited by the Constitution, and contrary to every principle.

Mr. CONROY.—But the honorable learned gentleman proposes in his course to make temporary appointments.

Mr. DEAKIN.—No. I have no intention of that clause to get rid of the very object to which the honorable and learned member refers.

Mr. CONROY.—I see that the honorable learned gentleman has done so.

Mr. DEAKIN.—What I am pointing out to the House is that in my opinion the alternative proposal would not result in the creation of the High Court intended in the Constitution—the High Court is to be the third power of the Constitution. In the first place it implies a breach of the Constitution.

Sir EDWARD BRADDON.—Not a breach of the Constitution.

Mr. DEAKIN.—Yes. In the new Constitution it would make fulfilment of the requirement of section 72 of the Constitution extremely difficult. If we committed ourselves to a court it would be no temporary appointment, but a commitment once and

how are we to choose the Judges to constitute that court? Are we to draw from the Chief Justices of the States? If so, we shall commit the choice of the Judges to the States and not to the Federal Government? Are we to say that the Judges shall be picked out? That would render a matter of choice or of chance. That is invidious and chance is dangerous. How are we to select the various Judges from the various States Courts? That is a critical question. It must be obvious to non-lawyers that if we are to have a Federal Court all that I have been saying is rather as to the extent of the jurisdictional powers, or the influence of the Federal Court, might as well have been left to the States.

A. MCLEAN.—If it were once decided the whole question would drop very easily.

MR. DEAKIN.—I think not. That is not the State view of the matter. It is the view of the State judiciaries admirably, but there would be no reduction. There would be an increase in business, an increase in the number of Judges in the various States, and an increase of expenditure. That would be the only effect. If we took Judges from the State benches; if we took a Judge, for instance, from the bench of New South Wales where, it is said, there is sufficient litigation to justify the appointment of an additional Judge, we should be asked to pay—and it would be a proper obligation—the cost of the Judge. At all events we should be asked to pay the cost of the Judge who would take the place of the Chief Justice or other member of the bench whom we called away to attend to federal work. Would it be satisfactory that the Federal Government should pay the cost of the Judges of the States in order that they should be able to attend to federal work from time to time instead of paying for Federal Judges, who would form the tribunal contemplated by the Constitution? Are we to depend on the convenience of the States as to when the Judges can be spared?

MR. EWING.—Would they be able to spare them?

MR. DEAKIN.—Would they be spared at any time to attend to federal business?

In point of fact, would not the Judges be subject to the convenience of the various State Courts, the State Judges, and the various Governments of the States? After the State

business had been dealt with and the State courts satisfied, the leisure time of the Judges or some of them might be given to the requirements of the Federal court. No such body as that would draw any number of appeals from the State courts. Probably no such body as that would command the confidence of the Privy Council or of the public to a greater extent than the judgments of the Supreme Courts do now, because these particular Judges would not be chosen by any one responsible for the choice of those best qualified for the particular class of work required of them by the Commonwealth. In the various courts of the States there are men who are practically specialists in particular directions. Some of them are specialists whose knowledge might be called into account so far as the High Court was a court of appeal from States business, but which would be wholly inapplicable in regard to the difficult and bulky matters of federal jurisdiction.

MR. GLYNN.—Would not that difficulty—the diversity of legislation—arise in regard to the High Court as proposed by the Government?

MR. DEAKIN.—But nearly every State can be represented on the High Court Bench, as proposed in this Bill. We have six States, and five Judges are to be appointed so that four or five States can be represented.

MR. HENRY WILLIS.—That is the way in which the Government expect to make the choice.

MR. DEAKIN.—Yes. Each of these men will come over not only as a federalist but as one possessing a knowledge of the laws of his own State, to assist the court in coming to a decision in regard to those laws.

MR. CONROY.—Why a federalist? Is not the only consideration to be the question of fitness? Is not a good Judge a good federalist?

MR. DEAKIN.—He may be. I do not know what Marshall's chief qualifications were in other directions; they may have been excellent, but they were quite sufficient in his federal jurisdiction to enable him to make an imperishable name by his judgments. And so of the men to be appointed to our High Court. Some of them may be excellent in other directions, but we hope to find certain of them with a special aptitude for dealing with and interpreting

the problems afforded by the totally new conditions of federated Australia.

Mr. HENRY WILLIS.—What if the Government should find two Marshalls in the one State?

Mr. DEAKIN.—In that event we shall break our rule. I shall be glad to be advised of their existence. I know that in speaking of this federal interpretation I expose myself to the sarcasm of the honorable and learned member for Northern Melbourne, who told us with perfect truthfulness the other evening that there was no mystery about the Constitution, that it was "only a law." But the Bill of Rights was only a law. The Reform Bill of 1832 was only a law. Every charter of liberty to Great Britain is only a law. The Constitution of the United States, and the Constitution of Canada, too, are only laws. But by calling either "only a law," do we deny the fact that they operate over an enormous area, and that they impinge on an immense complexity of National, State, and local interests?

Mr. A. McLEAN.—Does the fact that a man is called a federalist make him any the more competent?

Mr. DEAKIN.—No, but if he is a federalist he should be more competent to interpret the Constitution. It is not the mere name of federalist that makes him competent or endows him with the necessary qualifications. We can point to particular members of the United States judiciary who have made names for themselves by exhibiting their particular federalist competency in the construction of their Constitution. Other names remain besides these, names that are great, it is true, but of men who were without that special qualification for the interpretation of the Constitution. It is equally true to say that all the liberties and privileges we have, or which the people of the mother country enjoy, rest only upon laws, and that a law might take them away to-morrow. When, therefore, we see that the Federal Constitution is of peculiar complexity—that it is drawn in such general terms, and involves such an enormous area that it requires special wisdom in its interpretation in order that its interpretation may be effective; when we see that we shall be bound by that interpretation, my honorable friend will admit that the Federal Bench, from the mere fact that its Judges are to be composed of men of continuous federal experience—men who are

constantly dealing with the Constitution from some point of view, and constantly harmonizing the sections of it which are brought before them—will have a fitness for dealing with these matters which no ordinary court could possess.

Mr. HIGGINS.—What the honorable learned member evidently wants is a bench.

Mr. DEAKIN.—No such suggestion has been made by me. The federal bench, because it is federal will be impartial in dealing with every State and every interest of the community. It will represent the community. Even as regards the Commonwealth, it will not have an overwhelming interest in any one interest may be balanced against another interest; the interest of one State against that of another State, or some interest of a State, while the court will also deal with matters in which the interest of some class of the community is in conflict against those of another class. It is not possible to imagine a conflict between the interests of a State and the interests of the Commonwealth, and federal duty in the matters which are brought before the High Court. The whole trend of my argument has been to show that the federal bench will be lifted above local considerations, and that it will give to every State and to every interest that consideration which is its due. I mention only one more point under this head, which I desire to refer. I allude to the salaries of the Judges, which, perhaps, it would best be discussed in committee. The sum proposed to be set apart for the salaries of the five Judges is £15,500 per annum, not taking into account any reduction which might be made in the expenditure on the States courts in consequence of the reduction taken off them by the creation of the High Court. New South Wales at present pays the salaries of its Supreme Court £19,100 a year; Victoria, even on its reduced scale, £11,500 a year; Queensland, £11,500 a year; Western Australia, £7,100 a year; South Australia, £5,400 a year; and Tasmania, £3,500 a year.

Mr. WILKS.—But those courts work all the year round.

Mr. DEAKIN.—The High Court will have to work all the year round. Every State will have to be visited. The objection made a few minutes ago by the honorable and learned member was that the Judges would not be able to take all the work. They will co-

a full year's work in visiting all the, and transacting the business in original and appellate jurisdiction.

EDWARD BRADDON.—They will not the different States unless they have there to do?

DEAKIN.—No.

EDWARD BRADDON.—And they will little work to do.

DEAKIN.—In my opinion they have work to do in every State, and in of the less populous States more relatively speaking, than in the more populous States, because of the greater strength of the Federal Bench. I know I shall have offered to me a few comparisons, which I venture to anticipate. In the United States the salary of the Chief Justice of the Supreme Court is 2,100, and of the other Judges £2,000—and it is in an appellate court practically without original jurisdiction. Those were the sums in 1787, when a very different state of affairs was obtained. But it has only been maintained by the practice of taking wealthy men, at the bar had accumulated sufficient to enable themselves to live at Washington. Only at the end of the session just, in consequence of a strong party fight, assurance was thrown out which sought to raise the salaries of these Judges to £3,000 a year. What American opinion is of the salaries of Judges shown by this fact: that in the State of New York, where modern conditions prevail, there are 34 Judges now—drawing a salary of £3,500—as much as we propose for the Chief Justice of Australia. People compare Australia with America, but they compare salaries which were fixed more than a century ago, under circumstances entirely different, and which legislators have been seeking to alter time and again. They do not compare Australia with New State.

O'MALLEY.—One tenure is for life, the other is for only five years.

DEAKIN.—In New York they are actually paying 34 Judges as high a salary as we propose to pay to our Chief Justice.

MCCAY.—How are those Judges appointed?

DEAKIN.—In New York some Judges are elected. I notice that when I talk of salaries, I am asked how the Judges are appointed, and when I talk of their appointment then I am asked what about their

salaries. However they are appointed, it shows that the scale of salary for the Judges of the chief court of the United States is not the scale of salary which is adopted in America to-day. The States are setting it aside, and in the session just closed the Congress was asked to set it aside.

Mr. WILKS.—Will the salary of our Chief Justice carry a pension?

Mr. DEAKIN.—We propose to give a pension on a fixed scale with which the House will deal. Again, take Scotland and Ireland. The population of Ireland is 4,500,000, not three quarters of a million more than the population of Australia. The Lord Chancellor gets £8,000 a year, the Master of the Rolls £4,000 a year, the Vice-Chancellor £4,000 a year, while even a land Judge gets £3,500 a year.

Mr. MCCAY.—That is why it is called a most distressed country.

Mr. DEAKIN.—On the King's Bench the Lord Chief Justice gets £5,000 a year, the Chief Baron £4,000 a year, and all the other Judges £3,500 a year.

Sir LANGDON BONYTHON.—Were not those salaries fixed when the population was much larger than it now is?

Mr. DEAKIN.—I do not know, but what about Scotland. That is not a most distressed country. It looks after its expenditure most carefully, and its population is nearly similar to our own. They pay the Lord President £5,000 a year, the Lord Justice Clerk £4,000 a year, and the other Judges £3,600 a year.

Mr. McDONALD.—I think the honorable and learned gentleman is in error about the population.

Mr. DEAKIN.—The last return showed that the population was a little over 4,000,000.

Mr. A. McLEAN.—Who appoints the Judges in Scotland and Ireland?

Mr. DEAKIN.—The Crown.

Mr. A. McLEAN.—The Crown is not a Scotchman or an Irishman.

Mr. DEAKIN.—The Crown represents Scotchmen and Irishmen.

Mr. CONROY.—We could not give less to our Judges than the States are giving to their Judges.

Mr. DEAKIN.—In Australia three States pay £3,500 a year to their Chief Justices.

Mr. TUDOR.—What are the salaries in Canada?

Mr. DEAKIN.—In Canada they pay £1,650 to the Chief Justice, and £1,450 to the Associate Judges; but every profession and calling there has a scale different from the English scale, and different from our own scale.

Mr. HIGGINS.—It is merely an appellate court, and it sits only three times a year as a full court.

Mr. DEAKIN.—In Victoria, the chief railway commissioner is paid £3,500 a year, and he has two associate commissioners at high salaries. I take it that the Chief Justice of the Commonwealth will do work not less important than that of managing the Victorian railways, great as they are. However, I hope that honorable members will share with me the responsibility of having detained them so long in the endeavour to answer the queries which they have put to me.

Mr. O'MALLEY.—How about the writ of *habeas corpus*?

Mr. DEAKIN.—There will be provision for that. I put once more the consideration with which I opened my speech—that we are called upon by the Constitution in a mandatory and peremptory fashion to vest the judicial power of the Commonwealth in a High Court. I have not heard of any proposal in this House or any other House from the most infatuated States rights man that the proper way of establishing this Parliament was not to elect one but to constitute it from the members of the State Parliaments. Nor have I heard of any proposal for forming the Government of the Commonwealth by asking the State Premiers to meet together and transact our business for us.

Mr. A. McLEAN.—The Premier of each State was taken.

Mr. DEAKIN.—The Premiers of the States were taken—

Mr. A. McLEAN.—If the Government act upon that precedent, they will take the Chief Justice of every State to form the High Court.

Mr. DEAKIN.—Even so, their standing as the Judges of the High Court of the Commonwealth would be very much better than it would otherwise be. If our Government is composed of those who had previously held high office—and the highest office—in the various States at all events, it was a condition of their exercising their present power that they should lay down their former office, cease their old relations, and owe allegiance to no one except the

Commonwealth. But the proposal that although we have a Parliament by the people of the Commonwealth Executive which is under their control are to have a judiciary which is not under their control, but which is selected simply from the State judges. Of course, it would be unreasonable to push that comparison too far. Nevertheless, it brings home the fact to the eye of the Constitution the three stand together, and that the judiciary is the third power in the Commonwealth which is ordered to be constituted precisely the same terms as the Executive and the Legislative. There is no difference ever; precisely the same phrase is used in it of the some mandatory character.

Mr. CONROY.—There is no provision for replacing the Executive.

Mr. DEAKIN.—There is provision for replacing the Executive, and in an easy fashion. I have no doubt but that an honorable and learned member would take to do it at very short notice. I have no justification for creating the High Court that it should be high not only in name in character, in standing, and in influence. I freely confess that if honorable members propose to have a court, it should be composed of two or three members chosen casually from the State by some method yet to be disclosed. It will be little to be said for its expense. It will be an addition, with the expense it costs, to the expenditure of the Commonwealth. It will not be a substitution. It will not allow for economy in the expenditure. It will be of comparatively little use except to keep the place warm for the High Court to be afterwards created. But if the High Court is created of at least five members and these are to be picked men from the States of Australia, then it will discharge, first, the great general duty of providing a common Australian Court of Appeal for all cases that are judicable in the State. No matter what they are, or where they are, they may be brought on appeal to the High Court, and with a High Court of that nature very few of them will go to the Privy Council, even if the appeal to the Privy Council is not restricted.

Mr. HIGGINS.—Most appellants will ignore the High Court and go to the Privy Council.

Mr. DEAKIN.—I undertake to say that most appellants would not ignore the

it be such a court as I have de- because they will feel satisfied in such a body they are likely to re- same impartial and able treatment the Privy Council, and in addition stralian knowledge and experience, ble to the decision of many cases. ese there will be no appeal, and of passing the High Court by, honorable and learned friend sup- ritors will not be encouraged to it when they find the Privy affords few overrulings of the s of a court of that character. an obtain here and within a few —from three to six months at the —that justice for which in England, with the Privy Council or with the ner and probably still busier single f Imperial Appeal, they would wait one year, two years, or three years before they could decision of the case. Under these ances I have no fear of a High Court character getting business, and of its ally employed in both its federal and eral jurisdiction. It will relieve es Courte of a large amount of appel- k which they now do, when once ce is established in it, and particu- l that be the case from the States re the least populous from the States ave the smallest Benches, from the hich pay the lowest salaries in the These will especially make use of a court which by comparison will be stronger, not only in numbers, but anding of themen who are appointed. addition, there is the broad func- the interpretation of the Constitu- e construction of our deed of gift e people on a consistent scheme; not us dependent only on some chance urt or waiting for the Privy Council, ing for two or three years, per- ncertain of the precise meaning of the most important sections of the ation, but with the means of g in a speedy, sure, and consistent m a capable court readings of the ed of gift which the people gave us, powers exactly as distributed are ly preserved until they under- oter apportionment. This task dedd unwilling to trust to chance Courts or to a scratch court built of the States Courts in their moments. It seems to me it is

work worth doing for the Commonwealth— worth far more than we propose to spend. A single erroneous or mistaken decision which drives us into the cost of an appeal to the people, for an amendment of the Constitution or other costs which may follow from the defeat of our adminis- tration in consequence of adverse decisions, may easily involve far more than the £20,000 a year proposed for the High Court. When I speak in this way I do so certainly with no personal motives and with no personal ambitions; not because it has fallen to my lot to occupy this particu- lar office, but because whether my con- clusions be justified or not they are formed from the experience gained during my term of office and uttered with a due sense of responsibility. What I have said in regard to the need for the High Court and its potencies applies to the High Court which I have described. Nothing I have said attaches or can be attached to any other. I must not be held responsible if a court of another complexion is created. Those who create it will take the responsibility for its character, cost, and consequences. I have simply sought to deliver my soul by giving a careful and exhaustive study of this ques- tion in all its branches; first, to learn our duty under the Constitution, and next to devise the most practicable way of giving effect to its mandate. The measures which I have placed on the table are the result of great technical labour given by others besides myself, upon whom I have been bound to rely, and at all events constitute a machine which is certain to work, and work well. Justified as we are now and at all times in passing proposals under the microscope of economical examination, we must remember that after all we are not looking at a State institution with only a local operation. We are not forbidden to lift our eyes, but are called upon to do so to the full extent of their federal capacity, which embraces all the States. We have to remember that this court is intended to visit all the capitals of Australia, to deal with business in all of them, and to gather it to a centre. It is to be a federal body, which must inevitably take its place even above the admirable courts which we have already established in the States. We require to use the federal telescope as well as the State microscope when we look upon the work which the High Court has to do. Surely the cost to

Australia becomes small in comparison with the nature and magnitude of the work to be done and the area over which it has to be transacted. It is an area six times that of the States, yet there are States in Australia which spend more than twice the sum upon their Judiciaries that we propose to spend upon the High Court of Australia. Look at the continent over which the operations of this Court will extend, consider the difficulty of its task, the work to be done—work which some honorable members are prepared to say is more than five men can do, but which I believe five men can do; that work is certainly worth the sum which we propose to spend upon it. Nearly all of us who are here have been members of State Legislatures, and too many of us are prone to bring with us into the consideration of federal concerns the scale which we have formerly applied to State affairs and State finances. We are scarcely federal yet, even after our three years experience. I remember that the instant we met in this Parliament we forgot all the former predictions of the glamour that was to surround a Federal Parliament in the new era that it was to inaugurate. There was to be opened before us a fairy region from which we were to derive miraculous advantages. I do not think that any one can accuse this House of having been carried away by federal or any other kind of glamour. Directly we got to work we dropped down to the old parliamentary jog-trot, and fell at once into the familiar parliamentary ruts. Since then we have worked with our noses to the grindstone, without a thought of the fairy realms on which we were supposed to be entering, or of the new era that we were presumed to be enjoying. We never hear of the glamour, and of the fairyland now, so sternly practical have we become in our application to the business before us.

Mr. HIGGINS.—There will be a jog-trot about the High Court before it has been established long.

Mr. DEAKIN.—Here we are now, after two or three years of practical labour, in which we have been called upon to look after the affairs of all parts of Australia—to the extreme north in connexion with the question of a white Australia, and then again to the extreme west, as often as my right honorable friend, the Minister for Defence, has called our attention to it. We have been compelled to think on an Australian scale, and it will be well if

we do so in connexion with this question. We shall then have no difficulty in the establishment of an Australian Parliament. We seem to be, as Matthew Arnold says, "Terribly at ease in Zion." In this Parliament be pictured under a name. We deal with these great problems which are brought before us not on the basis of the interests which are involved in them, but according to the narrowness of our former local politics. The creation of this Court affects every class, affects every interest, in this Commonwealth, it will surely become for Australia the Supreme Court, and stand above all other courts. No one can say that this is a light matter, or that the price of it is too much for such an end, when measured either with the work which the Court has to do, or with the area over which it has to do it in. Let us then once lift our eyes forward to that future Commonwealth in the shaping of which constitutionally, this Court will play a large part.

Mr. GLYNN (South Australia).—The Attorney-General certainly must compliment the Attorney-General upon the ability and the tenacity of his speech. That it would be eulogized by every one who knew him was perfectly assured; his nice sense of what the occasion demanded made it comprehensive; our apprehension was certainly assuaged by the gift of phrase which enables the able and learned gentleman to be perfectly lucid. In following him I will express my feeling by a quotation from the Attorney-General may remember

As in a theatre, the eyes of men,
After a well-grac'd actor leaves the scene,
Are idly bent on him that enters next,
Thinking his prattle to be tedious.

My position is perfectly expressed by the quotation in following the Attorney-General while honorable members have his eloquence still ringing in their ears. At the time I was pleased to find that on this important occasion he has come rather close to the subject than was the case in the very recent address which he delivered last year, and to which it was not my good fortune to listen. I thought after reading that address—and after re-reading it last Sunday in order to refresh my memory—that perhaps after all, it was not an unmixed evil that he was not present to listen to it, because of the very exercise of such gifts as please

charm into ineffectiveness our power. But the question is not to be affected by any indulgence in rhetoric or by dealing with generalities. The question is one of sound common sense and prudence, if there is not, as the Attorney-General seeks to assure the House, a clear intention in the Constitution for the immediate establishment of this High Court. I am going to be influenced by practical considerations, and not by grandiloquent expressions of the Attorney-General, as to this glorious tribunal to be set up in Australia. As to the question upon which the honorable and gentleman laid greatest insistence—not at greatest length—and which, I admitted, would be conclusive as to the obligation for the establishment of the Court, namely, the question of the obligation being mandatory upon the honorable members will perhaps be decided that at the very outset the Attorney-General stated that there is no doubt. He said that there is a clear intention contained in section 71 of the Constitution for the immediate creation of a Court; that we are bound not to disappoint the people, but that we must be true to the faith which the people reposed in him and others told them that this Court was to be immediately established. All I can say is that I never told the people that there was a mandate for the instantaneous establishment or creation of a Court. In fact I mentioned that my intention was that we ought to proceed slowly and cautiously. I said that at the time when the Constitution was in its infancy, we should be particularly cautious, and I rather endeavored to lead the people to assume that for the economy we hoped to prove deserving of their trust. Indeed, I said that if we do not have an appeal court, we might have been suggested by Sir Samuel Griffith to have a court constituted of State judges which would be quite adequate to meet present necessities. I would again thank the Attorney-General for the mention of his eloquence to-day suggested by Sir Samuel Griffith in a

DEAKIN.—No, it was suggested in a different way.

GLYNN.—It was put forward by Sir Samuel Griffith as a suggestion well

worthy of consideration at the beginning, whether we should not constitute a court of Judges of the State courts.

Mr. DEAKIN.—The Convention decided that we should not do so.

Mr. GLYNN.—The Convention was too pedantic in regard to many of these points. It showed too great a tendency to follow closely the example of the United States. Because in the United States they have an Inter-State Commission and a Supreme Court, we in Australia, on the principle of analogy, were to have these bodies also. But the analogy of the United States is not applicable at all, for the obvious reason that there was no court in America to control the dissentient and conflicting decisions of the tribunals of the different States, whose temper was in the true sense of the word out of sympathy with the Federal spirit. If we examine this recommendation of Sir Samuel Griffith for the establishment of a temporary High Court we shall find that it was made as recently as 1897, and I am unaware that the Queensland Chief Justice has publicly annulled the expression of this view—unless the Attorney-General in the communications which he has received from Sir Samuel is in possession of information showing that he has changed his opinion.

Mr. CONROY.—I understand that six months ago he was still of the same opinion.

Mr. GLYNN.—I am glad to hear it. At all events there has been no public abandonment of that opinion, which was made in the interests of economy. Now, is the establishment of the High Court really mandatory upon us? Suppose the High Court were not constituted—what tribunal could compel us to establish it? Could we be compelled by mandamus? If it had been really mandatory the intentions of the framers of the Constitution would have been expressed in different terms. The expression they would have used was not that the judicial power of the Commonwealth shall be vested in the Supreme Court, but that there shall be established a Supreme Court in which the judicial power shall reside. I think that those alternative suggestions were made at the Convention—if not in open convention, certainly at some of the meetings of the Judicial Committee. Had that mandate been imposed upon us the wording of the section would have been very different from what it is. If the contention of the Attorney-General

be right, then, during the last two years, the various decisions given on Federal laws are nullities; because, if there are no courts in which is vested the judicial power of the Commonwealth until you establish the High Court of Australia under the Constitution, there has been no court during the last two years to decide either on any point of interpretation of the Constitution, or in regard to any laws passed by the Federal Parliament.

Mr. HIGGINS.—And all the revenue collected must go back.

Mr. GLYNN.—Everything is wrong; laws have been without a court to enforce them, and all things judicial that have been done under the Constitution have been nullities. As the true test of an argument is to push it to its conclusion, the *reductio ad absurdum* of the Attorney-General's argument is that everything that has been done has been futile, so far as legal remedies are concerned. But apart from that, is there any present need to establish the High Court? The court has two jurisdictions, one appellate and the other judicial. Does the Attorney-General say that the judicial power of the Commonwealth is not vested in the Privy Council in appellate matters? Will the power go when we establish the High Court? Undoubtedly not. You will only have interposed between the litigant and the Privy Council another appellate tribunal; and probably instead of expediting the final attainment of justice you may have ministered to its retardation. Again, as regards the temporary High Court, it is significant that in 1870 an Act was drafted by the Commission to which the Attorney-General has referred, under which Act a court to be composed of some of the Judges of the States was to be the supreme tribunal throughout Australia. The terms of office of the Judges under such an arrangement must then, as now, have been prescribed by the States Constitutions. The Attorney-General, in this connexion dwelt upon the difficulties under the terms of our Constitution of establishing such a court, owing to the fact that under section 72 the Governor-General would have to make the appointments, but the terms of office would practically depend upon the State laws. There was a similar difficulty urged in 1870, but difficulties exist to be overcome when a reform has to be effected. They

are not to be made mere pretexts for avoiding what should be done. There are not to be made objections, as there have been by the Attorney-General, to what is clearly expedient. They are to be made for statesmen to overcome. Those who have advocated a separate tribunal recognize that the Constitution contained a few difficulties, but none of us for a moment thought of sitting down and saying that they were insuperable. I am sure that with the diplomatic tact which the Attorney-General is always able to display, he will find, if he approaches the Executive of the various States, that they will be too happy to fall in with his suggestions. Where is the difficulty of the terms of office being prescribed by State law? We do not wish to dismiss our Judges every year. We can select two Judges in each State, and there are six States we can have six Judges from whom the necessary quorum of five may be formed. What harm is there in the fact that their terms of office are prescribed by the Constitution until incapacity or misbehaviour is established against them? They do not anticipate misbehaviour on their part, but if we are in a fix about getting rid of them we should be able to show incapacity if by reason of their State duties they cannot devote themselves sufficiently to Federal matters. Their incapacity may be complained in an address to both Houses. I mention this to show that the difficulties will disappear if there is a will to do them. They should, though when magnified by the easy eloquence of the Attorney-General, they may appear stupendous. As in New Zealand they have there a court based on exactly the plan recommended by Samuel Griffith. The Judges of the islands constitute really the personnel of the Appellate Court in New Zealand, and I think they meet three times a year at Auckland. This is a scratch court, and it is found that they dispense adequate justice. Though this composite court does not exist under a Federal Constitution, the conditions are not dissimilar, and the efficiency we know that the Justices of the two islands of New Zealand have shown against the Privy Council in a manner which has secured the eloquent approval of the people. We have listened from the lips of the Attorney-General himself. So that the honorable and learned gentleman's eulogium I may say that courts of this character are likely to be adequate

of very high functions. The learned gentleman in dealing with New Zealand referred, as one of the strong points against the opposition to this Bill, to the fact that the Privy Council as a tribunal has latterly been declining in popularity, or, shall say, in efficiency, because there had been cases like that in New Zealand over which they were pretty strongly taken to the Judges of the Court of Appeal.

MR. DEAKIN.—I said they had rather improved in late years.

MR. GLYNN.—Then, what was the burden of the attack the honorable and learned gentleman made upon the Privy Council?

MR. DEAKIN.—I say it is dangerous to have a remote court dealing with matters purely Australian.

MR. GLYNN.—That is to say that the diversities of our laws render them difficult of interpretation. As regards difficulty of interpretation, I cannot see that the situation will be much improved when we establish a High Court of Australia. We shall have, in non-federal matters, six benches with six sets of laws, which will not be interpreted by a tribunal which is central. There are great differences in the various States of Australia, at all events in relation upon the settlement and tenure of land, and the various Acts will have to be dealt with by a Federal Court that has no State experience. In this matter there need not be the same objection to the creation of a High Court of Australia that is now taken against the Privy Council? There will probably be few experts in local law on our High Bench as there are in the Privy Council.

MR. DEAKIN.—How can that be?

MR. GLYNN.—Not a single State in Australia has copied the land laws of any other State, and their laws are not similar in many respects.

MR. DEAKIN.—In many respects they are not.

MR. GLYNN.—We must remember that the High Court of Australia will have to deal with all upon appeal matters arising under the various laws, and which have been dealt with by Judges of the different courts in the various States.

MR. DEAKIN.—We shall probably have a few of the five of the different States represented on the Federal High Court.

MR. GLYNN.—On an appeal from South Australia, for instance, we shall have at least

four Judges who will know no more about the particular legislation of South Australia than do the members of the Privy Council, assuming the honorable and learned gentleman's argument to be correct.

MR. DEAKIN.—There is much similarity in our State laws.

MR. GLYNN.—On the subject of local laws I need only refer to the name of Lord Watson, to whom the honorable and learned gentleman appealed, and his reputation is known to almost every one who has studied jurisprudence as that of a man who has an extraordinary knowledge of civil law.

MR. HIGGINS.—The mining laws of Western Australia are quite different from the mining laws of the other States.

MR. GLYNN.—No doubt they are, and a little consideration at once shows that it is only a question of degree as to the comparative ignorance of our State laws by the Privy Council and the High Court of Australia—that is, in purely State matters. So that upon close examination I think that several of the objections raised by the Attorney-General ought not to strike the House as being quite as potent as, owing to the honorable and learned gentleman's powers of attractive expression, they may seem to have been. My point is that there is no mandate which we are obliged by any sanction to obey, nor is there really any clear mandate in the Constitution as to the immediate creation of a High Court. I need not press the point, but really, if honorable members will look at section 73 of the Constitution, they will see that it must appear absurd to suggest that we are obliged by the intent of the Convention and the letter of the Constitution to create a High Court at once, when the power is vested in us by the Constitution to take away all its appellate jurisdiction. The Attorney-General knows that under that section the appellate jurisdiction of the High Court can be cut down to zero.

MR. DEAKIN.—No, the honorable and learned member must recollect that he moved an amendment himself.

MR. GLYNN.—I did in respect of non-federal matters, because I pointed out that the provision in America had been used to destroy the jurisdiction conferred upon the Federal Courts created by Congress. Honorable members will see that under section 73 Parliament can absolutely cut down to

zero the federal jurisdiction, but what we cannot do is what my amendment provided for. We cannot take away the right of appeal from State courts to the High Court in cases in which a right of appeal to the Privy Council existed at the time of the establishment of the Commonwealth; the object of that provision being that, if appeal to the Privy Council is eventually abolished, there will be in substitution an ultimate court of appeal in Australia. Otherwise it would be in the power of the Federal Parliament to take away the right of appeal which previously existed to the Privy Council without allowing an appeal to the High Court of Australia. Subject to this exception, this Parliament can take away the whole or reduce almost to zero, if a nominal balance is to be left, the appellate jurisdiction of the High Court. That being so, there clearly cannot be an imperative direction to us to create a High Court at once, so that the only point which, if established, would be conclusive as regards the alleged mandatory provisions of section 71, comes to nothing upon examination. Now, as regards the work of this tribunal, I hold that the real point which we have to consider is whether at the present time it is expedient to create a new tribunal in Australia manned by five new Judges with an original jurisdiction, which admittedly they can only exercise by a very large encroachment upon the jurisdiction of the State courts, and with an appellate jurisdiction which is really not final in a single instance. Is such a court as that really necessary at this stage of our career? I say that if it is not, the plain duty of honorable members is to vote against this Bill. I say that in no case will the decision of the High Court of Australia be absolutely final. In every case there is the power of appeal on application to the Privy Council, except where the point involved is the constitutionality of the statutes of a State or of the Federal Parliament, or a question of constitutionality between a State and a State. These are the only two cases of constitutional power in which the only power of appeal which may be exercised must be on the certificate of the High Court of Australia. But, again, there is a limitation there, because it is only in respect of a constitutional matter that the certificate of the High Court is necessary, while on all other points, even in the very same case, there is an appeal left open to the

Privy Council. So that if we do create a High Court at once, we may have a case refused by the High Court on one point, and granted by the Privy Council on another, in alternative appeals in connexion with the very same case. We may have an appeal by the defendant on the one point, and an appeal by the plaintiff on the other. We may have an appeal on a question given by the High Court on a question *ultra vires*, and an appeal by permission to the Privy Council without the permission of the High Court upon another point in the same case. So that it seems to me that we are really be mixing matters to some extent, in an immediate creation of this High Court. I was one of those who advocated the abolition of appeals to the Privy Council, but it has been retained, and for that reason I believe the creation of the High Court is premature. The jurisdiction of the High Court will be appellate or original, or both. As regards the appellate jurisdiction, shortly, it will have an appellate jurisdiction in all decisions come to original matters and—

Mr. HIGGINS.—In all matters.

Mr. GLYNN.—Perhaps the honorable and learned member is right in stating it shortly, but really I think it is to divide the question for the purpose of enabling laymen to comprehend the matter more clearly. The matters specified and enumerated in the Constitution for greater clearness, and that is the reason I proposed to follow the principle of the Constitution. There can be an appeal from the Supreme Court to the High Court in a matter above a certain amount fixed by the Bill.

Mr. DEAKIN.—£300.

Mr. GLYNN.—Practically in all cases of State or Federal, above the limit fixed by Parliament there can be an appeal. Where an appeal did not exist before federation, a State matter to the Privy Council, and under State law an appeal has been allowed since federation—I do not think it must, by the Constitution, be an appeal to the High Court of Australia in the first instance, as Parliament can take it away, perhaps the honorable and learned member for Northern Melbourne put the point strongly. We are given, subject to the exceptions imposed by Parliament, an appeal in all matters from the Courts of the States, with a certificate preventing the abolition of

the right has existed to the Privy Council prior to federation. I do not, however, wish to go into details in the matter, and I accept the statements of the honorable and learned member for Northern Melbourne, that practically upon all matters there may be an appeal to the High Court of Australia, but from that court, as I have already said, there is still another appeal to the Privy Council. Though in federal matters following the analogy of the Privy Council I acknowledge that there will not be appeals, because in the Canadian case *Prince v. Gagnon*, it was laid down that an appeal would not be allowed whenever of public interest and importance was involved. In Canada they do not allow appeals to the Privy Council unless some matter of importance or public rather than of pecuniary interest is involved. Still there are appeals from the High Court of Australia.

I think they average one and a half a year, though they are not so long as direct appeals from the courts of the Provinces. The position as regards appeals is qualified by the fact that if there is an appeal in all matters, still in numerous instances—appeals from the courts in State matters—there is no appeal as of right to the Privy Council.

There is an appeal from the decisions of the Supreme Courts of the Colonies in all State matters, direct to the Privy Council. With that right of appeal we cannot interfere; we cannot restrict it, cut it down, or restrict it to any particular class.

These appeals will constitute probably the bulk of the appellate business for the High Court, but to the extent of probably two-thirds they will go direct to the Privy Council, because about the percentage of the Canadian cases that overlook the Supreme Court of Australia and go direct to the Privy Council.

These cases may go also. In these circumstances it is idle for the Attorney-General to describe the High Court of Australia as the court that will finally interpret the Constitution. How can it, if there may be an affirming decision of the Privy Council? How can it, if an ultimate appeal is to the Privy Council? How can it, if an appeal will be exercised in constitutional matters, because these are cases of great importance, and cases in which the appeal will be extended to the litigants to go from the High Court to the Privy Council, even if in Federal matters they

cannot appeal direct? Practically it amounts to this: that a case in which the interpretation of the Constitution is involved, being a matter of public interest and of great importance, will be exactly the case in which the Privy Council or High Court will give consent for an appeal to the Privy Council until we have abolished appeals to that body. It is for this reason that in the Convention I, and I think also the honorable and learned member for Northern Melbourne, advocated the abolition of, failing all, direct appeals to the Privy Council, and desired to send all appeals to the High Court of Australia.

Mr. HIGGINS.—A resolution was carried providing that there should be no appeal to the Privy Council from the Supreme Court of a State.

Mr. GLYNN.—The suggestion, after that was cancelled and some appeal home was to be retained, was that all appeals to the Privy Council direct should be abolished, and that an appeal, whether upon a State or a federal matter, should lie first to the High Court, and then to the Privy Council. The Melbourne Convention reversed the Adelaide decision, abolishing all Privy Council appeals. If the Constitution had provided for an appeal through the High Court to the Privy Council, or as might be, until determined by the Federal Parliament, it would have left us masters of the situation, because, then if we came to find the power of interpretation passing out of our own hands into those of the Privy Council, we should have been able to put a stop to it. Had that arrangement been made, a great deal of the opposition to this Bill would not exist. In this connexion I should like to repeat a few of the figures which I have already given to show how small the number of appeals to the High Court is likely to be. When speaking on the subject upon the motion for the address in reply, I mentioned that the total number of appeals to the Privy Council from all the States during the last twenty years was 223, about a dozen of which—six from Victoria, but I do not know how many from each of the other States—were not adjudicated upon. That is less than twelve appeals per annum from all the States. But over a longer period the average would be much less. Tarring, in his *Law of the Colonies*, says that "from the beginning," which I take to mean from the beginning of constitutional government, down to 1893, the appeals aggregated 174,

or less than four a year. But dealing only with the last twenty years, the appeals averaged only two per annum for each State. If what has happened in connexion with Canada happens here, two-thirds of the appeals will still go to the Privy Council. It was thought in 1875, when the Canadian Supreme Court was created, that it would be called upon to decide most of the local appeal cases, but the appellate reports from month to month show that the greater number of the appeals still go direct to the Privy Council, and the last copy of the reports contains, I think no fewer than three appeals from Canadian courts.

Mr. DEAKIN.—It all depends upon the court.

Mr. GLYNN.—The Attorney-General will not say that, as a matter of necessity, the Australian tribunal will be superior to the Canadian tribunal.

Mr. DEAKIN.—It must be remembered that Canada is nearer to England than we are, and that it is easier to appeal to the Privy Council from the Canadian courts than from our courts. From what I know of the Privy Council, I think that the High Court will be able to rival it.

Mr. GLYNN.—The fact that it takes three or four weeks longer for a steamer to go from Australia to England than from Canada to England will not make much difference in regard to appeals to the Privy Council. I think that we may fairly be guided by the Canadian statistics, and therefore we are not likely to have half-a-dozen appeals a year brought before the High Court. The total number of appeals in Canada down to the year 1893 was only 155. The Attorney-General referred to Marshall. It was of great assistance to the members of the Convention, in framing the Constitution, to have such a splendid exemplar as was afforded by the Constitution of the United States, which has been referred to by Mr. Gladstone as one of the clearest and simplest charters that the pen of man ever wrote. But we have this further advantage, that for some years to come we are not likely to be troubled with many of the vexed questions of interpretation which in the beginning distracted the people of the United States, because many of the decisions given by the leading American jurists, and particularly by Marshall, are absolutely applicable to our Constitution, since in regard to many points its

lines are practically identical with the Constitution of the United States in its spirit the same.

Sir EDMUND BARTON.—Does the honorable and learned member think that it will not be contended that the differences between the two Constitutions render rules applicable under one, inapplicable under the other?

Mr. GLYNN.—No doubt it will be contended; but the clearer the law the clearer the litigation under it. It has been estimated that not more than 25 per cent. of the cases which are taken to law are brought before legal tribunals, the remainder in 75 per cent. a fairly good lawyer, notwithstanding the absence of provisions in the statute books, is able to advise his clients not to go to law. Marshall's judgments are always regarded as models of lucidity and consistency, exactness, and will it be said that the lines of our Constitution are not laid out in the American decisions which, for instance, that Acts of Congress repugnant to the Constitution are void, and the rights of States to pass laws where the Constitution is silent is clearly established by the judgments of the courts of the United States are supreme over inconsistent laws, and that the authority of Congress to implied or reserved powers is established which establish the power of the Parliament in matters of trade and commerce? Are not all those decisions here? And in regard to many other points to which I need not refer, the principles of interpretation have been practically finally laid down for us by American decisions. The decisions of the American courts are therefore, in settling these matters, a very good way to prevent appeals to our High Court. Furthermore, we must recollect, in dealing with the American cases, that the subjects were brought forward for decision which cannot come before our own courts. During the first fifteen or twenty years about 153 out of something like 1,000 cases dealt with questions of international law which cannot arise here.

Mr. HIGGINS.—Has the Commonwealth made any treaties upon which questions of law can arise?

Mr. GLYNN.—We have adopted the Imperial treaties, but, so far as I am aware, there are no treaties in which litigation will arise.

HIGGINS.—There has never been a question relating to treaties raised in the courts.

GLYNN.—A case like the *Vondel* is not a matter for decision by the Court. It is a matter for diplomatic arrangement between the States and the Commonwealth of Australia and the Imperial authorities, a matter governed by etiquette and custom, not a matter for judicial decision. I cannot see the possibility of treaties coming before a judicial tribunal here. Then in America protracted cases affecting questions of impairment of contracts were brought to the courts. There was the celebrated *North* case, in which the validity of a contract and the question whether it was in violation of the principles of the Constitution arose. In that case it was decided that the obligation of a contract was to be maintained, and was not affected by *ex post facto* legislation; but no such case will arise here. Therefore it is plain that there will be fewer cases brought before the Court of Australia than were brought before the Supreme Court of the United States. Between 1790 and 1801 there were six decisions upon constitutional questions given by the Supreme Court of the United States.

DEAKIN.—I think that there are as many cases as that under weigh here now.

GLYNN.—Some constitutional questions have arisen because the Government does not attend to suggestions made in the House.

DEAKIN.—I do not know what cases are.

GLYNN.—I will tell the honorable member one. There is now on the business paper a notice of an amendment moved upon the Judiciary Bill, giving power to compel by mandamus the performance of a Federal officer of a statutory duty. It is suggested that power should be taken for that purpose in the Claims Against the Commonwealth Bill.

DEAKIN.—We could not consent to that.

GLYNN.—We are really creating difficulties that will have to be settled by a judicial tribunal for which we are now asked to provide. We should be performing our duty to the public more strictly if instead of creating difficulties we endeavoured to remove them. In reference to the proposal to give certain rights of action against the

States and the Commonwealth, I urged time after time at the Convention that this should be provided for in the Constitution itself. I think the Attorney-General will admit that the cases which have occurred here during the last twelve months have not arisen out of the Constitution itself, but have been brought about by carelessness in legislation.

Mr. DEAKIN.—Three or four of the cases arise under the Constitution itself.

Mr. GLYNN.—There are certainly not many such cases, despite the fact that it is at the beginning of our career that points involving the interpretation of the Constitution are most likely to arise. When such points are once settled they will be disposed of for ever, because the decisions of the High Court will be final if the Attorney-General's hopes are realized. For the period from 1801 to 1825, 62 constitutional cases, or less than two per annum, were adjudicated upon by Chief Justice Marshall in the United States. At present, the most numerous of all the cases are those relating to patents. Now, if there is one part of the world in which patent cases might be expected to arise with great frequency it is the United States. The admixture of races, together with the necessities of the people in the development of a new territory abounding in magnificent and various resources, has resulted in unparalleled fertility of invention, and consequently the patents applied for in America per head of the population are far more numerous than in any other country. Curtis, in a recent work upon the American judiciary, says—

Patent cases form the most important branch of civil jurisdiction, both in the magnitude of the interests involved as well as the amount and quantity of litigation.

I hold, therefore, that for the next fifteen or twenty years we are not likely to have many patent cases to take up the time of the High Court.

Mr. DEAKIN.—We ought to have a Patent Bill passed this session.

Mr. GLYNN.—No doubt, but we may have to wait some time before the High Court is appealed to upon any question relating to the patent laws. I may point out that in America the Federal Judiciary, owing to the greater powers of Congress, has a far larger jurisdiction than can possibly be conferred upon our High Court. The Federal authorities have control of the land,

and questions between the State and Federal authorities are continually cropping up.

Mr. DEAKIN.—Except in that regard the jurisdiction of the United States Supreme Court is narrower than ours will be, because there is no appeal from the States Courts.

Mr. GLYNN.—But they do appeal from the State Courts to the Supreme Courts.

Mr. DEAKIN.—Only upon matters within the Federal jurisdiction.

Mr. GLYNN.—Yes. What I wish to point out, however, is that in the United States the power of legislation by the Federal authorities is far greater than here. Land legislation, which, as a subject, really absorbs the greatest proportion of the time of our States Legislatures, has to be dealt with by the Federal Government in America, and as mining matters are to a large extent under State control, there is a continual clashing of jurisdiction. For that reason a great many cases in connexion with land claims have to be adjudicated upon by the Federal Court. With regard to the appellate jurisdiction, all I have to say is that there will be too little business for the High Court to transact during the next fifteen or twenty years to justify us in creating any such body. It is proposed under the Bill to give the High Court original jurisdiction of a very extended character.

Mr. DEAKIN.—As large as the Constitution will permit.

Mr. GLYNN.—Yes, practically all the powers that are optional under the Constitution have been assumed by this Bill. Some of those referred to in section 74 have been assumed.

Mr. DEAKIN.—No, we have not touched upon the question of appeals dealt with in sections 73 and 74.

Mr. GLYNN.—At any rate all the matters referred to in section 75 of the Constitution are included. Some of these powers are not likely to be frequently exercised. It is conceded that there will not be many treaty cases, and the same remark applies to "cases affecting consuls or other representatives of other countries." The suits between States are not likely to be of great frequency here, whereas in America owing to the large number of States they are continually cropping up. These are the only cases, except those relating to the positions of ambassadors and consuls, in which the United States Supreme Court has original jurisdiction.

Mr. DEAKIN.—They do not fully exercise their original jurisdiction, because none of their business begins in the District Courts.

Mr. GLYNN.—Yes, it begins in the Federal Courts, but not in the State Courts. The United States Supreme Court has a very limited original jurisdiction, only a few cases beyond those which arise from disputes between the States. Owing to the large number of States in the Commonwealth, a large class of case is likely to occur here, but of far less frequency than in America. The number of this kind would increase, not in a geometrical, but rather in geometrical progression, according to the number of States. In Australia there are six States in one federation, and in twelve in another, it is likely that the number of cases to be dealt with in the latter case would not only be double, but much more numerous, because, as the Bill shows, the large number of States in the American Union results in a considerable proportion of such cases being referred before the Supreme Court. In Australia we give the proposed High Court very extensive powers, the whole of the jurisdiction that can be conferred upon it in respect of original matters is proposed to be referred under the Bill, and independently of that an attempt is to be made to practically take away original jurisdiction in Federal matters from the State Courts. The Attorney-General has admitted that after the Bill becomes law business will be drawn from the State Courts of the States to such an extent that an opportunity will be afforded for an extensive economy in connexion with the States' Judicature. In *Hansard*, page 10, the honorable gentleman expresses his opinion that the High Court would

draw to itself naturally, and without a considerable share of the litigation hitherto flowed to the Supreme Courts of the States.

To provide for this, extraordinary powers of removal are to be given. A defendant will have a right in any case, at any time, to remove litigation from the Supreme Court of a State into the Federal High Court. That is centralization with a vengeance. What does it mean? It will permit a defendant to absolutely deny justice to a poor plaintiff simply by putting him to a great expense. Supposing that action is taken in the Supreme Court of New South Wales against a mining company in regard to a federal matter, the company might

a giving security, have the case removed from Western Australia to the jurisdiction of the High Court in the capital. A rich defendant in such a case could force a poor plaintiff to come to Western Australia to a court somewhere in the backwoods of New South Wales.

If the Attorney-General thinks that the Bill is working in the direction of economy, I do not know what economy is. The proposal would involve centralization in its most aggravated form, and might pass itself into a practical denial of the Bill. Under clause 45, it is provided that either of the parties who desires to have the case removed from the jurisdiction of the State Court to that of the Federal Court may be omitted to exercise his right at any stage of litigation, he can do so at any stage.

MR. DEAKIN.—That is, if he shows

MR. GLYNN.—Yes, but even with that provision, there is nothing to prevent a defendant from availing himself of his right to have the case removed without any qualification whatever.

MR. DEAKIN.—But a Judge of the High Court would be able to sit in the State in either of the plaintiff and the defendant

MR. GLYNN.—Very true, but the Attorney-General proposes to cheapen justice at the expense of its efficiency. Are we to substitute for the Judiciary of the States, which is effective now, one Judge of the High Court who may sit at intervals be able to go on circuit? Itinerant Judges are detained for any length of time upon circuit duty, the court will either be undermanned or have to delay the transaction of its business until the itinerant Judges can reach the capital. We shall be marring the efficiency of the Federal tribunal in order to bring justice to the doors of the

If the Bill passes as it stands, the proposal about centralization in original matters, will entail very great expense on litigants, and probably crush out the poor. The original jurisdiction conferred upon the Supreme Court of the United States is very small. Upon this Mr. Willoughby says—

A large majority of cases are those brought on appeal from the lower courts. The cases in which its original jurisdiction are now few in

Why, then, should we depart from the American precedent we have followed in creating a High Court, and propose to enlarge to the fullest possible extent its original jurisdiction, instead of, as in America, cutting it down as far as possible? *Curtis remarks—*

The most important class of cases under the original jurisdiction—in fact, the only class which has been of any practical importance thus far in the history of the court—has been suits between States, or between a State, and the citizens of another State.

MR. DEAKIN.—And not between the residents of a State and the State.

MR. GLYNN.—The Attorney-General mentioned such cases, and it struck me at the time that his statement was not in accordance with the authorities I have quoted. The cases to which they refer are those between one State and another, or between one State and the citizens of another State. The cases, therefore, which come before the Supreme Court of the United States are very few, and the tendency there is to cut down the original jurisdiction. The United States is a very large federation, embracing 45 States, with a population of 76,000,000, and a wonderful complexity of interests, and so they are able to bring Federal justice to the doors of litigants by means of subordinate appellate courts. There are nine districts with such courts, and there are also a multiplicity of district Federal Courts. The decisions of the nine local appellate tribunals are practically final, because appeal to the Supreme Court is allowed only in very rare cases, either as a matter of grace by the Supreme Court, or on the special certificate of the circuit appellate court. The Bill proposes to overcome the difficulty mentioned by me in regard to the probable centralization of justice under its provisions by the adoption of the circuit system. The objection which I have urged against that system is that its establishment will necessitate a cessation of the work of the Court of Appeal, if it is, as the Attorney-General says, likely to have very much work during the first years of the Federation, or else result in the undermanning of the Court, whilst two of the Judges are absent on circuit. It is also open to the still further objection that a tribunal consisting of one circuit Judge in a State deciding upon Federal matters would not be as efficient as would be the Supreme Court of any State if vested with Federal jurisdiction.

States—of which two-thirds go home in Canada—will be determined by and if we fix the number of Federal cases likely to arise at twelve a year—we shall not have twelve a year in Australia for many years to come—we shall have only twenty-four cases as a maximum. Surely we do not require an appellate court to decide these cases. An appeal will deal, not with the facts of any case but with the law. It is not created for the purpose of dealing with facts. We are asked to create a High Court to decide important matters of law, and these often take up far less time than do *nisi prius* cases in which the matter at issue is one of fact. Some of the very biggest cases sent to the High Court, though they may have to wait six or twelve months before being heard by the High Court, are decided at one sitting, by the well-trained judicial minds of the Justices. The members go at once to the effective work for a decision. If there is to be a High Court in Australia manned by Judges of the capacity referred to by the Attorney-General, in nine cases out of ten the sitting of that court will not extend beyond one or two. Then we shall have a great tribunal to which we can address our complaints as exhibiting the splendours of the law, while it is sitting in solitary splendour and waiting for business to come. Thus, whilst on the one hand it might be an ideal subject for contemplation, on the other hand it would appeal to the ludicrous instincts of the people in the sorry spectacle of a trial of mighty potentates sitting in solitary splendour and waiting for business to come. In this connexion might appeal further to the experience of the High Court in Canada. I find that in the discussion which took place in the Federal Convention of 1891, the appellate clauses of the Constitution. Senator O'Connor declared that during the first years in Canada, whilst there were only seven appeals from the Supreme Court to the Privy Council, there were 23 appeals from the courts of the Provinces direct to the Privy Council, proving the two positions which I have stated; first, that the majority of appeals in State matters at all events will go to the High Court of Australia, but a few will go to the Privy Council; and, secondly, that there are some appeals still allowed from the Supreme Court of Canada to the Privy Council, there being ten in six years, or an average of about one and a-half a year. But the great leakage will tell

against the use of the High Court of Australia as the court of final appeal. I regret it. I wish that we had abolished that right of appeal. I believe that when a little more development takes place, and when there are less political predilections to be avoided on the part of the Bench, we shall be quite competent to decide all judicial questions that may arise. But we must deal with the position created for us by those who drafted the Constitution, under which an appeal, direct or indirect, is still allowed to the Privy Council. Everything therefore that the Attorney-General has said regarding the ability of the local court, the desire to temper justice with a sense of local needs, and to amplify our jurisdiction where the Constitution is not sufficiently elastic to enable amendments to be effected, is so much beside the question because the Constitution is not framed in the way he approves, and which I would prefer.

Mr. DEAKIN.—The honorable and learned member wishes to see a High Court established?

Mr. GLYNN.—If it is necessary. Some honorable members think that it would be better to have an Australian tribunal interposed between the Privy Council and the State Courts. I have already pointed out that such a tribunal could be created at a comparatively trifling expense—an expenditure of a few hundred pounds a year instead of thousands of pounds. I am quite sure that the Judges upon the appellate court would require no more in the way of emoluments than would be sufficient to cover their expenses.

Mr. DEAKIN.—Does not the honorable and learned member think that some court of that sort is necessary?

Mr. GLYNN.—I do not think it is necessary at this stage. I do not believe, if it is desired, that the difficulties in the way of its establishment are worth a moment's consideration. If we can make use of the Judges of the State Courts and constitute them an appellate court with a quorum of five, I am sure we shall get from the Australian Bench as efficient a tribunal as can be obtained in any part of the world. I say that without any disrespect to the Privy Council. Indeed, in justice to that tribunal—whatever effect the reference to the New Zealand case this afternoon may have had

...the outside of honorable members—I do not think it is not every lawyer reading that decision—as I have read a seven-column summary of it—who would come to the conclusion that though the Privy Council might be wrong in its interpretation of the statute law of New Zealand, it was wrong in the final justice which it administered. I believe, as a matter of fact, that the courts of New Zealand were wrong, not technically, but in justice, and that the Privy Council, soaring higher, overlooked the petty technicalities of the local law, brushing them aside as possibly not existing. They could scarcely contemplate the position which existed in New Zealand, although it did exist under the local statutes. What was the position? There was a grant made by a Maori chief for a charitable purpose, and as the machinery of making the grant effective the Crown was used. There was a surrender of the land to the Crown. The Crown was to re-grant the land to the Church of England for the purpose of a school. The school could not be established, and 60 or 70 years afterwards, when the Maories could not possibly get it back, the Crown interposed to prevent the application of the grant to another charitable purpose. Originally the idea was charity. The representative of the Crown steps in and says, "You are now asking the court in its equitable jurisdiction, as one charity cannot be established, to apply the grant to another charity which is nearest in kind to it"—a thing which is very often done by the Court of Chancery and the Courts of Equity throughout the Empire. The Solicitor-General stepped in and on a technical point defeated the application of the trustees to have the charity to some extent carried out, and the land reverted not to the Maories, who really were the benefactors, but to the Crown. What did the Privy Council do? It brushed aside technicalities and sustaining the higher justice, the more liberal view, carried out the intent of the donors. So that when one reads that decision it is really due to the Privy Council to remember that although they may have erred technically, in regard to the reading of certain charters, regulations, and procedure in New Zealand, nine persons out of ten would have considered that they came through a mistake to the right decision.

Mr. McCAY.—The great objection raised to the judgment of the Privy Council was

Mr.

based on the ground of the strictness of the probity of the New Zealand Judges.

Mr. DEAKIN.—Alleging as an act of interference what was a statutory duty.

Mr. GLYNN.—I quite agree with the honorable and learned friends there are times when Homer himself might be even the rather matured gentlemen on the Privy Council are occasional but a little off.

Mr. DEAKIN.—Any very remote must be on a subject like that.

Mr. GLYNN.—At all events, was a judicial pronouncement was one which was open to such censure from the point of view of the reference to the calibre of the New Zealand Judges and the motives which actuated them—it shows that the effect of the decision must have struck the Privy Council as being particularly open to criticism. I would ask honorable members, to say that, from the point of view of the late jurisdiction, it is not advisable to establish a fixed High Court with new Judges at salaries amounting to £15,000 or £16,000. Secondly, as to the original jurisdiction, it is not necessary to cause the Supreme Courts of the Empire to discharge all the original jurisdiction in most cases better than the High Court, and so far as the Empire is concerned, they discountenance the Acts of Congress and the Convention of a centralization of justice such as proposed in this Bill. The Attorney-General has colleagues some of whom might cite in support of my opinion that we should for some years to come utilize events in original matters, the tribunals. The Minister for Trade and Customs said in the Convention—

I think that our various Benchers have reason to fear comparison with courts of parts of the Empire. We might wish to utilize the services of some of these common with the new courts we propose to establish.

I know that he favoured my suggestion and I think he spoke in its favour of utilizing existing courts for all matters, and a temporary court of State Judges for the purposes of late jurisdiction. We have too often thought, relied upon the example of the United States. We ought to be thankful for the splendid suggestion which we have obtained from its Convention which is the true exemplar of

we must not be such pedantic legislators as to blindly adopt all federal analogies without consideration of existing circumstances. Right through that mistake has been made. Because a thing has existed in America it ought to exist here. We have all these grandiloquent references to Marshall's separation of the departments. "The Executive executes"—of course it does, what else could it do—"Parliament makes the laws, and the Judiciary declares the law," and so on. These references and analogies are certainly applicable to the conditions of America, but are not applicable here, because we have and shall have a key-note to our Constitution, if a High Court is created. But look at the position in America. At the time of the foundation of the constitution at the end of the colonial days there was no Privy Council to keep the courts of the States in check. There were thirteen States, which, if I remember aright, had displayed towards one another the most extraordinary animosity in their mutual relations. In fact it has been stated by Lecky in his history that the movement which animated the men who led the American union, and which led to the severance from England, was one actuated, not by the highest impulses of patriotism, but simply by the mere sordid consideration of personal advancement and national interest; and the same thing is perceptible after 1774, after the declaration of independence was made, because during the con-federal days it was with the greatest reluctance that a single con-federal session was made by the State Parliaments. The courts absolutely refused to enforce the con-federal laws. Time after time they followed the suggestions of the Parliaments, and refused to regard as imposing any obligation on them the laws enacted by the old confederation. For that reason the *Federalist*—that great series of essays which more than anything else, perhaps, helped to the acceptance of the constitution—pointed out as the chief necessity for the establishment of an independent national, the fact that the State courts were reluctant to regard the old con-federal laws as imposing the slightest obligation upon them. At page 507 of the *Federalist* it is said—

"State Judges, holding their offices during pleasure from year to year, will be too little independent to be relied upon for an inflexible execution of national laws."

The position is absolutely non-existent in Australia. Why should there be all this distrust of local tribunals? The Attorney-General seems to approach a State tribunal with positive suspicion. Only the other day you had a decision by the Chief Justice of Victoria as regards certain provisions of the Customs Act, and immediately afterwards three Judges, constituting the Full Court, unanimously reversed that decision and established the validity of those sections. In that case was there the slightest leaning towards State matters? The occasions upon which the personal interest or the State interest of a local tribunal can become operative will be almost infinitesimal. Can honorable members conceive of cases in which the impulse of local patriotism will sway judicial decisions? When will it arise? Do honorable members think that your State tribunal would be locally biased on such a question as that of the rivers? However strongly I feel with the position of South Australia, I would not for a moment distrust the Judicial Bench of New South Wales in giving a decision. It is possible for South Australia to test the question of riparian rights in the courts of Victoria, or in the courts of New South Wales, and I am sure that there would not be the slightest fear of local partiality influencing the decision. But are you sure that your federal tribunal will be so pure in the beginning? Human nature is what it is. No matter from whence you may take your men, there is an unconscious bias, do what you will, amongst politicians. If there is to be any colour given to judicial pronouncements from old political leanings; if the spirit of the battle in the arena of politics is to actuate the cool determination of the Judge on the Bench, there is far more likelihood of that being done in a High Court of Australia than in any State tribunal, for the simple reason, possibly, that some men who were in the active arena of politics at the time of the framing of the Constitution, who were in the Convention, may find their way on to the Bench. Was Marshall a member of the Convention that framed the American Constitution?

Mr. DEAKIN.—I believe he was.

Mr. GLYNN.—He was a member of a State Convention that urged the adoption of the Constitution, but he was not a member of the Convention that drafted that document.

Mr. DEAKIN.—I would not be sure of that.

Mr. GLYNN.—If I am not mistaken it was one of the special qualifications of Marshall that he came to that Bench with an original purity of mind and brilliant intellect, absolutely unaffected by the unconscious bias of old political predilections. So that if there is to be a comparison made, I think it tells rather against the case set up by the Attorney-General than for it. Again, why should we not equally protect the States against the encroachment of the Federal power, if there is to be the possibility of an interference on one side or the other? Why are we always to sit down and protect the Federal view of matters as against the State view? In America there was some reason for it: the Constitution was declared to be the supreme law of the land. It is not so declared with us. The necessity for the creation of this tribunal does not exist, because under covering section 5 of the Act the Judges of all State courts must carry out and obey the Constitution, and every statute passed under its provisions, unless the jurisdiction is taken away, and that of course is what is proposed to be done to some extent by this Bill. If there is to be protection, why should it not be extended all round? Why state that you must have a tribunal that will probably amplify according to your growing necessities the interpretation of the provisions of the Constitution? That was justifiable in America. There the benefit of a doubt must always be given by the Constitution to the conservation of Federal interests, because it is declared by the text to be the supreme law of the land. For that reason nearly all of the constitutional decisions of Marshall—all, I believe, except one—were unchallenged, because, however strong may have been the State view advanced, if a doubt did exist, he was bound to sustain the Federal aspect of the Constitution. But the same provision does not exist here. In America the amplification was condemned by some statesmen. It may have been justified by the difficulty of amending the Constitution. I do not think there have been more than fifteen amendments in the course of 100 years, although scarcely a year passes that there is not some suggestion for an amendment of the Constitution, but it is practically in a strait-jacket, utterly incapable of elasticity, and the consequence is that whenever an opportunity

arises for meeting growing necessities, judicial pronouncement, great Judges and Marshall take advantage of it, but without some challenge. In the beginning of the last century Jefferson condemned this tendency. He spoke of—

The spectacle of the Judiciary, in the exercise of its powers, advancing its noise like a thief over the field of jurisdiction.

Take the Dartmouth College case which was decided in 1818. When there was a majority of five to two, the Chief Justice took the Federal view by five to two, the Chief Justice suspended the decision of the Court for twelve months. In the meantime the political aspect of affairs that had been reflected in the court in the first place was viewed right through the States. There was an agitation on the question—was it a cal ferment over the land that the Government ought to be taken. The outcome—did not know whether it was in consequence of the decision or not—was that the decision was believed to be by five to one in one year before it was suspended was changed by a majority the other way at the end of the year. There was a case of amplification of jurisdiction. Do members justify the mention this to show that you must not be deluded into thinking that Federal rights are supreme under the Constitution. State rights may be of equal importance upon whatever Judicature you have established to pound the Constitution. The Attorney-General to-day referred to the Constitution. I might mention that when the question of the retention to the appeal to the Privy Council was discussed there were several members of the Convention who thought that if the appeal was not abolished, there was no necessity to create the High Court of Australia. This opinion was expressed by those whose authority will be accepted. It was from the report of the Adelaide deputation to the Convention, page 984. Senator Deakin said—

If you strike out this clause—

That is the clause to take away appeal to the Privy Council—practically to take away from them.

—on which we are engaged, then I feel I am certainly prepared to go for certainly for the repeal of the clause with regard to establishing the High Court. That clause was struck out. The divisions in Melbourne meant the retention of the appeal to the Privy Council, but that really in effect the very al-

Senator Symon, who was the
of the Judicial Committee, would
ected to the establishment of the
art, was the one finally adopted.
ster on he says—

Take away this power you will give it
nothing.

What I am saying. We have
ay that power.

like some honorable member to say
High Court of Australia will have

do, when? If you do not sever the
t connects us with the Privy

We have not severed the link.

e conjectures put by men of com-
trained forensic intellects—by, for
the Chairman of the Judicial Com-
ho was bound to look after the
art provisions of the Bill, and who
rong advocate for abolishing the
the Privy Council, which was not
hen take the leader of the Oppo-
right honorable member for East
who, at page 976 of the debates of
aide Convention, says—

s to me that we really in this matter
the choice between a Federal Court of
hout an appeal to the Privy Council, or
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believe that such questions would
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Australia established. Great ques-
often settled in a wrong way,
misapprehension of facts like
What I would state, then, is that
not really require for some years
any other tribunal than the
ouncil to reconcile the divergent

decisions of State tribunals. The At-
torney-General says that if you have
those courts deciding Federal cases, you may
have a decision at the outset given by
one of the weaker tribunals settling the law
until some other tribunal has given a de-
cision the other way, and the Privy Council
has adjudicated, and that an interval of, say,
eighteen months, may occur before the final
decision is given. But you have no reason to
assume that the weakest decision will be
given in the beginning, or that the Supreme
Court of any State will be intellectually so
inefficient that the decision which it gives
will be wrong. Take the case of Queens-
land, which is one of the smaller States.
Could there have been a more dispassion-
ate judgment or one more impartial
in its pronouncement than that given in
the long Customs case in which the firm of
Robert Reid and Co. was concerned, by a
local tribunal the other day in Brisbane? I
am not speaking of the merits of the case
at all, but I do say that the decision given
was one with the Federal note in it. It was
given in favour of the Federation. That was
a decision of one of the State Courts, some of
whose decisions are now open to ridicule on
the ground of the comparative insignificance
of the States over which the courts preside.
But there is one other point to which I may
refer, namely that if you get a decision of
your High Court, whether it is good or
whether it is bad, there are no other courts
to correct it except the Privy Council. If
you have a decision from a weak local court
upon some case it is open to you to check it by
an examination of the decision in other States
Courts. But when you have a decision
from a High Court, if it is a weak
one there is no other local court to
which you can take it. So that the argu-
ment of the Attorney-General is a bad
one to advance at all, and when it is
advanced it is capable of being turned to
other purposes than the Attorney-General
thought. If you do wish to create an Aus-
tralian Court it can be created from the
Judges of the State Courts. I think it
ought to be invested only with appellate
jurisdiction, except with regard to the
matters arising under section 75, where large
interests are concerned. But they would be
very few. If a matter like the rivers question
should arise, original jurisdiction might be
given to a State tribunal in respect to the
case, and the decision in the one case
would practically stand for ever. You are

not going to have a High Court of Australia deciding on the rivers question every ten or twenty years.

Mr. HIGGINS.—That question will be decided politically.

Mr. GLYNN.—I think it will. I have too high a sense of the liberality of the Federal Parliament to believe that they think that cases like these need not be subject to the process described by the bard in the lines—

Right and wrong,

Between whose endless jar justice resides.

My own opinion is, that after the interchange of opinions that must arise, the good sense of the Australian Parliament will enable the rivers question to be settled, to the satisfaction of the State Parliaments, without an appeal to the law at all. One leading decision upon the question of the rivers will settle it practically for ever. That was the one question mentioned to-day by the Attorney-General: the one great State question. The expense of calling this tribunal into existence for settling the rivers question would be more than the cost of its solution by locking the rivers. If you have to spend £30,000 or £40,000 in the beginning in order to settle the rivers question by establishing the High Court, that sum might just as well be expended as interest upon the cost of locks which would effectually settle it in another manner. There are a few other matters to which I wished to refer, but I find that by the ripper wisdom of the Ministry the points which I intended to make have been anticipated in the form of amendments in this Bill. There was the question of the right to proceed against State or Commonwealth, which ought to be embodied in the terms of the Bill, and that has been done by an amendment. I have endeavoured, I hope with judicial impartiality, to put what can be said against the immediate creation of this Court. I feel that we do not require it for appellate jurisdiction, and that we do not require it for original powers; that it can only have a large original jurisdiction by encroaching upon duties which can quite as effectively, more expeditiously, and certainly far less expensively, be discharged by the courts of the States. Believing this, I think it is certainly my duty not to allow this Bill to get into committee, where, between various suggestions of amendment, the Government will ultimately succeed, but to vote against its second reading.

Mr. HIGGINS (Northern M.—Whatever is our opinion with to this Bill, I think we all recog it has been put in the most manner in which it could be put Attorney-General. After listening though opposed to him, I felt like man to think that I could poss word against a proposal put forward a nice manner and in such nice to felt that if I had had £30,000 a self I would have given it, rather he should be disappointed. But same time we are dealing with th of others, and not with our own, an to bear in mind the very critical p affairs, in several of the States at may say, by way of further prefac I felt that by delaying the creati High Court we should curtail the of the Federal administration, o cripple the Federal Government in out its duties, expense or no e should go for it. But after giving th my best consideration, I think th very well as we are, and might let as they are, giving a certain sma of jurisdiction to the Supreme Cou States. There was a question asked two years ago in this and which has not been yet. It is this. What is there High Court will give which yo get at present by means of the Courts of the States, with the Pr cil to keep the decisions unifor learned Attorney-General has not the question. Everything that ca by your High Court, if it were crea original jurisdiction—that is to s it is invoked to in the first insta be done by the State Supreme Co be done quite as well. Everything be done by the High Court upo from the Supreme Courts can be d by the Privy Council, under presen stances. The learned Attorney dwelt a good deal upon the diffi matic conditions of Australia and I admit them.

Mr. DEAKIN.—On the question of rights, for instance.

Mr. HIGGINS.—The Attorne speaks of the Privy Council as n familiar with climatic conditions, a has to deal with appeals from S from the Gold Coast, from Jama Canada—from all parts of the

operate, and hot. Why, sir, no court in the world which much to do with tropical the Privy Council in England. know, the only honorable mem- s ventured to give anything like to the question which I put is the member for Tasmania, Mr. He has rushed in where the general has refused to tread. He the High Court by some means noperative laws of which he dis- I understand that he regards roduced in the Victorian Parlia- annexion with the recent railway being the offspring of panic, or a kind of affront to the prin- itish liberty, and as an insult to of Australia. He may be right —I think he is right—but at the I must say that he is labouring fusion. I am quite sure that the general—honest as the honorable t member is—will not encourage t delusion.

AKIN.—I answered the question honorable member in the nega-

GGINS.—I was sure that the and learned gentleman would do are many cross-currents, many and illusions in regard to this d after all we have to go back to and see what will happen if we what we are asked. I find that sory views are at work in the a great many honorable mem- different States. There are are dissatisfied with the way justice is administered, say or at Hobart, and have some ainst some of the Judges for eing. But it must be remem- we are legislating permanently. create a High Court it will re- all time. We shall give a life he Judges, and we shall have to e court from time to time by a ccession of members to the Bench. feature of it is that we all ap- ay regard only to the morrow, ere will be almost perpetuity in hese proposals. I am very glad t many lawyers, not only in this t outside, are going against this d that even the law journals are ainst it.

Mr. DEAKIN.—This Bill gives no advan- tage to the lawyers.

Mr. HIGGINS.—Quite so. But there will be an advantage to the lawyers if the Bill be carried.

Mr. DEAKIN.—No.

Mr. HIGGINS.—I shall appeal to any one to confirm my statement. There is a distinct advantage to every lawyer in keep- ing as much legal business as possible in Australia, and the object of this Bill is to keep business in Australia as far as it is possible for the Bill to do so.

Mr. DEAKIN.—Hear, hear.

Mr. HIGGINS.—The Bill will not only remove some of the leaders from the com- petition of the Bar, but it will also have the effect of giving every member of the Bar an extra chance of obtaining valuable and pro- fitable work in the High Court. There are other advantages, and I say that it is to the credit of the profession to which I have the honour to belong that a very large num- ber of its members have set their faces against the proposal. I do not think that this measure should be dealt with in any party spirit. I believe honorable members on both sides of the House are disposed to treat it as a very grave matter which ought not to be dealt with on party lines.

Mr. CONROY.—It is a matter of justice, and therefore above all party considera- tions.

Mr. HIGGINS.—Quite so. There is nothing to be gained by either of the three great parties in the House, and although discouraged by the fact that the Govern- ment as a whole, as well as the leader of the Opposition, and the leader of the labour party, have declared in favour of the Bill, I still consider that there is a very good chance of the Bill being rejected on the second reading. I desire to put a few con- siderations before honorable members. There are two objects for which the High Court is to be established. One of these is that it shall deal with Federal constitutional sub- jects, and with laws made under the Con- stitution; the other is, that it shall take the place of the Privy Council in dealing with appeals. I do not think there is anything else which can be had. As a court of appeal I favoured the crea- tion of this court at the Convention. If any one is curious enough to examine the votes of the Convention, he will see that I persistently voted in favour of a High

Court—a High Court occupying a strong position—from which there could be no appeal to the Privy Council, and which could not be ignored by an appeal direct from a State Supreme Court to the English tribunal. But owing to a mistake made in the final revise of the draft of the Convention Bill, the right of appeal to the Privy Council from the Supreme Court of a State was left optional. It was not taken away. I have a draft of the Constitution Bill as framed at Adelaide, and it was provided in clause 75—

No appeal shall be allowed to the Queen in Council from any court of any State, or from the High Court or any other federal court.

By a mistake in the final framing of the clause, that provision was omitted. The attention of the leader of the Convention, as well as that of the Chairman of the Judiciary Committee, was called to the matter at the time, and they assured the Convention that there was no mistake, that there was no optional appeal. It now transpires that there is an optional appeal. Not only is that so, but as the result of the amendments which were made by the Imperial Parliament at the suggestion of Lord Halsbury and the Imperial Government, it has been placed beyond all doubt that there can be an appeal to the Privy Council direct from the Supreme Court of a State, thus ignoring the High Court. Any one who looks into the matter will see clearly that nothing could be more damaging than to have two courts to which parties can appeal from the same judgment. A litigant wants to win—that is his chief object—and he will select a court in which he has the best chance. The man who appeals has the option.

Mr. FOWLER.—What does the honorable and learned member mean by “the best chance”?

Mr. HIGGINS.—The court in which the litigant thinks that the minds of the members of the Bench are inclined towards his way of thinking. Of course honorable members will recognise that all men have idiosyncrasies, and that it is possible to learn the idiosyncrasies of a Judge just as you can learn the idiosyncrasies of a schoolmaster. A litigant will go straight for success, and if he does not find any difference between the High Court and the Privy Council in that respect, he will go for the court which gives finality. He will go for the court which is the stronger,

and the court which answers better conditions of being the stronger and of absolute finality. That is the Privy Council. Although for a time it will be found that the mere novelty of the thing, some of some institutions will go to the High Court, in the end they will prefer to go to the Privy Council for many years to come. Nothing which a litigant deprecates as the losing of his case; next to that he hates to have his action long drawn out, objects to any uncertainty as to whether an appeal will be final or not. May I ask the House that even on constitutional grounds the High Court can be ignored, and a man is beaten on a constitutional point or upon the interpretation of some law, in the Supreme Court, say, of New South Wales, he may give the go-by to the High Court and go straight to the Privy Council. Those who have read the Committee Reports will remember that nearly all the banks and financial institutions, nearly all the large boards or organizations, pressed the Convention to allow the appeal to the Privy Council to remain. I am sure the honorable members from my own State are aware that the principal appeals from the Supreme Court of the States to the Privy Council are on the part of big organizations. Those organizations will prefer the Privy Council, and if they can get it, they will go to the High Court, they will.

Mr. V. L. SOLOMON.—Because an appeal to the Privy Council is more costly, it prevents the other side very frequently from carrying on.

Mr. HIGGINS.—I think the honorable member is under a misapprehension. We have the scale of costs taxed in the Privy Council for the last five years, and the average cost for an appeal is £200. I do not think an appeal to the High Court could be conducted for much less. There is a clause in this Bill which is designed to meet the difficulty, and to compel litigants to bring constitutional points to be brought to the High Court. I refer to sub-clause 2, paragraph (b), of clause 41. I need not go into full detail. The Attorney-General, I know, admit that the clause is designed to compel litigants who appeal from the Supreme Court to bring the constitutional point straight to the High Court in a bill involving a constitutional point. I want to say that that provision, if passed, will be *ultra vires*, and that we shall not have the High Court as an arbiter on constitutional points.

Some grand language has been in reference to this court being the arbiter of the Constitution. That may be advisable, but the Government have not got out of this difficulty. We have to deal with the facts, and to face them. The facts, as they are present in the Constitution amount to this: That a man who wishes to appeal from the Supreme Court, whether on a constitutional, or commercial, or other point, can flout the High Court and go direct to the Privy Council. I repeat this paragraph or sub-clause will, if amended, be *ultra vires*, and, more than that, is unwilling that it should be submitted to an impartial lawyer who is not interested, and to abide by his decision. I assert that there is no power to pass paragraph (b), and that it will be nugatory and ineffective.

Mr. DEAKIN.—Have we no power to do under section 77 of the Constitution?

Mr. HIGGINS.—The Attorney-General is good enough to fully explain to me what he meant, and I have come to the conclusion, after looking carefully into the matter, that this provision which seeks to give constitutional points for determination by the High Court exclusively would be *ultra vires*. That is my deliberate conclusion, although, of course, others have a right to come to an opposite opinion.

Mr. DEAKIN.—Does the honorable and learned member say it would be *ultra vires*, notwithstanding section 77?

Mr. HIGGINS.—Yes. I find that there is a great misapprehension in regard to constitutional points. There is a kind of current phrase—"Oh, we will leave the laws to the State courts, and the federal laws to the federal courts." But we cannot do anything of the kind. Our laws, whether made by a State Parliament or by the Federal Parliament, are one and indivisible, wherever a case arises, whether in the State Court or the High Court, effect must be given to the law as it stands. The Australian court will have to give effect to the States laws, and the State courts must give effect to the federal laws. For instance, an assault case may be heard in the Port Melbourne police court. In that case, though it appear to be a very simple one, there may be raised the question of a right under a federal law. For instance, the man charged might say, "I was there doing a certain act by virtue of a federal law. I was employed by the

Customs," or something else of that kind. We can never tell when a constitutional point will arise, but any court before which the case comes must decide it some way or other. Even a Police Court or a County Court, as well as a Supreme Court, must decide any constitutional point that arises no matter how grave it is, subject of course to the power of appeal. There is a case in point which provoked a great deal of interest some years ago in California and which was known as the "Pigtail Case." What happened in that case was that a Chinaman brought an action against a man for having cut off his pigtail. The man who was defendant in the case was a sheriff of the county and had charge of prisoners and of the gaol. He raised a constitutional point at once, and said that there was a State law which enacted that every prisoner within a certain time after his coming into the gaol should have his hair cut off within an inch of the scalp. That looked very harmless, and, at first sight, the case appeared very simple. But the Chinaman brought evidence to show that that particular law of California had been enacted for the express purpose of interfering with the immunities and privileges of Chinamen as citizens of the States; and under the 14th amendment of the Constitution of the United States, it was held that the sheriff had acted illegally, and he was mulcted in damages. What I desire to show is that we cannot divide the law up in the way suggested. We must take the laws as we find them, and we must in the State courts apply the federal laws just as in the Australian court we must apply the State laws, whenever they arise and are relevant to the facts of the case. We must apply the appropriate law no matter where it originates. It is quite true that there is a power of removal at certain stages which must be canvassed very closely, but I shall leave its consideration to the committee stage, should the Bill ever arrive at that stage. There appears to be some mystical notion that a distinctive federal court is essential for all federations. What is more natural than to say that there should be an Australian court as well as an Australian Parliament for an Australian people? But in Canada they have no distinctively federal court at all, and they have done very well for forty years without it.

Sir JOHN FORREST.—They have a Dominion Court.

Mr. HIGGINS.—Quite so, but it is not a distinctively federal court.

Sir JOHN FORREST.—It is practically the same thing.

Mr. HIGGINS.—With all respect to the right honorable gentleman, I am speaking advisedly when I say that it is not at all the same thing. At page 514 of Clement's *Canadian Constitution*, the author gives the 101st section of the British North America Act. The words are these—

The Parliament of Canada, may, notwithstanding anything in this Act, from time to time provide for the constitution, maintenance, and origin of a general Court of Appeal for Canada and for the establishment of any additional courts for the better administration of the Laws of Canada.

There it is made clear that they have a Court of Appeal for Canada that is not a distinctively Federal Court at all. There is power, it will be seen, to establish additional courts for the better administration of the laws of Canada, but no such court has ever been constituted. The fact is that they have never felt any need for them, because they know that their provincial courts, their police courts, county courts, and district courts have full power to deal with all matters, subject, of course, to the right of appeal. Then at page 228, the same authority says—

It is almost unnecessary to say, there was no limitation of jurisdiction in any provincial court, along any line identical with, or in any sense analogous to, the line of division now existing between matters within the legislative competence of the Dominion Parliament, and the provincial legislative assemblies, respectively.

There is no such line of demarcation between the courts of Canada. Clement also says, at page 229—

The phraseology of the last clause of this section is a clear recognition of the fact that the provincial courts would necessarily be called upon to administer the laws of Canada, as distinguished from the laws of the various provinces, and the provision was inserted with a view to the better administration of those Dominion laws through the medium of additional courts established by the Dominion Government should occasion arise.

Then he says at page 230—

The only additional courts which have been established by the Dominion Government are the Exchequer Court of Canada and the Maritime Court of Ontario, each with a specially limited jurisdiction sufficiently indicated by its name. But any duly created court, no matter by what authority created, or no matter by what authority the different parts of its machinery may be supplied, may be called on to determine cases involving the application of either Dominion or provincial law.

Then at page 231 he shows how provincial courts and Judges can be called upon to accept any new jurisdiction, not by virtue of any words used in the Constitution, but simply because there is a power to impose any duty upon any person throughout the whole of the Dominion for the purpose of carrying out the law. At page 232 he says—

However constituted, the provincial courts are called upon, we again repeat, to administer Dominion law as well as provincial law.

I think I have established clearly, so far, that there is no distinctively federal court in Canada. There is an existing court which is not for constitutional purposes, though it may entertain appeals, but simply for appeals from the lower courts. In Canada, therefore, we have no precedent for the proposal that is now being made here. And I do not think that Canada has done badly. I think that there are as prosperous and progressive countries as we are. I think that the outlook for Canada is quite as good as the outlook for Australia as regards material resources, and having regard to everything else, and having regard to the material development it looks as if Canada is doing better. The matter of population and so forth, is not able to hold her own even with the United States of America.

Mr. DEAKIN.—They have there a nearer approach to uniformity in legislation than we have.

Mr. HIGGINS.—Canada has followed the same course as Australia has not. Canada has followed the same course as Australia has not.

Mr. DEAKIN.—I spoke of legal uniformity.

Mr. HIGGINS.—But the honorable gentleman desires us to draw a distinction here between courts which administer federal law and courts which do not administer federal law, though they do not follow that practice in Canada. They have had in Canada the same difficulties as are before the respective jurisdictions of the Dominion and State Parliaments, but they have no occasion for the distinctions proposed to be made here.

Mr. DEAKIN.—They have an appeal court.

Mr. HIGGINS.—It is purely an appellate court, and they have the right to appeal from that court to the Privy Council.

Mr. DEAKIN.—There is also the right of appeal from the courts of the provinces to the Dominion court.

Mr. HIGGINS.—Yes, and a very good illustration was supplied by the hon-

learned member for South Australia, Mr. LYNCH, when he pointed out that there were very many more appeals from the provincial courts of Canada to the Privy Council than to the High Court of Canada. I desire to give the reasons why, in the United States of America, they have a distinctively Federal Court. Probably honorable members have read Bryce's views upon the matter, but they can refresh their memory, if they are curious, by looking at page 228 of the first volume of *American Commonwealth*. He gives a few words the reasons why, in the United States of America in 1789, they created a distinctively federal court.

He says—
that a Federal Legislature had been established whose laws were to bind directly the whole citizen, a Federal Judicature was evidenced to interpret and apply these laws and compel obedience to them. The alternative would have been to intrust the enforcement of laws to State courts. But State courts were not fitted to deal with matters of a quasi-national character, such as admiralty jurisdiction and rights arising under treaties.

First of all I am sure that that does not apply here, because our Supreme Court does not deal with the Admiralty jurisdiction. A Supreme Court Judge in each of the colonies—at all events, it is so in Victoria—is the Admiralty Judge under the Admiralty Acts. Then as to State rights under treaties, there are very few such cases arising here. They arise in connexion with litigation cases, and the Supreme Court does deal with them and have been able to deal with them. Bryce says, speaking of these State courts, that they find no means for deciding questions between the different States. I should like to know what litigation there could be between the various States of Australia. They have been quarrelling with South Australia for 40 years about a piece of land going as that referred to in *Hamlet*, for two armies destroyed one another. They have never gone into a fight nor into litigation upon it.

MR. JOSEPH COOK.—The Minister for Defence and Customs threatened a fight a while ago.

MR. HIGGINS.—So far that has never been brought into litigation, and I desire to ask practical men, is it likely when a matter has never given rise to litigation though we have had the Privy Council appeal to, that the parties interested will

go to litigation before the High Court? Then with regard to the Murray river navigation. That question so far as I can see will be settled, not legally, but politically under the Constitution of Australia.

MR. CONROY.—Even if it be settled legally, the Privy Council would be considered the more impartial body by the opposing States.

MR. HIGGINS.—The honorable and learned member is quite right. If we want impartiality, the further afield we go, the better.

MR. DEAKIN.—Then why have not English appeals been sent to Australia for decision?

MR. HIGGINS.—Simply because I suppose it is an historical fact that they have had their appeal court established and have seen no reason to change. We cannot expect in a small community like this to have men of the extreme training and familiarity with cases of all sorts which may be gained in London which is the financial capital of the world, and which has been for years the place where the biggest friction of interests has occurred. Bryce goes on to say, speaking of State courts—

They could not be trusted to do complete justice between their own citizens and those of another State.

I can appeal to any one who knows our Supreme Court Judges, to say that that does not apply here. In 1789 there was no communication by railway, and a few canals, and very little communication generally between Georgia and Massachusetts, and there was as much rivalry between them as there would be between two foreign countries like Russia and England. Of course, there was a strong spirit of State loyalty in such a case, but our Supreme Court Judges have no more loyalty in Victoria to Victoria than they have to Australia as a whole. There is here no such feeling. Bryce further says—

Being under the control of their own State Governments they might be forced to disregard any federal law which the State disapproved; or even if they admitted its authority, might fail in the zeal or the power to give due effect to it.

That does not apply here either. When the people of the United States framed their constitution they had before them the possibility of grave miscarriages of justice occurring from the fact that the Judges had not a strong and permanent tenure. I gave

an instance the other day—the case of *Trivett* versus *Weedon*. Because in that case the Judges decided that a law of Rhode Island was void, the Rhode Island Legislature actually refused to renew their annual appointment. That case with a few others was in the minds of the framers of the constitution of the United States. The feeling then was that where you have Judges dependent upon the Legislature for their annual appointment, you cannot trust them to do justice as between a State and its Legislature on the one side and the great federal power on the other. Mr. Bryce continues—

And being authorities co-ordinate with and independent of one another, with no common court of appeal placed over them to correct their errors, or harmonize their views, they would be likely to interpret the Federal Constitution and statutes in different senses, and make the law uncertain by the variety of their decisions.

But the people of the United States, when framing their Constitution, were in a position very different from that in which we are now. They had, by their rebellion, lost the right of appeal to the Privy Council. But we still have that right, and it may be relied upon to produce uniformity in the decisions of the courts. Of course, it is possible that the Judges of one State court may take a different view from that taken by the Judges of another State court; but once a decision had been given by a State court, the Judges of every other State court would consider it carefully, and would endeavour to ascertain the reasons which weighed with the Judges who gave it. In this way one court would keep another in check. Furthermore, all the courts would be anxious to have their judgments commend themselves to the Court of Appeal. But the best corrective for wrong judgments is a strong and critical bar, and that corrective is as applicable to our Supreme Courts with their permanent tenure as it will be to the High Court. I feel that the reasons given in the United States are by no means applicable to a country like Australia, where, notwithstanding all our faults, the Bench is strong, respected, and self-respecting inasmuch as it always likes to have its judgments commend themselves to a strong Bar. The High Court will not be stronger than the State courts are under present conditions, and it will not be so strong as is the Privy Council. I will read to honorable members what Mr. Justice Richmond, of New Zealand, wrote in a letter which he

sent to the convention of 1897. Although his letter did not cause me to alter my mind, I felt that there was a great deal of force in what he said.

It is no disrespect to the Australasian Bar to say that the chances are against our being able to furnish a court of appeal equal in legal standing to the highest English courts. Of course we may produce great jurists here, and God, we shall. But the present area of selection for the bench is a very narrow one. Judges, on the other hand, are taken from among the leaders of a numerous bar. They have their ability tested in practice at the busiest business centre in the world, and have succeeded in a competition with which the colonies have nothing to compare. The composition in law of the Judicial Committee may not have been entirely satisfactory—on that subject I have no word to say—but important appeals to that Committee in Council are generally attended by some of the most eminent English Judges.

It would be a dead loss to both bench and bar if the legal standard to which we have to submit ourselves were removed—as it would be if the measure it would be were decisions here rendered final. I should be sorry to see the judgment of lawyers, reared in our comparatively narrow circle, become our most important authority. I say this, fully recognising the excellent and much judicial work amongst us. The public is more interested than it knows in maintaining the highest scientific standard in the administration of the law. The intellectual interest thus shown in the profession is one of the best guarantees for purity of administration. Thorough lawyers are supremely anxious to be guided by their law. They may not always succeed in freeing themselves from class prejudice or party ties, but their interest in abstract principle makes them generally incapable of showing partiality to individuals.

I have known cases in which Judges, who had strong social and political prejudices, have been constrained by their sense of justice and of logic to decide against their sympathies. The settling of a question of law becomes with them oftentimes the discussion of a mathematical problem in regard to which it is not possible to take any party view at all. They deal with points of law as they would with algebraic problems. I do not think the Attorney-General wants to have his Constitution interpreted as he would like, by a Bench; I am sure he wants to have it interpreted by an impartial Bench, of wide sympathies and with broad ideas. Now there will be no saving of expense to litigation by the setting up of a High Court. It will take the simple case of an appeal to the High Court when it is sitting in the capital. Do honorable members think that counsel could be retained to go to Melbourne, to Orange, or to some other

the bush, for smaller fees than have to be paid to retain English to step across from Chancery-lane courts of justice at Westminster? Second place there will be no saving or, if there is any, it will be very small. It is true that a long interval elapses now between the decisions of the Courts of the States and those of the Privy Council. But let us look into this more fully. It is to be remembered that litigants have at least three months to find the security it is necessary to obtain before a case can be sent to the Privy Council. Then a transcript must be made, and that again takes time. But very often litigants postpone sending Home of a case in order that a point may be come to, and pending the decision for a settlement nothing is done. A case was brought under the notice of the convention in which no less a period of three and a-half years were allowed to elapse before the appeal was sent to the Privy Council. Therefore the delays are not so much the fault of the Privy Council, though there are some delays there which might be avoided; they are due rather to the litigants to whose advantage it is to delay the cases settled. I have known cases to be well settled in the inferior courts of both parties, and I think that the cases are settled the better it will be. At least in 1897 costs were given in 50 per cent. of the Privy Council appeals, and that they were at an average sum of £210 14s. 7d. per case. I do not think appeal cases are settled more cheaply in the High Court. Then with regard to the economy which could be practised by the States if a new court were created. I do not be- lieve in spoiling the ship for a barrel of tar, and I should strongly support the proposal to create a High Court, even though it might involve a big expenditure, if I felt that it would improve our federal system more and make it more workable. But, while we are making our craft tight and workman- like, we do not want it to be useless and un- stable, and there would be very little use in having a High Court at the present time if it is proposed to pay the five Judges to be appointed £15,500 a year, including travelling allowances. As they will have to travel throughout the States, and as we have to take with them their associates and a large body of officers, the allowances will amount to a large sum. The expense of

visiting Western Australia or Tasmania, for instance, will be very big, though, perhaps, as part of the scheme, the transcontinental railway should be made, in order to lessen the cost of visiting Western Australia. The Bill itself contemplates an expenditure which, I venture to predict, will be much beyond £30,000 a year. There are, first, the Judge's salaries to be provided for. Then there is to be a central registry. That office will require the renting and furnishing of rooms or the construction or purchase of a building, and the appointment of officers. Then there will be taxing officers, and in each capital a district registrar.

Mr. DEAKIN.—We think that we shall be able to get the State officials to act.

Mr. HIGGINS.—Surely, on the honorable and learned gentleman's own showing, it behoves us to be completely independent of the State authorities.

Mr. DEAKIN.—We cannot afford to be so yet.

Mr. HIGGINS.—In Victoria they have so long ceased to be liberal, that they will take good care to charge rent for any property occupied by federal officials. Is the Attorney-General going to erect special gaols for federal prisoners? In America the federal authority has special gaols, and I should like to know what right a federal Judge will have to commit a federal prisoner to a State gaol? I apprehend, too, that we must have a federal police. They have federal police in America, and why should not we have them? We shall also require federal public prosecutors and federal district attorneys. They have all these officers in America, and we must provide for similar officers here. We must have also a marshal and deputy-marshals.

Mr. DEAKIN.—The State sheriffs and their officers will act for us.

Mr. HIGGINS.—Why cannot the honorable and learned member extend that principle to the State Judges, and let them do our work, too?

Mr. McCAY.—All the State officials, with the exception of the State Judges, are good enough for our work.

Mr. HIGGINS.—Yes. The only State officials whom the Attorney-General will not trust are the State Judges.

Mr. DEAKIN.—Unless they are appointed Federal Judges.

Mr. HIGGINS.—An expenditure of £30,000 a year will not cover the total cost

of the Federal Judiciary, even in the beginning. All departments of State tend to increase in cost, because there are always plenty of hangers on, and plenty of billets to be filled. It is wonderful how many things are found to be wanting when you commence to keep house in this way. If £30,000 is to be the total expense, Victoria's proportion will be about £10,000. If I am not mistaken Victoria pays about one third of all new expenditure. The Attorney-General tells us that it will be economical for Victoria to pay £10,000 a year, and he points to the case of one Judge who has been dropped out of the Victorian Supreme Court. What is the saving of £3,000 thus effected compared with the 0,000 which Victoria will have to pay towards the expenditure involved in establishing a High Court?

Mr. DEAKIN.—It is nearly one-third.

Mr. HIGGINS.—Yes; but I think I shall be able to show that, even after the High Court is appointed, as many Judges will be required upon the Supreme Court Benches as are now found necessary. It was not owing to the establishment of Federation that one of the Victorian Judges was dropped out, because we have not yet had a High Court. It was due to temporary depression in business, and as the Act which requires that there shall be six Judges upon the Supreme Court Bench in Victoria has not been repealed, the vacancy now existing may be filled at any moment. The £10,000 may appear to some people to be a very small sum, but it will not be so regarded in Victoria. I know that the additional expense involved will be used as a fresh excuse for cutting down wages, or lowering the minimum of the Income Tax, and we shall find that as usual the whole burden of the £10,000, and the expenses connected with the Inter-State Commission and other federal institutions, will be thrown upon the poorer classes.

Sir JOHN FORREST.—That does not apply to Western Australia.

Mr. HIGGINS.—Perhaps not, but Western Australia is not the whole of the Commonwealth.

Sir JOHN FORREST.—I want the honorable and learned member to realise that neither is Victoria the whole of Australia.

Mr. HIGGINS.—As a final argument, it has been urged that the Constitution orders us to establish a Federal Judiciary. We

were directed by the Constitution to establish a uniform Tariff within two years, and it is not compulsory upon us to establish a High Court within that period. There is no limitation as to time, and no force us to take action. The section provides that the High Court shall be vested with judicial powers more than is conveyed by the words of the Canadian Constitution.

Mr. DEAKIN.—The word "may" is in the Canadian Constitution.

Mr. HIGGINS.—Quite so. When a man has a son unmarried, and will his estate shall be vested in the eldest child. If his son, he does not mean that his son shall be married forthwith. He simply means that as soon as his son has a son, the estate is to be vested in that child. That section 71 of the Constitution provides that the judicial power shall be vested in the High Court—that means when the High Court is established. I think that it is our duty at some time to establish a High Court—perhaps in a few years; but if we are able to secure an amendment to the Constitution which will improve the position of that tribunal. We know that unless we establish a High Court within a reasonable time we shall be guilty of a breach of faith with the people of the Commonwealth; but I deny that it is. So far as my experience goes, I regard courts as necessary evils, not because of the provision in the Constitution for a High Court that is in favour of federation, but in spite of it. Moreover, the public looked at the provisions of the Constitution relating to the High Court before they were tampered with by the Imperial Government and the Imperial Parliament, when they were quite satisfied with their present shape. The provisions of the Constitution were almost all touched by the Imperial Government. Therefore, we are not committing a breach of faith with the people in giving effect to provisions which have been submitted to them in their present shape. I agree with the Attorney-General in his statements with regard to a court consisting of three Chief Justices. I think that he is right in saying that the Constitution does not provide to appoint Judges of the High Court permanently, and I can scarcely conceive of our being able to appoint a Judge until he ceases to be a Chief Justice of a State.

THOMSON.—What has the honorable learned member to say with regard to such a Bench to be overruled by three Judges in the High Court.

HIGGINS.—From my point of view there is no difficulty in regard to that, but I should not appoint the Inter-State Commission at present. I have already made, in a communication which I sent to the journals, that the Constitution made the High Court essential in so far as points of law arising out of the proceedings of the Inter-State Commission are concerned. That no doubt raises a difficulty, but I think the honorable member is perfectly right in directing attention to it.

GLYNN.—Could we not provide for appeal to some other tribunal?

HIGGINS.—No; the Constitution requires that the High Court shall be the authority to deal with points of law arising by the Inter-State Commission. One of the objects of that commission is to be a check, and it is assumed that decisions will be given upon points of law, but I should not appoint the commission until we feel the necessity of it. I think we might wait until the necessity actually arises before we create an appellate court.

GLYNN.—Has the High Court exclusive jurisdiction in matters of appeal from the Inter-State Commission? I do not know.

HIGGINS.—I am not prepared to discuss that point at present. I think the Attorney-General was quite right in regard to the Chief Justices of the High Court. We could not expect them to go to Tasmania and other States in order to do circuit work. They have enough to do at present, and they could not possibly attend to their engagements if they were extended in the manner indicated. If the second reading of this Bill is agreed to, and we are then upon to discuss it in committee, I will support the appointment of a strong well-paid court. I shall, as far as I am able, prevent the fulfilment of my own wishes. Although I do not believe in the establishment of the court at present, I think it is my duty to make use of my influence by doing all I can to secure the best court possible. I think we must have five Judges if we have any.

JOHN QUICK.—That is with the jurisdiction proposed in the Bill?

HIGGINS.—Yes. I have known Judges to sit upon the Bench in Victoria

and arrive at a decision, and it would be farcical to allow the unanimous decision of such a Bench to be overruled by three Judges in the High Court.

Sir JOHN FORREST.—It is rare to find so many Judges upon the Bench at any one time.

Mr. HIGGINS.—No; it is not infrequent. There are often six Judges upon the Victorian Bench when the court is called upon to overrule a previous decision. Only two or three months ago, as I am reminded by the honorable and learned member for Corinella, there were five Judges on the Bench. If we are to have a High Court we must not be skimping or sparing, but must make it so strong that it cannot very well be ignored. Unless it were a strong court most of the big litigants would be inclined to ignore it, but I should make it so strong and so dignified that that could not very well happen. I wish, however, to wait until we see the development of the proposal for the establishment of a final court of appeal for the whole Empire. Mr. Justice Hodges went to England with a mission from the Government to induce the Home Authorities to establish one final court of appeal for the whole Empire. That is a grand idea. Nothing in the history of the world has had such civilizing influences as the system of British jurisprudence, and the idea of keeping in the current of that great stream is one not unworthy of our young nationhood. I should like to know how the Government reconcile the recommendations of Mr. Justice Hodges with their present proposal. Their idea now is to keep all they can from England, whereas the suggestion made by Mr. Justice Hodges was that as strong a court as possible should be established in England. Does the Attorney-General wish appeals to go to England? If he does, his cue should be to try to bring about the establishment of a final court of appeal for the Empire. If, however, he does not wish appeals to go to England, he must make it as difficult as possible to carry an appeal to the Privy Council. The sentiment which has found frequent expression, that we must have an Australian court for Australian subjects, is very attractive, and I confess that, irrespective of the expense which might be involved, I should support the proposal for the establishment of the High Court if I only felt that it would fulfil the expectations and wishes of those who

framed the Constitution. I am afraid, however, that it will not. As I have said, it can be ignored by litigants who want to appeal from the Supreme Court, and even if litigants take their cases to the High Court there is the possibility of an appeal from that tribunal to the Privy Council. If we create a High Court under the Constitution as it stands, we shall erect a body which will be docked of power and shorn of dignity—which will be in the leading strings of some higher power elsewhere. I am looking forward to an ideal court, such as Sir Henry Parkes had in mind. His idea, when he moved his resolution at the Federal Convention in 1891, was very different from that which is embodied in the measure now before us. This resolution was accepted by the Attorney-General.

Mr. DEAKIN.—Hear, hear.

Mr. HIGGINS.—Sir Henry Parkes proposed to establish—

A judiciary, consisting of a Federal Supreme Court, which shall constitute a High Court of Appeal for Australia, under the direct authority of the Sovereign, whose decisions, as such, should be final.

In submitting his resolution, he said :—

In seeking to create this Supreme Court of Australia, it will be observed that I seek to create within it an appellate court from which there should be no appeal to the Queen in the Privy Council . . . I think we shall make a great mistake if we allow any appeal to be made outside the shores of the new Australia.

What a falling-off is there! The Attorney-General now proposes to create a court which will not have the powers indicated. There are two positions, either of which we might take up without loss of dignity. One is to keep the sap running from the root of British jurisprudence everywhere throughout the Empire. The other ideal is that of the late Sir Henry Parkes, namely, that we should be self-contained and self-sufficing, that we should take the responsibility of interpreting our laws as well as of making them. The present proposal does not comply with either of these requirements.

Mr. DEAKIN.—We do not possess the necessary power.

Mr. HIGGINS.—No; but I hope that before long the present Ministry or some other will propose an amendment of the Constitution—which, I believe, would meet with the approval of the majority of the people of the Commonwealth—which would put the High Court, if it must be created,

into the strong and dignified position the framers of the Constitution desired. I do not wish the High Court to be decried to be shorn of limbs, and to be in the leading strings of some power outside. If we pass the present Bill there will be no appeal back. Let us pause until we feel the pressure of events compelling us to take action. Let us wait until we feel the need of the machinery before we create it. We shall then know what to provide. It is the wildest proposal in the world which contemplates the bringing into existence a body before we realize the necessity of creating it. There has been too much pedantry in connexion with this scheme. As the honorable and learned member for South Australia, Mr. Glynn, has said, we have too slavishly followed the precedents of America, and it is about time that we commenced to judge for ourselves as to what things fit us, and what things do not fit us. We ought to apply our minds to the peculiar conditions of Australia, and to the particular character of our benches and our judges. We should not assume that in the United States it was found that State Judges were weak and at the mercy of the Legislatures; we should discover for ourselves. Similarly the Judges of the State Courts in Australia are weak and at the mercy of the State Legislatures.

Sir JOHN QUICK (Bendigo).—In the two speeches which have just been delivered in opposition to the Bill, I may fairly be said that the case against the measure is visibly weakening. I join those honorable members in congratulating the Attorney-General upon the vigorous and brilliant manner in which he presented the case on behalf of the Bill. It is gratifying to note the calm and judicial manner in which the debate has hitherto been conducted. I hope that it will be prosecuted to the end upon the same lines. On this occasion it is my misfortune to disagree with the Attorney-General. If I could, I have seen my way to accept his resolution; it would have given me very great satisfaction to have heartily supported the Bill. The opinion which I have formed has not been arrived at hastily. It has been gradually maturing, and has been considerably rather than weakened by the debate which has taken place to-day.

Mr. CONROY.—The honorable and learned member pointed it out three years ago, his work upon the Constitution.

HN QUICK.—I am glad that
ter can be debated free from all
considerations. It is purely a
question, and should be dealt with
In his opening observations the
-General declared that the Bill
ot be submitted to the microscope
mic considerations. He also said
question of expense was not the
sion involved, but was rather a
y consideration. I cannot acquiesce
view. It cannot possibly be said
reasonable man that the expendi-
posed upon this new judicial
ion is one of a microscopic
r. The expenditure of £30,000 or
cannot be treated as lightly and
some honorable members are in
t of treating millions. I believe
late the search-light of public
throughout Australia has been
in a very marked manner upon the
gs of this Parliament, and especi-
nnexion with any matter involving
expenditure. As a federalist I am
that nothing shall be done by the first
nt of the Commonwealth to bring
ral institutions into disrepute or
t in the constituencies of Australia,
as the trustees of vast revenues
earn the reputation of dealing
se revenues in a fair and economical
We cannot for one moment say
annual expenditure of £30,000 or
for all time is merely a "micro-
consideration. In the first place
se to direct attention to what I
s three fundamental blots upon this
afterwards, I shall address myself
considerations of a general charac-
h, I think, can be urged in op-
to it. Generally speaking, I could
fy this Bill in its present form, and
e conditions which obtain through-
Australia before my constituents, and
I cannot support the second
in this House. In the splendid
which he made last session, the
-General almost exhausted the
vocabulary in painting the ideal
of the proposed High Court. He
d it as the "guardian and inter-
the Constitution," "the organ of
life," "the keystone of the Federal
the essential complement and
corollary of our Constitution,"
ional as well as the Federal Court,"
e centre and crown of the whole set

of State judicial systems, as well as the
centre and crown of the Federal system."
Many of us may have used these expressions
in the course of our public utterances, and
probably in our public writings, during the
federal campaign. At one time, indeed, I
was under the impression that the High
Court would be the guardian and interpreter
of our Constitution, but upon closer analysis
I find that since the adoption of the amend-
ments which were effected in the measure by
the Australian delegates in London in con-
ference with the Home Authorities, it can no
longer be said to be the sole guardian of our
Constitution. Neither can it be said to be
"the keystone of the Federal arch," because
in the Privy Council we have a competitive
"interpreter and guardian of the Constitu-
tion," and another "keystone of the Constitu-
tion" equally as vital, solid, and strong as is
the High Court itself. As the Constitution
stands, it is only in a very trifling number of
matters that the High Court will be the sole
guardian and interpreter of the Constitu-
tion, namely, in powers *inter se* between the
Commonwealth and a State or States, and
in powers *inter se* between two States. The
remainder of the Constitution and the rest of
the laws made under it may now come under
the review of the Privy Council as the final
interpreter, guardian, and arbiter of the
Constitution. In only a very limited sense,
therefore, can it be said that the High
Court is the "keystone of the Federal
arch" or the "guardian of the Federal
Constitution." It certainly cannot be said
to be "the centre and crown" of the whole
set of State judicial courts or organizations,
because I find—as has already been so
amply pointed out—that the right of appeal
from the decisions of the Supreme Courts
of the States upon matters of State law
direct to the Privy Council itself has been
expressly preserved. The High Court,
therefore, is not the "centre and crown"
even of the State judicial system any more
than it can be described as "the centre
and crown" of the Federal judicial system.
In using these nice expressions, we should
be very careful to pay due regard to
legal and constitutional accuracy. But,
to address myself to the three funda-
mental objections which I find upon the
face of this Bill. The first is that we
are asked to vote in favour of a High
Court. The Attorney-General has declared
that under the Constitution it is absolutely
mandatory upon us to create that tribunal.

But I would remind the honorable gentleman that even assuming that the words, "the judicial power of the Commonwealth shall be vested in the High Court," are mandatory, they are mandatory only to the extent of creating a High Court of Appeal. That is the limited extent to which they are mandatory, even if they are capable of that signification, which I am not prepared to admit.

Mr. DEAKIN.—Surely the honorable and learned member is taking a very narrow view of the judicial power.

Sir JOHN QUICK.—Under that section of the Constitution, the only thing mandatory is the establishment of a certain court of appeal with certain special powers of original jurisdiction. This Bill proposes to create something more than a High Court vested with the functions of a Federal Court of Appeal, because it goes further than the provisions of the Constitution which endow the High Court with certain appellate jurisdiction and the limited original jurisdiction disclosed in clause 75, and proceeds to clothe the new tribunal not only with the special attributes assigned to it under the Constitution—of which we cannot deprive it—but with extra powers which are purely optional. Thus it is proposed under this Bill to establish not merely a court of appeal or a High Court having only appellate jurisdiction, but to clothe it with the full measure of legislative authority and power with which it may be clothed.

Mr. JOSEPH COOK.—The idea is to make some work for it.

Sir JOHN QUICK.—Apparently that is the object. But even assuming that the contention of the Attorney-General is correct, and that we are bound by a mandate of the Constitution to establish the High Court, we are not bound to establish it and to vest it with extra original jurisdiction. In other words, we are not compelled to ask it to perform the duties of a court of first instance, in addition to those of a court of appeal. There may be something in favour of the immediate establishment of a court of appeal, or of its establishment within a reasonable period, but under the Constitution there is nothing to compel us to establish a gigantic judicial organization, which will take away from the State courts a large measure of the jurisdiction which has been exercised by them, and which they could continue to exercise. I deny that there is any statutory mandate of a coercive character

to establish a High Court at the time, and in the present circumstances, in Australia. In this connexion I draw attention to the fact that, though the Constitution lays it down that the powers of the Commonwealth shall be vested in the High Court, it is fixed when they shall be exercised. It does not say that it shall be exercised within two years, or within any time. There is one case where a power is fixed in the Constitution. It is provided that within two years of the establishment of the Commonwealth a Tariff shall be passed. But even in that case, what was there to compel the Parliament to pass a uniform Tariff within two years? Could it be said that the Government would lie to compel the Parliament to agree to a uniform Tariff, although it was fixed? In the same way, there is nothing to coerce us to pass this Bill at the next session, or the session following, because I apprehend that the Government can decide without an Act, and without the Parliament, whether the time has arrived for the establishment of a High Court, or any other court of Federal jurisdiction. I should like to see a passage from Judge Curtis's *Journal of the United States Courts*, where a case of the same kind is referred to. 134 he says—

It was contended, formerly, that the absolute duty incumbent upon Congress to organize the Judiciary Act gave effect, to vest of this judicial authority in some court of the United States. It is, however, perfectly well settled that whether this duty is incumbent upon Congress or not, it is a perfect application, and one which the United States cannot enforce.

So that I think that too much has been laid upon the words of the Constitution that the judicial power shall be vested in a High Court. It is merely a direction that something must happen in the course of events, and Parliament must decide when it is to happen. With reference to this original jurisdiction, I join with honorable members who have preceded me in strongly opposing against the fundamental feature of the Constitution, which is to vest the proposed additional Federal jurisdiction as supplementary or primary jurisdiction. It does not take away from the High Court of the character of a court of appeal, and it takes away much of the Attorney-General's argument

ely necessary to establish a High Court. If it is necessary to have a court as he says, why does he surround all this paraphernalia of original jurisdiction? Is it not quite certain that he must feel convinced that of the High Court as a court would be utterly inadequate with five Judges, and that therefore it is thought advisable to hand over some new work in the shape of primary jurisdiction, so that the court may be kept employed? The second question which I have to the rest of the Bill, which I find on its face is this: That certain parts provision is apparently made for conferring Federal jurisdiction on the courts of the States, and in other parts jurisdiction is taken away. It seems to me that these words have been

—
the word of promise to the ear, and broken to the hope.
It is absolutely a sham to say, in one part of the Bill, that the State courts are to be kept within Federal jurisdiction, whilst in another part provision is made for taking away jurisdiction without rhyme or reason, or most at the caprice of any litigant. It is to be found in part 7, which is for the removal of causes. Part 6 is for Federal jurisdiction by State Court, and apparently gives them a *bond* and a right to enter on the jurisdiction of certain classes of Federal cases, and yet when we come to part 7 we find provision that in all cases except three is a writ issued in a State court in which the matter than the defendant may only take action to remove it to the Supreme Court. In clause 41 it is provided that certain matters, not enumerated in the Bill, shall be within the jurisdiction of the courts of the States, in a very broad sort of way. If honorable members will turn to clause 41 and see how they will find that it is very unique. It says that the jurisdiction of Federal courts shall be exclusive of the jurisdiction of the State courts of the States in certain cases. In that class of cases the jurisdiction of the High Court is absolutely exclusive of the States courts even in matters of primary jurisdiction. Then clause 41 says—
“The jurisdiction of federal courts in matters mentioned in the last preceding section shall be exclusive of the jurisdiction of the several courts of the States, except as provided in this

That certainly seems a very extraordinary way of legislating. First, it says that the jurisdiction of the Federal Courts shall be exclusive of the jurisdiction of the State courts, and then it goes on to say, except in certain cases. What are the cases which may be to some extent considered by the States Courts. A case arising under the Constitution can be initiated in a State Court. A case arising under a Federal law such as the Customs Act, or the Post and Telegraph Act, can be initiated in a State Court. Any case arising between residents of different States may be initiated in a State Court. Any case arising under admiralty or maritime jurisdiction can be initiated in a State Court. Any case where the subject-matters claimed arise under the laws of different States may be originated in a State Court. That reads very well, but when we turn to clause 42 we find that—

Any suit involving a matter of federal jurisdiction which is at any time pending in the Supreme Court of a State may, subject to the provisions next hereinafter contained, be removed by any defendant therein to the High Court as of right in manner prescribed.

Does not that show that the provision apparently giving jurisdiction to States courts in the five classes of cases I have enumerated, is absolutely a sham? I wish to know why it is proposed in one clause, apparently, to give the States courts jurisdiction in these five classes of Federal cases, and, then in another clause to take away the jurisdiction at the caprice of any defendant, except in three small cases. What is there so special in cases arising under the Constitution, or under Federal laws, that the Supreme Court of the States should not be trusted with primary jurisdiction? What is there so peculiar in that class of work that the Supreme Court of a State should be subjected to the indignity of a case being withdrawn from its jurisdiction on the motion or application of any dissatisfied defendant? There is nothing at all to justify it.

Mr. CONROY.—And at any stage, probably just before a decision is to be given.

Sir JOHN QUICK.—Probably finding from the drift of the arguments that it may go against him he steps in with a petition to remove the case to the High Court.

Mr. DEAKIN.—That is only to apply where the court is satisfied that there is just cause.

Sir JOHN QUICK.—Under clause 42 any suit may be removed by any defendant

to the High Court as a matter of right, except in three cases.

Mr. DEAKIN.—Five cases.

Sir JOHN QUICK.—There are other cases in which the High Court can remove a suit—even these three cases—if special cause be shown.

Mr. DEAKIN.—Exactly ; but a defendant cannot remove a case at any stage as of right. He must come in before he has entered his defence, as the honorable and learned member will see if he looks at clause 43. Unless the litigants so desire, it need not be removed at all.

Sir JOHN QUICK.—I do not know why a case arising under the Constitution, or under the Customs Act, or the Post and Telegraph Act, should be subject to the liability of being removed under the conditions indicated in the Bill.

Mr. DEAKIN.—If the litigants do not want a case to be removed, it need not be removed.

Sir JOHN QUICK.—It does not require the concurrence of both parties to remove a case. One dissatisfied party may remove a case without rhyme or reason. I should like to direct the attention of the House to a provision of the Bill to which attention has not been very forcibly directed up to the present time, and that is the provision that in the event of a dispute between the residents of different States, although it may be on a matter relating to State law or State contracts where no Federal question arises at all, the defendant has a right to have the case removed from the Supreme Court of a State to the High Court.

Mr. DEAKIN.—Where does the honorable and learned member find that? Have we any power over simply State jurisdiction? We have no such power.

Sir JOHN QUICK.—Section 75 of the Constitution Act says that the High Court shall have original jurisdiction—

In all matters between residents of different States.

Clause 41 of this Bill says—

The jurisdiction of Federal Courts in matters not mentioned in the last preceding section shall be exclusive of the jurisdiction of the several courts of the States except as provided in this section.

That vests in the courts of the States the power to entertain disputes between residents of different States ; but as it is a part of the Federal judicial power to hear any dispute between those two residents if once a case of that kind is launched in the court

of a State, the non-resident defendant under this Bill, as I read it, may file a petition, and have it removed to the courts established thereunder. This is a part of the Federal judicial power, and the High Court may deal with disputes between residents of different States.

Mr. JOSEPH COOK.—Disputes between residents of different States is a matter arising under the Constitution.

Sir JOHN QUICK.—No ; disputes between residents of different States are dealt with by the ordinary laws of the States. In New South Wales it has been held over and over again that the words in the Constitution refer to disputes between residents of different States on matters of contract or anything within the jurisdiction of a State court.

Mr. DEAKIN.—We have taken notice of that kind and put them in paragraph (a) and (b) of clause 42 specially to deal with that.

Sir JOHN QUICK.—Of course, if a defendant is sued in the State where he resides, he cannot remit. But suppose a person is sued in the State where the contract was made, but not where he resides, that case he can remit. Let us take the case of a merchant in New South Wales who holds a bill given by a resident in Victoria. It is payable in New South Wales, but the maker of the bill resides in Victoria. Under this measure, if a New South Wales merchant sues the maker of the bill in New South Wales, where the contract was made or where the money was payable, the non-resident defendant may apply to remit that case to the High Court. There is no doubt that this is absolutely beyond contradiction. Is there any justification is there for interfering with a class of cases like that, making them come within the jurisdiction of the judicial power? Does it mean that these points have not been thrashed out and considered, or is it a straining to make work for the Federal judicial organization? Another class of cases brought within the scope of the High Court, and which it is proposed to remove from State courts to the High Court, is admiralty and maritime cases. What rhyme or reason is there for removing those cases? As already pointed out by the honorable and learned member for Melbourne, the courts of the States have for many years past been exercising that class of jurisdiction, and

have done their work very satisfactorily. I never heard of any agitation to get away from them their admiralty jurisdiction. I think that, at any rate, the power to take away that jurisdiction from the Admiralty Courts of Victoria, and of New South Wales, will be absolutely futile, because those are courts which are under Imperial legislation. This measure cannot in any way interfere with the unity or independence of these Vice-Admiralty Courts, though it may take away the jurisdiction which exists in the Admiralty of the remaining States. But, even should I, I should like to know why we interfere with that special jurisdiction. It is not necessary for the honour and dignity of the Federal Government, or for the efficiency of Federal legislation. Suppose we pass a Navigation Act, any disputes arising under it would arise under Federal jurisdiction and they would naturally come within the jurisdiction of the Federal Courts under the Navigation Act. Then, with reference to the matter claimed under different laws in different States, there is no urgent necessity for the provision for the removal of such cases from the State courts to the Federal Court. I believe that these provisions giving this wholesale power of removal from the State courts to the Federal Courts are undertaken from the legislation of the United States. But I would draw the attention of honorable members to the contrast between the two classes of legislation.

HIGGINS. — Drawn with differ-

JOHN QUICK. — Undoubtedly with differences — with a view apparently of loading the High Court of Australia with as much business as could be withdrawn from the other courts. This power of removal has no doubt been taken under the legislative provisions of the United States since the Judicature Act of 1887 was passed, but even under that Act there was a money limit to the power to remove. There was no Federal power unless the amount in dispute amounted to 500 dollars. But by an amendment of the judicial Act in 1888 it is enacted that no case shall be removed from the State courts if the value of those matters coming within the jurisdiction of those matters coming within the jurisdiction of the Federal judicial power unless the money at stake or the value of the property concerned, is 2,000 dollars. I should like to know whether in utilizing this instrument of removal we are to enhance the dignity and business of the High Court the question of the amount

is taken into consideration? It appears not. It is quite clear that according to the Act of the United States of 1887-8, provision was made for the removal of civil suits at law or in equity, which may have been begun in the State Courts in the following cases:—

(a) Where the case arises under the Constitution, laws, or treatise of the United States, and more than 2,000 dollars, exclusive of interest and costs, are involved. The defendant only may remove.

I am quoting this passage from Curtis on the *Jurisdiction of the United States Courts*, page 189—

(b) Where the suit is between citizens of different States, and more than 2,000 dollars, as aforesaid, are involved. The defendant, if a non-resident of the State, may remove.

(c) Where the suit is between the citizens of a State and foreign States, citizens, or subjects, and more than 2,000 dollars, as aforesaid, are involved. The defendant, if a non-resident, may remove.

But in the case of disputes between residents of different States there are additional requirements and considerations besides the money limit, namely, the defendant must prove that there is local prejudice or influence which may prevent him from getting a fair trial. I will read the section—

Where a suit, involving more than 2,000 dollars, exclusive of interest and costs, is brought in a State court, by a citizen of that State, against a defendant who is neither a citizen nor a resident in that State, such defendant may remove the suit "at any time before the trial thereof," if he can make it appear to the Circuit Court that owing to local influence or prejudice he cannot obtain justice in the State court in which the cause is pending, or to which it may be removed for trial under the laws of the State, by reason of such prejudice or local interest.

Mr. DEAKIN. — Those are from inferior courts of the United States, and that is why there is a money limit.

Sir JOHN QUICK. — No; the section is this—

Removal may be had of civil suits at law or in equity, which might have been begun in the Circuit Court, in the following cases.

Mr. DEAKIN. — That is, begun in the inferior courts.

Sir JOHN QUICK. — No; they are begun in State courts.

Mr. DEAKIN. — Our removal is from the Supreme Court of a State.

Sir JOHN QUICK. — The State courts in America have Federal jurisdiction even although there is no provision in the Constitution for vesting them with it. They

have jurisdiction to deal with Federal cases involving amounts under 2,000 dols. I will read the law—

The Circuit Courts of the United States shall have original cognisance, concurrent with the courts of the several States, of all suits of a similar nature, at common law, or in equity (1) where the matter in dispute exceeds, exclusive of interest and cost, the sum or value of 2,000 dols., and arising under the Constitution or laws of the United States ;

and so on. That passage shows clearly that the States Courts of the United States have Federal jurisdiction by virtue of an Act of Congress in all Federal matters under 2,000 dols.; and it is only where the amount in dispute exceeds in value 2,000 dols. that the removal power may be exercised, while in disputes between residents of different States it requires not only the 2,000 dols. in excess to remove, but also proof of local influence. Therefore, this power of removal, I say, is a frightful blot on this Bill, and it has been placed there without any justification. Because if there is any justification in logic, or reason, or propriety, or policy for giving the States courts jurisdiction as proposed, if we have faith to give them jurisdiction we ought to give it fully and show our confidence that they have the ability and capacity to exercise that jurisdiction. We should not give it to them with one hand, and provide for taking it away with the other. There is another question of jurisdiction of an original character, which is proposed to be conferred upon the High Court under this Bill, to which I take the strongest objection as tending to overload the court with work of an original character. It is provided in the clauses which begin at clause 64, that all indictable offences against the laws of the Commonwealth are to be prosecuted by indictment by the Attorney-General of the Commonwealth, and that they are to be conducted before a Judge of the High Court. What does that mean? At the present time, and under the powers given by the Constitution, the criminal jurisdiction may be exercised by the courts of the States. The courts of the States have, I believe, done that work very satisfactorily. All the machinery for the control of criminal business and the trial of offences is in existence and has been utilized without any duplication of courts or of offices or of Judges. Now what is proposed to be done? It is proposed to take away that power from the courts of the

Sir John Quick.

States, and to give exclusive jurisdiction to the Judges of the High Court. I should like to know why that is necessary and why it is proposed. There has been any breakdown in the operation of the Federal law of Australia, incapacity shown, or any want of due preparedness to do this work on the part of the State courts? Nothing of that kind. Yet here we have this proposal. It illustrates what it means as regards the work of the High Court, and as regards overloading and overwork. It means this. Suppose a carrier in Western Australia is charged for trial on the charge of stealing. What is to happen? A Federal Judge has to travel from the seat of government to his associate, and all the paraphernalia of a High Court Judge, and all the expenses of travelling from the seat of government to the other end of the continent, thousands of miles, to Coolgardie, to suppose—in order to try a letter-carrier—stealing a letter.

MR. DEAKIN.—He will have his own circuit.

SIR JOHN QUICK.—That brings up the circuit business. How many are these five Judges to perambulate the course of a year? It does not seem that many visits of the kind will be made in Western Australia or to the remote parts of Queensland, at any rate without a great deal of inconvenience and ground of confusion to the business of the High Court. What is to happen to the business of the High Court while they are making these pilgrimages to distant States? With reference to that kind of case, especially, I say we are sinning against light if we interfere with the existing authority exercised by the State courts in criminal jurisdiction. We shall be wasting the money of the Commonwealth. It may all be that, unless these circuit courts are held at least once in every two months, by unfortunate men who are committed to trial may have to await their trial a long length of time.

MR. DEAKIN.—Where does the hon. and learned member find all that?

SIR JOHN QUICK.—In this Bill.

MR. DEAKIN.—No, he does not. Nothing in the Bill to give the Judges of the High Court exclusive jurisdiction in such matters.

JOHN QUICK. — But the Bill enables offences against the laws of the wealth shall be prosecuted by indictment of the Attorney-General of the Commonwealth or of such other person as the Governor appoints in that behalf.

DEAKIN. — That is not exclusive. It excludes the courts of the States.

JOHN QUICK. — The States Courts, I believe, that that provision is, and that they have no power to indictable offences. They will say — do not know the Attorney-General of the Commonwealth. What right has he to come into our courts and file an indictment?"

DEAKIN. — There is no difficulty in

JOHN QUICK. — What is the good

DEAKIN. — To give the High Court criminal as well as civil jurisdiction.

JOHN QUICK. — That they may have the cases that they will try?

DEAKIN. — Not at all; but if the Sessions are due the case may be tried there. If not, it will be tried at the next sittings of the States Courts. The case official referred to by the honorable and learned member would not be sitting.

JOHN QUICK. — He will be kept sitting if the clause remains as it is, and it says that every indictable offence shall be dealt with in the manner provided by the Bill.

JOSEPH COOK. — What becomes of the victim?

JOHN QUICK. — He has to wait his turn. Clause 68 provides that —

Subject to the Constitution and to this Act, when a person has been committed for trial for an indictable offence at a sitting of the High Court, he may be held at any place, whether he has been committed to bail or not, the court or a sitting in Chambers may, on the application of the Crown or of the accused person and on cause shown, order that the trial shall take place at a sitting of the High Court at some place at a time to be named in the order.

What is the meaning of that, unless it is to give to the High Court the general power in criminal matters — jurisdiction to deal with offences against the Commonwealth?

DEAKIN. — It gives a power, but not an exclusive power.

JOHN QUICK. — It seems to me that the Attorney-General is unnecessarily multiplying the inherent difficulties of the

situation by burdening the Bill with matter of the kind to which I have made critical reference. My criticism has, I hope, been given in a judicial spirit.

Mr. DEAKIN. — Hear, hear.

Sir JOHN QUICK. — If the Bill were denuded of all these proposals — of the large original jurisdiction proposed to be given to the High Court — and if the court stood as a court of appeal of Australia alone, many of my objections would be removed; but I cannot possibly support the Bill in its present shape. It necessarily involves much work on this court, and I agree with those honorable members who have said that if all this original jurisdiction is to be conferred upon the High Court, five Judges will not be sufficient to deal with its business. If it is conferred upon it, the Attorney-General may very well be considering before long whether he will not have to increase their number to ten. If there were any congestion in consequence of this overwhelming mass of business unnecessarily placed on the High Court, the public would cry out because of the delay, pressure would be brought to bear, and other Judges would be appointed. I appreciate the way in which the Attorney-General has put the matter, that if we take away original jurisdiction from the courts of the States it will remove the pressure of work from the States Courts, and lead to a reduction in the number of the Judges in those courts. I do not believe, however, that there would be a reduction of a single Judge in any court in any State of Australia as the outcome of the transfer of this original jurisdiction from the States Courts to the High Court. We have heard much about retrenchment, and honorable members who have watched the history of the struggle in Australia during the last few years know how difficult it is to carry any retrenchment proposal. I venture to say that the States Governments and the States Parliaments would consider they were being wronged, and that their State sovereignty was being sacrificed, if they were called upon to reduce their judicial organizations consequent upon the transfer of these matters to the High Court. Not one farthing would be saved, and the honorable and learned gentleman's assumption is scarcely justified by our knowledge of public business in Australia. My objections would not be so strong if this were to be only a court of appeal, but

even as regards the necessity of creating a court of appeal during the present session of the Parliament at all events, I am not yet convinced. I shall explain why. Under our Federal laws, which have been in operation for some time, the States Courts have been exercising jurisdiction; they have been administering Federal Acts. I have taken the trouble to examine the decisions of the various Supreme Courts of the States in every case that has been brought before them for revision or review from courts of inferior jurisdiction, such as Courts of Petty Sessions. I shall deal first with the amount of Federal work that has arisen under our Constitution. I find that since the establishment of the Commonwealth, in 1901, only twenty cases under the Federal laws have reached the Supreme Courts of all the States of Australia. In the first year of our Federal history, namely, 1901, there were only two cases; the case of *Rea v. Bamford*, known as the Armidale Post-office letter stealing case, which involved the question—"Does State law operate on property or territory exclusively vested in the Commonwealth?" That case was decided in November, 1901, by the Full Court of New South Wales. The next case, that of *Kingston v. Gadd*, occurred in the same year, and in that the point involved was the breaking of the Federal Customs seal. It was decided by the Full Court of Victoria in December, 1901.

Mr. DEAKIN.—It is still on appeal.

Sir JOHN QUICK.—On appeal by the defendant, not by the Federal Government. Both these cases were eminently Federal decisions of a most important character, and I shall point out presently how satisfactorily these States Courts have been doing their work. In 1902 only ten Federal cases came before the Supreme Court Benches of the whole of Australia, while during the present year there have been, up to the present time, eight cases. That represents twenty cases during two and a half years.

Mr. CONROY.—Some of them being merely ordinary claims for negligence.

Sir JOHN QUICK.—Yes. Even for the full twelve months of 1902 only ten cases arose under our Federal laws, and came before the Supreme Courts of the States. These, if the Bill had been in operation, would have come before the High Court of Australia on appeal. So

that ten cases per year would be divided amongst five Judges—ten each.

Mr. McCAY.—But they would have gone to the High Court.

Sir JOHN QUICK.—Of course, but if they had, these ten cases would have been all the Federal business that have been provided for the High Court by five Judges.

Mr. DEAKIN.—Some of our legislation has been passed only a few months, and many cases have been held back in the meantime. The early establishment of the High Court is a great advantage.

Sir JOHN QUICK.—We might have imagined that during the first years of our existence our legislation would be closely examined, and vigorous attention would be paid to it. I do not think there will be a crop of litigation in time to come, which occurred in 1902. The ten cases constituted a regular harvest in comparison with what is likely to follow. Most of the difficult questions are being settled; and the work that has been decided involves a serious and leaves less for the High Court. I am now to the character of the work done by the decisions given by the States Courts, and I would invite attention to this point. Judging from the work done by the decisions given, the Federal Government or those who have peculiarly sensitive views, need have no apprehension of the capacity of the States Courts Judges to interpret our Federal legislation. Out of the whole of these twenty cases I do not know of a single decision that has been made by any single Judge, or by any Full Court of Australia, that is not sufficient to command confidence and respect. Even if some of them may be disagreed upon, I venture to say that the judgments of the States Courts, some of the Judges sitting in the Supreme Courts of New South Wales and Victoria, have been of a very high judicial character, and will compare favorably with the great American decisions, which are all so proud to read and quote. I wish to indicate any particular judgment in the decision of the Full Court of Victoria in the case of *Kingston v. Gadd*, a masterly judgment, and although it was made in the early years of our Federal history, when one might have found a want of novelty in dealing with the questions, I was amazed and delighted to find what a thorough grasp of Federal principles the judgment in that case displayed.

responding case of *ex parte Oessel*—which the same question was discussed brought before the Full Court of New South Wales in 1902, nearly twelve years later. I have read the decision in that case, and it is also entitled to be pronounced a masterly Federal judgment. I believe that any man can be found in Australia who could claim to exceed in impartiality, and in judicial independence and discrimination the Judges of the State Courts who gave the decisions to which I have referred. I say, therefore, that the State Courts, including the Judges of the State Courts as courts of appeal, as well as the Federal Courts that have so far dealt with Federal matters, have done their duty as well as to inspire respect, and not to excite any feeling of distrust that the Federal laws will be dealt with in a partial spirit. I think we can trust any of the State courts of Australia to deal fairly with the Federal laws, and to deal out justice in the States as well as to the Federal Government. In the case of *Stephens v. Gollin*, decided by Mr. Justices Hodges, in 1902, it was held that duties were not payable on votes of the House of Representatives. That decision is absolutely unchallengeable. Even if it went to the House of Representatives, or to the Privy Council, or any tribunal in the world, it would be held to be correct. In the case of *Stephens v. Robert Reid & Co.*, raising a question of the liability of a person for making a false entry, and the question of whether it is necessary to prove guilty knowledge in a class of information was also determined by Mr. Justice Hodges, it was held that it was not necessary in certain cases to prove guilty knowledge. The same principle was subsequently affirmed by Mr. Justice Gollin in the Queensland court in the case of *the Collector of Customs at Brisbane v. Gallagher*. Those two decisions are unchallengeable. I do not see any cause for dissatisfaction or for going on with the High Court to themselves against unfair decisions of the State Tribunals. In the case of *Alcock v. Mr. Justice Hodges* the decision of the inferior court, on the ground that a certain statement was untrue was not untrue. That is well known as "the billiard-table case." Who can challenge the accuracy of that decision? It was against the Federal Government, of course, but now in the calm

light of after reflection and review, even the Minister for Trade and Customs must admit that that decision was perfectly correct. In the case of *the Commissioner of Taxes of Victoria v. Wollaston*, the liability of a Federal officer to pay State income tax was considered and discussed.

Sir EDWARD BRADDON.—The court was wrong.

Sir JOHN QUICK.—I do not know about that. At any rate, that case was very ably argued. Although there was one very strong American case in favour of the view put forward by the Federal Government that Federal officials were exempt from income tax, still the Canadian cases were very conflicting, and I do not think any reasonable ground of complaint arises in those cases. The decision, at any rate, was not against any Federal law.

Sir EDWARD BRADDON.—Hear, hear! It only stretched a local law too far.

Sir JOHN QUICK.—In the case of *Hannah v. Drake*, a Sydney cabman's claim against the Postmaster-General for negligence before the passing of the Federal Postal Act, it was held that the State Court had no jurisdiction. That decision was perfectly accurate, and it led to the passing of a Bill which is now law, giving the States Courts jurisdiction to deal with claims against the Commonwealth. That is a very proper Act, and it only requires to be extended a little to make it work smoothly. Another case, *Donohoe v. Sargood and Co.*, came before Mr. Justice Pring, of the Supreme Court of New South Wales, and in that case a very important decision was given as to what constitutes an "entry." The decision was eminently in favour of the Minister for Trade and Customs, and I suppose the right honorable gentleman has no complaint to make against it. In the case of *Stephens v. Gollin and Co.* the defendant was charged with importing prohibited articles—exhausted tea—in October, 1902, and a question as to the standard of purity was decided by Mr. Justice Hodges, of Victoria. There was the case, *ex parte Oesselmann*, arising from the breaking of the Federal Customs seal, and that was decided by the Full Court of New South Wales. In the case *ex parte Schuch* for smuggling cigars, contrary to State law, as there was no Federal law dealing with smuggling at the time, prosecutions were instituted after the passing of the Federal Customs Act, and the

conviction under the State law was confirmed by the Full Court of New South Wales. That was not challenged, and if it were carried to the High Court or the Privy Council it would probably be sustained. The case, *Donohoe v. Healey*, was the illicit still case to which reference was made on a former occasion. The magistrate held that proof of the possession of a still was evidence of guilty knowledge, and that decision was quashed by the Full Court of New South Wales. Then there was the case of the *Collector of Customs (Rockhampton) v. Gallagher*, to which I have already referred as having been decided by Mr. Justice Power. In the case of the *Collector of Customs (Brisbane) v. Robert Reid and Co.*, penalties were inflicted for making false entries by Mr. Justice Cooper and a jury of the Supreme Court of Queensland, in April, 1903. In the case of the *Attorney-General of New South Wales v. the Collector of Customs*, there was involved the power of the Federal Government to tax State imports.

Mr. DEAKIN.—To make them liable to import duties.

Sir JOHN QUICK.—That case was decided by the Judges on the construction of our Federal Act. Because it was said that our Federal Act did not explicitly and expressly tax State imports, therefore they were not taxable.

Mr. DEAKIN.—They went further than that.

Sir JOHN QUICK.—Two Judges went further than that, but that is *obiter dicta*, and not necessary to the decision.

Mr. DEAKIN.—Two out of three went further.

Sir JOHN QUICK.—The opinion was expressed in this House, while the Tariff Bill was under consideration, that there was no power under the Constitution by which this Parliament could tax State imports. Personally I should be glad to hear that the decision in that case was overruled by the Privy Council, but I am afraid it will not be. In the case of *Donohoe v. the Le Coisepellier* the prosecution was under the Immigration Restriction Act of a ship captain for allowing one of the crew to escape from his ship, and the liability of the ship captain was decided by the Supreme Court of New South Wales. I have been able to find only one case in Adelaide, that of the *Collector of Customs (Adelaide) v. Foale and Co.* That was a false entry case, involving the

power of the Collector of Customs to make a declaration. It was decided by the Full Court of New South Wales, and it must be reversed, and it was held that the Collector of Customs had power to make a declaration.

Mr. GLYNN.—There was another case on the same point.

Sir JOHN QUICK.—There was a case in that case for the Federal Government to complain of. The next case was *Stephens v. Abrahams*, which involved the validity of the Customs Act, and the joinder of taxation, with other matters. The validity of the Act was sustained by the Court of Victoria reversing the decision of the Chief Justice Madden, in April, 1903. In the case, *Goldring v. Collector of Customs (New South Wales)*, decided by the Full Court of New South Wales, was one in which a writ of *habeas corpus* was applied for for a mandamus to compel a Customs officer to pass an entry. The Supreme Court held that it had no jurisdiction. It was surely hardly necessary to go to the Supreme Court to have the decision decided, because it is quite plain from the Constitution that the Supreme Court has no jurisdiction of that kind. That does not mean that there is no jurisdiction for the plaintiff in that case, but in the case of *Julian Salomons*, counsel for the plaintiff, admitted that although the plaintiff had no right to this special extra remedy of a mandamus, an action would lie. The plaintiff made a mistake in applying for the wrong remedy, but an action would lie under the Claims against the Commonwealth Act.

Mr. THOMSON.—He could not get a writ of books.

Sir JOHN QUICK.—Then he could sue for them by action. He should get the proper remedy under the Federal Act. The provision has existed in the United Kingdom Constitution for the granting of writs of mandamus against a Federal officer. That Constitution has worked well. I have drawn attention to this case, although they may perhaps have been wearying, for the express purpose of showing—firstly, that these States have done their work very well up to the present, and secondly, that the amount of work arising under the Constitution of the Federal Parliament is very small, indeed, and is not sufficient to justify the establishment of this huge and expensive organization in the

our history. I regret that so due anxiety has been shown by Government to push on with this Bill. No ground of urgency. I see no serious issues awaiting determination. At this critical juncture of our financial affairs I fear that the pressing forward of a measure of this magnitude, involving it is a sum of £30,000 a year to begin with and other thousands to follow, will shake the minds of the people of Australia and of the constituents to whom we are responsible, a feeling that we are not managing the finances with sufficient care and economy. Take the case of Victoria. I read to-day's paper the statement that the deficiency in our railway income for the last twelve months amounts to upwards of £100,000. Will honorable members consider what that means, and what it will do? It has meant reduced pay to our railway people, a reduction in the staff, and a reduction in the maintenance of the line. It has meant an increase in our income tax and a reduction in the minimum exemption, and it will lead to further taxation unless this Federal Government sets the example of trying to reduce unnecessary expenditure. If it is a matter of life and death, a matter of the safety of the State, for the defence of the Commonwealth against an invader, I understand that we should be justified in doing as much as would be absolutely necessary for our protection. As we have got on during the last two years of our Federal Government without this High Court, let us try to do so a little longer. There is no reason for rushing this through at the present time. Let the constituencies of the Commonwealth have an opportunity of consideration, and let those returned to Parliament deal with the question. Should we hasten its decision? Why should there be this rush in the last session of Parliament to get this Bill through, to create all these various lucrative positions? There is no doubt that it will excite the passions amongst the constituencies. It is well to say that it is a part of the Federal ideal. Of course we all desire the Federal ideal, but there is no reason to come during which it may be delayed and its various outlines painted in a way which we can expect, or desire to commend. The Federal fabric in the first Parliament there is no necessity nor any demand that we should do so? I like to see our Federal Constitution

developed gradually, and the fabric of our Federal institutions regarded as were some of those old cathedrals which were originated, and were gradually extended and developed with the years according to the requirements of the times and the genius, capacity, and ability of the people amongst whom they were erected. Let us not have any undue haste in this matter.

Mr. DEAKIN.—There has been a call for it all over the Commonwealth during the last twelve months.

Sir JOHN QUICK.—I have not heard of it. I have not heard it called for in Victoria. Of course I cannot speak for the other States.

Mr. DEAKIN.—It has been called for in the other States.

Sir JOHN QUICK.—It has not been called for in either the city or the country districts of Victoria. Public opinion is there dead against it, and I say we should respect public opinion, and not set our faces against it.

Mr. DEAKIN.—We ought to educate it.

Sir JOHN QUICK.—No. I am not prepared to educate it. I decline to do it. These Federal requirements ought not to demand that the people should be educated upon them. They should grow insensibly and gradually, and I decline to accept any responsibility for public expenditure of this magnitude unless the natural course of the development of our Constitution points with the finger of irresistible knowledge to its necessity. If that can be shown I am prepared to vote for it, but I am not prepared to take the responsibility at the present juncture, especially in the shape of voting for this Bill. I therefore do trust that the Government will not strain the views of their supporters who do not wish to be placed in any unpleasant or awkward position, by asking them to vote against their convictions. I cannot strain my convictions so far as to vote for this Bill. Therefore for the reasons I have stated and for other reasons which I shall not go into, but which have been so well elaborated by the honorable and learned members for South Australia and Northern Melbourne, I express the hope that this Bill will not be pushed forward.

Debate (on motion by Mr. McCAY) adjourned.

House adjourned at 10.30 p.m.

Senate.

Wednesday, 10 June, 1903.

The PRESIDENT took the chair at 2.30 p.m., and read prayers.

PAPERS.

Senator DRAKE laid upon the table the following papers :—

Papers relating to the refusal of certificates of domicile to three Chinese residents of the Northern Territory.

Further papers relating to the admission of certain boiler-makers under contract into Western Australia.

Memorandum by the Treasurer, relating to the payment of rebate of excise laid on Australian-grown sugar by white labour.

BASS' STRAIT CABLE.

Senator DOBSON asked the Postmaster-General, *upon notice*—

1. Is it the intention of Ministers to submit to Parliament any proposal for purchasing the cable between Tasmania and Victoria?

2. Would it be a breach of the existing contract with the cable company for the Commonwealth Parliament to provide for the establishment and working of a system of wireless telegraphy between Tasmania and Victoria?

Senator DRAKE.—The answers to the honorable senator's questions are as follows :—

1. It is not the intention of Ministers to submit to Parliament during the present session any proposal for purchasing the cable between Tasmania and Victoria.

2. A legal opinion is being obtained, and, pending this, a definite reply cannot be given.

Senator KEATING asked the Postmaster-General, *upon notice*—

1. Is it the intention of the Government during the present session to submit to Parliament a Bill to authorize the purchase by the Government of the Commonwealth of the Bass Strait cable?

2. If not, what steps, if any, are being taken in the direction of acquiring this cable for the people of the Commonwealth?

Senator DRAKE.—The following are the answers to the honorable and learned senator's questions :—

1. It is not the intention of the Government during the present session to submit to Parliament a Bill to authorize the purchase by the Government of the Commonwealth of the Bass' Strait cable.

2. An offer has been obtained from the Extension Company, and an inquiry has been made as to the value of the cable and other property in connexion therewith, but a final report has not yet been received.

VOTE FOR BUILDING

Senator PEARCE asked the Postmaster-General, *upon notice*—

1. On what basis is the money (vote for erection and maintenance of buildings transferred departments) allocated to the States of the Commonwealth?

2. In the event of any vote being allocated at the close of the financial year, will unexpended be added to the share of the States for the ensuing year in addition to its proportionate share?

Senator DRAKE.—The answers to the honorable senator's questions are as follows :—

The amounts voted were not allocated to the States. Estimates of the actual requirements of the various States were submitted to the Government, and the expenditure was charged to the States in which it was incurred. When a provision is made to the States for purposes of fortification, the amount of this expenditure is included.

FORTIFICATIONS: ALBANY

Senator PEARCE asked the Postmaster-General, *upon notice*—

In the case of the officer in charge of the Princess Royal Battery at Albany, Western Australia, who without authority sent Japanese officers from visiting warships to inspect the fortifications, what punishment has been inflicted upon the officer?

Senator DRAKE.—The answers to the honorable senator's questions are as follows :—

This matter has been referred to the Commandant of the Commonwealth Force at Albany for a full report.

STANDING ORDERS.

Senator DRAKE (Queensland) asked the Postmaster-General.—I beg to move

That the Senate do now resolve to refer to a committee of the whole for the purpose of considering and adopting the standing orders reported to the Senate by the Standing Orders Committee on the 9th of October, 1902, amendments recommended by the Standing Orders Committee in special report to the Senate 4th June, 1903.

It will be remembered that previous to the first meeting of the Senate, the standing orders were framed for adoption, and that it was slightly amended, and laid upon the table in the amended form on the 10th of June, 1901. A motion was made for the temporary adoption on the 5th of June, 1901, soon after the appointment of the

Committee. The matter was discussed then, but the Senate was not prepared to discuss the standing orders at all, and was not disposed to adopt them at discussion. It, therefore, referred the matter to a small committee, who were asked to consider the standing orders in the States Parliaments, and to bring in the following day a report recommending the adoption of one set of standing orders. It was pointed out that it would be most impossible for any committee to perform the task in that short time. But, nevertheless, on the next day, the Committee brought up a report recommending the temporary adoption of the standing orders of the House of Assembly of South Australia, with a few exceptions, they were adopted. The Standing Orders Committee afterwards held a number of meetings extending from June to nearly the end of December, and in October, the draft standing orders as amended and recommended by that Committee were laid upon the table of the Senate. It was proposed that they should be adopted by the Senate as a temporary expedient. That course did not find favour with the House, and, consequently, we have been acting since June last under the standing orders of the House of Assembly of South Australia. In respect, perhaps, that course may not have been a disadvantage, because we have been during that time thoroughly well acquainted with the standing orders under which we have been working, and can remember now as a point of departure in framing new standing orders. It will be seen, in considering the standing orders before the Senate, that the side-note is that they are, to a large extent, taken from the standing orders of the House of Assembly of South Australia. But it does not follow that these particular standing orders have been adopted by the Committee with reference to the standing orders of the States. In a great many States the standing orders of the various Legislatures are most identical. But where a standing order is practically the same as that which has been working under since June, no reference is made in the draft to the standing order of the House of Assembly of South Australia, and not to the standing order of any other State, so that it may be actually identical. I think that we shall be able, as the result of our reports now, to evolve a code of standing orders that will allow the fullest possible

freedom of debate to all members of the Senate, and at the same time not leave any opening for unnecessary discussion, or for what may perhaps be called a waste of time. Up till now I think it will be agreed by all that our debates have been well conducted. We have dealt fully with every subject that has been brought forward, and at the same time we have been able to keep our debates within reasonable limits. I think that that will happen also under the new standing orders. I propose to glance, briefly only, at the new standing orders, and to point out what appear to be amendments of the standing orders under which we have been working for so long. I cannot tell the Senate the reasons which have actuated the Standing Orders Committee in their recommendations, as I was not a member of that body. But I have no doubt that the members of the Committee and you yourself, Mr. President—whom I notice as having been asked to take charge of the report in committee—

Senator CLEMONS.—Where does the Postmaster-General notice that?

Senator DRAKE.—In the report of the proceedings of the Committee on page 16. The reference there I take to mean that you, sir, as the Chairman of the Standing Orders Committee, will, in the course of the debate, explain to us, where necessary, the reasons that actuated the Committee in the alterations they made. I am glad, also, to see from their report that the Committee communicated with the Standing Orders Committee appointed by the House of Representatives with a view to secure uniformity, as far as possible, in the standing orders of the two Houses, and that that result has been arrived at in most cases. It would put us in a somewhat stronger position if the Committee were able to inform us that they and the Standing Orders Committee of the House of Representatives had been able to come to an agreement in all cases. I have had occasion, in my cursory glance at this report, to refer to particular orders in which the other House is particularly interested; and I think it would have been a great advantage if the Standing Orders Committees of the two Houses could have come to an agreement upon those matters. The greater number of our standing orders have to do with the internal work of this Chamber only, and in regard to them

we should, perhaps, be justified in resenting any assistance that might be offered from outside. But in regard to standing orders which, by their nature, necessarily bring us into contact with the other Chamber, it would have been an advantage if we could have had agreement. Without it we may by our standing orders practically compel ourselves to take a certain line of action which may bring us into conflict with the other Chamber. In those matters it seems to me that it would be a wiser, and, perhaps, almost a more courteous thing to delay coming to a decision until such time as the subject could be discussed thoroughly with the corresponding body appointed by the House of Representatives. I shall refer now only to the alterations which have come particularly under my notice, and make such observation as may appear to me to be pertinent to the subject as I go along. The first chapter, honorable senators will notice, deals with the proceedings at the opening of Parliament. That is merely an embodiment of the practice that has been adopted in the past, and which, probably, we shall follow, as we naturally follow a precedent wherever we can even if we have no standing orders on the subject. When we come to discuss that, I may have to refer to one or two matters which at the present time are not quite clear to me, but there appears to be nothing calling for serious objection. When we come to chapter 2, I shall ask honorable senators to direct their attention to Standing Order 25, in which, I think, there is an innovation. I am not prepared to say—and in this matter and others I am not in the counsels of the Committee—that it is not perfectly right; but it appears to me, from my knowledge of the proceedings in the particular State from which I come, that this provision is an innovation. I refer to the provision that the President, in presenting the address in reply to the Governor-General shall claim in the name of the Senate “the right of free and direct access and communication with His Excellency.” It may be merely a trifling matter of form, but under the practice to which I have been accustomed the Speaker and, I think, the President, ask that the most favorable construction shall be put upon the actions of the Chambers they represent. The proposed form is somewhat new to me, but I have no doubt that the members of the Committee will

Senator Drake.

be able to tell us why it has been adopted. Standing Order 26 deals with the question whether our sitting should constitute a continuous Parliament, or whether at each election of the House of Representatives, and of half the Senate, a new Parliament commences. In the case with which I have had the most to do, the proceedings of the Parliament are divided into separate sessions. After every general election a new Parliament is held to be a new Parliament. That is the case with us, and that be so in our case, this session will be the first session of the first Parliament. The next session will be the first session of the second Parliament. The question is whether we can take power in our standing orders to bind by an act of our Parliament. That is a matter upon which I invite discussion. There is no doubt which I have to call attention to in chapter 5, Standing Order 25. The Standing Orders Committee deal with the Printing Committee. At the present time the standing order power should be conferred with the similar committee of the House of Representatives. In the matter of printing more than anything else, it is desirable that the Committees of the two Chambers should confer and act together. I will give one instance of the desirability of so doing. In the printing of papers upon the tables of the two Houses, and in getting them printed, we are in this difficulty. In the House we have made an arrangement by which papers, wherever possible, shall be printed simultaneously upon the tables of the two Houses, we may have each House to make a separate order that papers shall be printed in which case technically duplication of a paper will have to be issued. In the Senate, to-day I have laid some papers upon the table of the Senate. Those papers have already been laid upon the table of the House of Representatives. So that the House of Representatives have before we did, they probably have already said that those papers shall be printed. I do not ask for any such order to-day, but I believe that a similar order had been made in the other House, but in case it had not been made, we might be obliged to make a paper and find that it had not been printed and circulated because no order had been obtained from either House. It is desirable that in these matters the Printing Committees should co-

re should be a close understanding of them in order to insure that, for a paper was required to be printed by order of the House and circulated amongst the members of both. That would prevent the printing of papers which were not re-quiring to be printed at all, or the other printing of papers which were required to be printed, although they were laid on the tables of both Houses simultaneously.

MR. CHARLESTON.—What power does Standing Order 35 give?

MR. DRAKE.—There is power to suspend under that standing order, and also under Standing Order 34, but not under Standing Order 36. I presume that that is only an accidental omission. An alteration will be made in Standing Order 38 in consequence of the passage of the Electoral Act which provides for a different method of dealing with disputed returns. Honourable members will see that an Elections and Returns Committee will still be necessary in order to deal with matters respecting qualifications of senators, or vacancies in the Senate, or the case of any senator who has been appointed but not elected. The proposed standing order will therefore be somewhat amended.

MR. BEST.—The necessary amendment has been made in the new standing order which the Committee has circulated.

MR. DRAKE.—I believe a suggestion of an amendment is made in a special order which is to be considered together with the one we are now discussing. Standing Order 48, chapter 8, which deals with provisions for leave of absence to senators, provides that a motion is not to be

MR. CLEMONS.—A motion of the kind was made last session on the initiative of the Minister-General.

MR. DRAKE.—That only shows how necessary it should be in making the proposed amendment. We can conceive of cases in which it would be desirable to, at all events, suspend the words on a motion of the kind.

MR. WALKER.—The standing orders are suspended.

MR. DRAKE.—But in framing the standing orders we endeavour to avoid the necessity of suspending them. We intend that our proceedings shall always be governed by the standing orders,

and, to that end, in such a task as that in which we are now engaged, we try to avoid leaving any ground for suspension. Chapter 9 deals with the sitting and adjournment of the Senate, and Standing Order 59 deals with motions for adjournment, in which I am inclined to think is a very fair and proper way, so as to provide for occasions when a senator desires to debate any specially urgent matter. In such a case the senator has to state that the subject which he desires to debate is a definite matter of urgent public importance; and four senators have to rise in their places to support him. The senator then has the floor of the House, and by the next standing order the duration of the speeches is limited. These standing orders deal with a matter which may be considered, because it brings into operation certain regulations with regard to the right of moving the adjournment of the House for the purpose of discussing grievances. In chapter 10, which deals with the routine of business, a little alteration will have to be made in regard to Ministers fixing the order of Government business. As the standing order under this head reads, it applies only to days when the Government business takes precedence, but, of course, exactly the same reason exists on ordinary as on special days for the Government putting their own business on the notice-paper in the order they desire. For instance, on Fridays, when private business finishes at one o'clock and Government business comes on after the luncheon hour, it is just as important that the Government should be able to fix the order of their own business as it is on any other day. Chapter 16 deals with the "previous question," which, I think, could have been moved in this Chamber before under the rules of the House of Commons, though it was not specially provided for in our standing orders. It is now provided for in accordance with the practice that obtains in most Parliaments. Chapter 18, which deals with divisions, provides that the President or Chairman may vote wherever they may be sitting; and this clears up a little difficulty which arose last session.

Senator CLEMONS.—Perhaps it would be better to say that this standing order is intended to clear up a difficulty.

Senator DRAKE.—On my reading of the standing order it will prevent any difficulty arising in the future. There is an important

alteration in chapter 19 with regard to public Bills. In this chapter it is provided that a public Bill may be brought in if necessary on an order of the Senate. I presume that to mean that where a resolution has been carried in favour of the introduction of a Bill, with a second resolution, practically instructing the Government to bring in the Bill, that shall be considered sufficient without further formality. It means, I take it, that such a Bill can be brought in by the Government at any time, the resolution being regarded as the order of the Senate. Standing Orders 181 and 182, which deal with first readings, contain an innovation which seems to have become necessary in consequence of the constitution of these two Houses. We have been accustomed to have the Estimates laid on the table, and an opportunity has generally been taken for discussing those Estimates on the second reading of a Supply Bill, though strictly speaking, according to the standing orders, a second reading discussion should be relevant to the subject-matter of the Bill. The two standing orders to which I have referred provide that on the first reading of a Money Bill there may be a debate, which need not be relevant to the subject-matter of the Bill. I presume that that is intended to be exactly the counterpart of the debate which takes place in the other Chamber on going into Committee of Supply, when there is a general discussion of grievances, according to an old practice handed down from time immemorial. Standing Orders 235 and 236 deal with lapsed Bills, and there again, I think, will arise the question as to whether the sessions of Senate are to be regarded as those of one continuous Parliament or of separate Parliaments—that is, when there has been no dissolution. I take it that though these standing orders will enable a Bill not passed in one session to be revived in another, they will not admit of a measure which has failed in one Parliament being revived in another Parliament without going through the necessary preliminaries. However, that is a matter which no doubt will receive attention when it arises in committee. Standing Orders 242 to 249 are amended by the special report, and to these I desire to direct particular attention. These standing orders deal with the action of the Senate in connexion with Bills which we may not amend. The whole question was debated last session, and it will be remembered that the Senate

Senator Drake.

then pressed a request a second time to another place, in order that the Bill might be passed, and to avoid the possibility of a dead-lock, agreed to deal with those Bills though under some sort of protest. The question now proposed is to fix our practice. I say that we may make such request at any time, and that if they are not assented to, we may then demand a free conference. I am right in saying that the Standing Orders Committee of the House of Representatives have not agreed to that, and are probably not likely to agree to it, and I ask the Senate to consider this fully, in dealing with this matter, whether we are justified in taking the course proposed, and, if justified, whether it is to do so. If we have regard to the fact that we may be pretty well sure that if we follow the practice proposed we shall bring ourselves into conflict with the other Chamber, Honorable senators may say that what seems to be right and take the course of conflict. But is it necessary for us to do so? There may be a possibility of coming to an arrangement with the other Chamber to lay down our practice beforehand? Our standing orders in this way is to lay down a binding rule on ourselves to take a certain course of action, which we know will bring us into conflict with another place. Why cannot we wait until the time comes, and then deal with it according to our best lights?

Senator PEARCE.—Then the House of Representatives had the advantage would fix the practice.

Senator DRAKE.—When the question arises?

Senator PEARCE.—Yes.

Senator DRAKE.—Surely that must be done after full consideration, probably after some kind of conference. What is proposed now, before the question actually at issue between the two Chambers, is that we shall decide the matter for ourselves without any reference to the other House. Is that likely to bring peace between the Chambers? Is it likely to place the other Chamber in the position that, unless they submit or assent to whatever rule we lay down, they must adopt some other practice which will bring them into conflict with us? Is it likely to place the other Chamber more likely to meet us if we take advantage of this opportunity to lay down a hard-and-fast rule on ourselves?

Senator HIGGS.—We had better adhere to the Constitution, and, if necessary, send it back twenty times.

Senator DRAKE.—That is the way in which the honorable senator reads the Constitution, and, if that be a correct reading, need is there for us, by means of the standing orders, to put ourselves under compulsion to take a certain line of action before a contingency arises?

Senator PLAYFORD.—The other House adhered to that practice last session.

Senator DRAKE.—I beg the honorable senator's pardon. On that occasion the House of Representatives passed a resolution to the effect that, while it was not content that the Senate was justified in sending a request a second time, they would, in order to get on with legislation, deal with it.

Senator BEST.—It was a sort of concession without prejudice?"

Senator DRAKE.—Exactly; it was a concession "without prejudice," in order that the Bill might be passed. It seems to me desirable that, if possible, this matter should be arranged on a consultation or conference of the Standing Orders Committees of the two Houses. It does not tend to peace, exactly the reverse, to take this occasion to assert that in future, when any question arises, the Senate will take a certain step. It is shutting the door to any peaceful negotiation between the two Houses, when we put it down and declare—"We are going to do this, and the other House will have to follow us and make their standing orders conform to ours." I am sure the Committee will consider this matter very carefully. Chapter 22 deals with select committees, and Standing Order 303 provides that no proposal shall be recorded. That, I presume, is to do away altogether with the practice of giving riders. I do not know what is the objection to riders, because very often a committee brings in a majority report and a minority report.

The PRESIDENT.—That is never done in a select committee.

Senator DRAKE.—I thought it was; in events in another State select committees have frequently taken that course. The last words of the standing order are—

A senator objecting to any portion of the resolution shall propose his amendment at the time the paragraph he wishes to amend shall be under consideration, but no protest or dissent shall be made to the report.

The President tells me that that is not a novelty, but it certainly is a novelty to me.

Senator PLAYFORD.—It is a novelty upon the practice in South Australia.

Senator DRAKE.—I know that in connexion with the proceedings of select committees in another State, members of such a committee have been in the habit of adding their protest to the general report in the form of a rider. All the sections of chapter 23 as originally drafted come out, and other sections 316 to 319 are substituted. These are alterations which have been made necessary in consequence of the passing of the Electoral Act. In chapter 26, dealing with conferences, I notice that Standing Order No. 340 provides that—

There shall be only one conference on any Bill or other matter.

I should certainly like to hear reasons against allowing, possibly, a second conference. When there is a dispute between the two Houses we shall all desire to come into accord somehow or other, and if, one conference having failed, a second might succeed, I do not know what objection can be urged against it. Chapter 34 deals with the conduct of senators and rules of debate. The standing order I desire particularly to refer to in this chapter is No. 393, and I am afraid that I have myself been offending against that standing order several times this afternoon. It is the one which provides that a senator shall not turn his back upon the Chair. I am afraid that I offend more often against that standing order than against any other. The President understands, I am sure that I do so out of no disrespect to the Chair. The offence against the standing order arises really from the formation of the chamber, and the place in it which I occupy when introducing or speaking upon a measure.

Senator CLEMONS.—The honorable and learned senator has abundant excuse, because there is no such standing order in any other Parliament in the world.

Senator DRAKE.—I do not rely upon that, but it is certainly exceedingly difficult, especially if interjections come from my right, to reply to them without to a great extent turning my back upon the Chair. I desire merely to draw attention to the standing order. The important amendments in this chapter appear to me to be those dealing with motions, and providing that there shall be no debates upon certain

questions. They embody, I think, to a great extent the practice which we have already adopted in debate. For instance, no debate is allowed upon the motion "That the Senate do now divide." That is a standing order which we have adopted before, and most of these standing orders in this chapter appear either to accord with the practice we have been following up to the present time, or are taken from the practice of the House of Commons. This chapter also deals with infringements of order and privilege, and provides punishments which appear to me to be rather stringent, but I suppose that in certain circumstances they would be justifiable. In matters of this sort we have to rely greatly upon the officer presiding over the Senate, or over committees of the whole, and, of course, on the good sense of the Senate itself. I do not pretend that the remarks I have made are anything like exhaustive, but I think I have touched slightly upon the principal cases in which alterations have been made from the practice which we have been following up to the present time. I hope that when we have thoroughly discussed these matters, we shall turn out a code of standing orders under which we shall be able to transact the business in this Chamber satisfactorily, and keep the debates up to the high level which has so far been established.

Senator HIGGS (Queensland).—I should like to raise a point of order as to whether it is competent for the Committee to adopt standing orders. The motion reads—

That the House shall resolve itself into a committee of the whole for the purpose of considering and adopting the standing orders—

The PRESIDENT.—That is adopting them so far as the Committee is concerned. Of course the Committee will report to the Senate, and unless the Senate adopts the report of the committee, or adopts it with amendments, the report of the Committee will of course have no effect. The Committee is only appointed to consider these matters in detail.

Senator CLEMONS (Tasmania).—I do not intend to follow the lead of the Postmaster-General, and indulge in a detailed criticism of the standing orders we are now considering, because it seems to me that such a criticism and consideration ought properly to take place in committee. It has been the custom in the Senate to debate Bills on their second reading, because all Bills are supposed to contain

some principles. The details of these standing orders we shall, I suppose, discuss in committee. But when I read the orders of the day, and note that this matter is put down as Government business, and when I am referred by the Postmaster-General to the recommendation of the Standing Orders Committee that the President be requested to take notice of the proposed standing orders in committee of the Senate, I can, I think, see some reason why the Postmaster-General went into a lengthy and detailed criticism. It is a novel thing to me to find a Government in the first place setting down as orders of the day certain business as Government business, and then immediately abdicating their position and allowing the President or any one else in the Senate to take charge of the proceedings when in committee.

Senator DRAKE.—No; we are not to do that.

Senator CLEMONS.—I am very glad to hear it. That is just the assurance I want to get from the honorable and learned senator. I am glad that the Government having placed this matter amongst the orders of the day as Government business, are now to take charge of it in committee as Government business before the Senate. Perhaps the chief reason for my rising to speak upon this matter is to remind honorable senators that no member of the Senate is more closely interested in the standing orders than our man of Committees. He will be called upon to administer them, and, owing to the fact that he occupied the Chair as Chairman of Committees during the whole of the session, the honorable and learned senator will probably be conversant not only with the standing orders under which we are now working, but also with the standing orders now submitted to us, because he has been a member of the Standing Orders Committee. But when we get into committee, Senator Best, as our Chairman of Committees, will be debarred from discussing the standing orders now submitted to us. I think it is a very great pity that the honorable and learned senator should be debarred from that disability. I therefore venture to make the suggestion that Senator Best should obtain leave from the Committee to be present when he thinks fit on any standing order. I think honorable senators will all agree that it is desirable that Senator Best should have that opportunity.

under what other circumstances, not by entering now upon a detailed criticism, Senator Best will be able to honorably senators the benefit of knowledge which he peculiarly must possess as to the desirability or otherwise of adopting these standing orders. I hope my suggestion I have made will be adopted. I have said that I do not intend to examine the standing orders in detail now, because, as I have indicated, I think this is not the proper time to do so. I can, however, assure the Postmaster-General that in committee I shall be prepared to give them as lengthy consideration as he has given them in the Senate, and to criticise them in detail quite minutely as the honorable and learned Senator has done. Having made that statement, it would not be fitting for me to proceed now with any criticism of the standing orders; and for that reason, and not because I have not many comments to make upon them, I refrain at present from further remarks.

Senator HIGGS (Queensland).—I beg to move as an amendment—

to delete the words "and adopting," line 3, be amended.

I should like to be allowed to say that I think it is not the province of the Committee to adopt these standing orders. If the motion states, the Committee is to report on them, and we are then to ask the Senate to adopt them over again, we shall be making double work, which is unnecessary.

Senator GLASSEY (Queensland).—I think Senator Higgs, in moving his amendment, is asking the Senate to take a premature departure. It is the rule in all legislative bodies that no motion finally leaves the legislative chamber until a motion for adoption has been passed. Before honorable senators are asked to depart on that rule, some stronger reasons than those advanced by Senator Higgs in support of his amendment should be submitted to them.

Senator PLAYFORD (South Australia).—It appears to me that the words "and adopting" are a mistake. I entirely agree with Senator Higgs. The Committee certainly do not adopt the standing orders, they are only put before them for consideration. The adoption is by the Senate afterwards. The words in this motion are a misusage, and it will be a great deal better to omit them.

Senator BEST.—We could insert the words "and report."

Senator PLAYFORD.—Certainly, if honorable senators like. But the motion as now framed does not express the truth, under the circumstances. We ought to ask the Committee to consider and report on the standing orders.

Senator WALKER (New South Wales).—I also think it is for the Committee to consider the standing orders and to make a report, and afterwards for the Senate to adopt that report. I am in favour of the amendment.

Senator STYLES (Victoria).—Whether the word "adopting" or "agreeing" is used, it is much the same thing. The committee can only adopt standing orders so far as it is concerned. The Senate may throw the standing orders so adopted into the waste-paper basket if it likes. It seems to me nothing unusual to use the words "and reporting." All the clauses of a Bill have to be agreed to by a committee before it can report to the Senate, and therefore it really adopts them.

Senator MCGREGOR (South Australia).—The Committee will agree to the standing orders—which is equivalent to adopting them—and the Senate will adopt the report of the Committee. If a difference is made between "adopting" and "agreeing to" at the committee stage, then it will be necessary in the Senate to move first to adopt the report of the Committee, and then to adopt the standing orders, whereas, if the motion is left as it is, the Senate will adopt the report of the Committee, and the whole business will be finished. I think it will be seen upon reflection that the motion is quite correct in form.

Senator BEST (Victoria).—I think it is quite obvious that it is not competent for the adoption of standing orders to finally rest with the Committee. No matter what word is made use of the intention of the motion is that the Committee shall consider the standing orders and come to a decision. The word "adopt" really means that the Committee shall come to a decision on the draft standing orders. Will any honorable senator suggest for a moment that if the standing orders were allowed to remain at that stage they would be the rules of the Senate? When the Committee makes its report it will be for the Senate to adopt the standing orders, and it is only then that they will have

any validity. I have to thank Senator Clemons for mentioning a matter which is more or less of a personal character. Necessarily, I take the keenest interest in the proposed standing orders. It is quite true that I was a member of the Standing Orders Committee for a portion of the time, and that we were not unanimous in the adoption of many of the standing orders. The general understanding was that we should reserve any discussion of details until the standing orders came to be considered in committee or in the Senate, as the case might be. There are certain standing orders to which I take exception, and on which I should be glad to be allowed the privilege of saying a few words, while there are certain others which I should be glad to see included. I realize at once that the consideration of these rules does not involve a party question, otherwise it would be most improper for the Chairman to take any part in the deliberations of the Committee. If, by reason of any little experience I can make any remarks which may be of value to the Committee—and the Senate accepts the view which has been expressed by Senator Clemons—I shall occasionally, if there is no objection, exercise the privilege of speaking on the standing order that is before the Chamber.

Senator DRAKE (Queensland—Postmaster-General).—I do not think that any harm can result from carrying the motion as it is. I apprehend that Senator Higgs thinks that perhaps by a very strained construction the use of the words “and adopting” may mean that the standing orders will become law when agreed to in committee. Every committee is delegated certain authority by the Senate to consider the details of a measure or proposal and to bring up a report. In this case each standing order must be agreed to. When the Committee shall have agreed to all the standing orders, then it will have adopted them as far as it could adopt anything. Its resolutions will be reported, and if they are agreed to the standing orders will be adopted by the Senate. I cannot see that any objection can be taken to the form of motion.

Amendment agreed to.

Question, as amended, resolved in the affirmative.

In Committee :

The CHAIRMAN.—May I take this opportunity to thank honorable senators

for re-electing me to the position of Chairman of Committees, and at the same time to express my deep appreciation of the honour which they have done me in that regard. I appreciate it as the highest compliment, by reason of the fact that the honorable senators were good enough to pass the motion for my appointment to this business.

Standing Order 1—

On the first day of the meeting of any of Parliament after a general election of the Senate and the House of Representatives, a general election for the House of Representatives—

(a) If there be a President he shall occupy the chair.

(b) The Clerk shall read the proclamation calling Parliament together.

Senator CLEMONS (Tasmania).—I think, is the proper opportunity to draw attention to an omission—which honorable senator must recognise as being extremely unusual—of the fact that it is had, practically existing in the Parliament of every Commonwealth, to the practice of the House of Commons in case of a difficulty arising under chapter 1 of its standing orders, under the head of the general rule and conduct of business, the House of Representatives provide that—

In all cases not provided for hereinafter by sessional or other orders, resort shall be had to the rules, forms, and practice of the House of the Imperial Parliament of Great Britain and Ireland.

I propose to move that a similar resort be inserted in these standing orders.

The CHAIRMAN.—That will not be an amendment, but a new standing order. It will have to be proposed after the consideration of the printed code is complete.

Senator CLEMONS.—At the present stage, sir, I shall move the insertion of a new standing order to that effect.

Senator HIGGS (Queensland).—I intend to propose a series of amendments to this standing order. In the first instance I move—

That the following words be inserted in paragraph (a):—“The Clerk shall cause the bell to be rung five minutes prior to the time named in the proclamation.”

I propose the amendment as a matter of convenience to senators who may be assembled in the club-room or in the precincts of the Chamber. Unless they receive a warning at some time they are

the hour in which the Senate is to meet, and come straggling in after the meeting is over.

Senator CLEMONS (Tasmania).—I wish to ask for the Chairman's ruling. I want to make an alteration, but I am not certain as to whether it takes precedence of the amendment moved by Senator Higgs.

I may point out that this chapter of the standing orders mixes up two things—the proceedings of a new Parliament and the proceedings of a current Parliament. From my point of view, those two things ought to be separated. I know what is at the bottom of the matter. What is in view is that ours is a continuous Parliament, and never ends. I think that that view is not entirely correct, in any case, it is inconvenient. I wish to amend Chapter I. deal with two separate things—(1) the proceedings of a new Parliament, and (2) the proceedings of any session of a current Parliament.

Senator Sir RICHARD BAKER (South Australia).—I have no objection whatever to the amendment of Senator Higgs. It is a matter of convenience. But I strongly object to the Senate not to admit that a new Parliament is constituted solely by a dissolution of the House of Representatives. I think the Senate to consider its own rights in its own position. If we do not be careful, we shall have a great deal of difficulty in settling this question. If we look at the Constitution we shall see that the word "Parliament" has a certain meaning attached to it. Section 1 provides that—

"The legislative power of the Commonwealth shall be vested in a Federal Parliament, which shall consist of the Queen, the Senate, and a House of Representatives, and which is hereafter referred to as the Parliament, or 'The Parliament of the Commonwealth.'"

It is to say, the Parliament is a continuous body. There is no question of a new Parliament. There is no suggestion that the Parliament dies when the House of Representatives is dissolved. The Parliament is treated as a continuous body, and the Senate is part of the Parliament. In South Australia we had some difficulty in this question, and a contest nearly arose between the two Houses in reference to the word "new Parliament." We had to consider what those words meant? Did Parliament cease to exist and a new Parliament was constituted whenever a dissolution of one House took place? I strongly advise the Senate to agree to any such proposal.

Senator CLEMONS.—How does Senator Baker propose to provide for a penal dissolution of the Senate?

Senator Sir RICHARD BAKER.—That takes place under the Constitution itself. The standing orders provide for it because in the case of a penal dissolution there would be an election for the House of Representatives. It is provided for, consequently, in Standing Order 1. This question was thrashed out by the Standing Orders Committee with great thoroughness. I also call attention to the additional fact that the Standing Orders Committee of the House of Representatives thrashed it out, and adopted this standing order altered to meet their different position. So that we have the standing orders of both Houses adopting this course of procedure. It will be a great mistake if we use a word which we find in the Constitution in a different sense from that in which it is there used, and if we use it in a sense which will imply that the Senate is not so much a constituent part of the Parliament as is the House of Representatives. I hope that the standing order will stand as drafted.

The CHAIRMAN.—I have been endeavouring to devise some means whereby I can meet Senator Clemons in his desire to move an amendment in this standing order. I think that the proper course will be for Senator Higgs to withdraw his amendment for the time being, and then for Senator Clemons to move the omission of the words "or after a general election for the House of Representatives." He can test the question on those words; but to carry out what he desires means a re-drafting of Standing Order 1, or of Chapter I. altogether.

Amendment, by leave, withdrawn.

Amendment (by Senator CLEMONS) proposed—

That the words "or after a general election for the House of Representatives," be omitted.

Senator PLAYFORD (South Australia).

—It appears to me that the question in dispute hinges on the use of the word "new"—whether there is a new Parliament after the House of Representatives and half the Senate have gone before the country, and a general election has taken place. In South Australia we were in exactly the same position as are the Senate and the House of Representatives. For years our Legislative Council was practically a continuous body, so many of its members retiring at a certain time and so many remaining, just

as is the case here. But, for convenience, whenever there was a general election for the lower House we spoke of a new Parliament having been elected. We have numbered our Parliaments. If honorable senators turn to the records of South Australia they will see that reference is made to the first Parliament, the second Parliament, the third Parliament, and so on. I believe that the Governor in his opening speech alludes to the number of the Parliaments. The newspapers do, at any rate, in their accounts of the opening. Common usage has prescribed that a new Parliament comes into existence after a general election. In South Australia, in our standing orders, we have separate clauses describing first the opening of a new Parliament, in which there is probably a little more form and ceremony than on an ordinary occasion; and, secondly, the opening of an ordinary session. I do not know that there is much in the point. It will not make a bit of difference. Of course Parliament is a continuous body. There is no doubt of that. That is to say, it is supposed to be continuous, but it is not so in actual fact, because there are intervals in which there is only a part of Parliament in existence. The lower House is occasionally dissolved, and an election takes place, and in the meantime there is really no Parliament in existence. In our case, as the whole of the House of Representatives and half the Senate will go to the country, I think we may fairly speak of a new Parliament coming into existence after the elections. I do not know that there is any special reason why we should adopt a new style of procedure. In all the States the Parliaments are called new Parliaments after general elections. It would have been better if the Standing Orders Committee had adopted the usual practice, instead of a new one, from which no particular good can result, although I cannot see at present that it will do any particular harm.

Senator Sir RICHARD BAKER (South Australia).—I have thought that we sometimes too slavishly follow a body that is to some extent analogous to ours, but which is certainly not so altogether. We are not on the same footing as the British Houses of Parliament. We are a new body. We are a Federal Senate. We have a certain analogy with the British Parliament, but only to a small extent; and it is about time

that we struck out and thought for ourselves and adopted a phraseology suited to our own circumstances and conditions. I do not admit that in most of the standing orders of the States the words "new Parliament" are used, because they have adopted the phraseology of the British House of Parliament. But, as I have pointed out, that Parliament is different from that constituted from our own. The House of Lords is different from this Senate. It must be remembered that the Scottish representative peers are elected for the Parliament for the same period of time as the Irish Commons. The Irish peers are, it is true, elected for life. But although the words "new Parliament" have been handed down in Great Britain for a long time, it has not arrived in our history when we should adopt a phraseology more suited to our circumstances, especially when the old phraseology implies a certain amount of discontinuity on the part of the Senate from the House of Representatives.

Senator CLEMONS (Tasmania).—I do not help saying that Senator Baker is the only man in this committee who wishes to the full and desires to see the powers and privileges of the Senate set out. For that reason I, to some extent, repeat remarks which he has just made. I do not rise, not because I do not understand the importance of maintaining our privileges and rights, but to point out that this is simply an instance of confusion of thought, and, if I may use the word, blundering. No distinction is drawn between this standing order between an ordinary session and a new Parliament. I shall use the term "new Parliament," with Senator Baker's permission, to indicate that a new Parliament which meets practically after the expiration of every three years first meets when we first met. That pretty well what I mean by a "new Parliament." According to Senator Baker's definition, that is not a new Parliament. But I would point out that between a Parliament which meets directly after a general election and a Parliament sitting in session like the present one there is a considerable difference. This standing order mixes up the two hopelessly, and does not distinguish between an ordinary session and the meeting of a new Parliament. It is for that reason, and not because we are blind to the privileges of the Senate, that I want to diminish its powers, that

the amendment before the committee. it in the interests of lucidity and to confusion of thought.

tor PEARCE (Western Australia). Would like to ask Senator Baker what meaning of the words "general election for the Senate and the House of Representatives?" Are we to understand that is known as a penal dissolution ordered to, or an election such as will be at the end of this year, when half number of senators will retire? What meaning of the term "general" as here used?

tor Sir RICHARD BAKER (South Australia).—Perhaps it would have been if the words "periodical election" been used. Senator Pearce will see the word "periodical" is used in a Bill before us, and there defined. When standing orders were drawn up the word had not been seen by any of the committee. In fact, the measure has been laid on the table only this session.

tor WALKER (New South Wales). Suggest that Senator Clemons withdraw his amendment temporarily in order to allow the word "periodical" to be inserted.

tor CLEMONS.—I have no objection. Amendment, by leave, withdrawn. Amendment (by Senator WALKER) proposed.

the word "general," line 1, be omitted, and view to insert in lieu thereof the word "periodical."

tor PLAYFORD (South Australia). My opinion the clause ought to be retained in order to meet the circumstances laid out by Senator Pearce. A periodical election, which under ordinary circumstances takes place every three years, is provided for in the Constitution, and it appears to me that there is no necessity for the words "after a general election for the House of Representatives." At an ordinary election about half of the members of the House go to the country at exactly the same time as the whole of the members of the House of Representatives, therefore it may be argued that both Houses are then before the electors. Then there is a penal dissolution in which all the members of both Houses go to the country at the same time; but some provision should be made for that contingency.

tor Sir RICHARD BAKER (South Australia).—What is provided for here is

the meeting of Parliament after a periodical election for the Senate, or after a general election for the House of Representatives. If there is a penal dissolution there will be a general election for both Houses, and that also is provided for. If there is some additional election that does not alter the sense of the standing order, which seems to me to be quite clear.

Senator DRAKE.—A little further on I was going to call attention to one or two matters in this chapter which are not quite clear to me. At present I only wish to say that the chapter appears to deal with every possible case of the meeting of Parliament, either after a general election, or after a periodical election of the Senate. We are now, it seems, dealing with the question as to whether Parliament is or is not a continuous body; but that question, I fancy has been evaded. It has not been settled, I take it, whether we are to divide our proceedings into different Parliaments.

Senator PEARCE.—The question does not arise.

Senator DRAKE.—To a great extent in these matters we are governed by ordinary phraseology, and are accustomed to speak of a new Parliament after each general election. That is an idea inherited in most of the States; and in Queensland, for instance, each new Parliament is given a number, although it includes the Legislative Council whose members are nominated for life.

Senator DAWSON. — That Legislative Council is different from the Senate.

Senator DRAKE.—My point is that each Parliament in Queensland is after a general election called a new Parliament, although it includes the Legislative Council, whose members are nominees for life.

Senator DAWSON.—Is it not called a new Parliament because the Upper House is a nominee House?

Senator DRAKE. — I do not know whether that is the reason, but such is the fact. I think that this standing order has been framed in such a way as to provide for a Parliament meeting under all circumstances without deciding the question of whether or not it is a new Parliament.

Senator PEARCE (Western Australia). —It would be better to postpone the standing order and re-draft it. We ought to strike out the word "general," and conclude the paragraph with the words, "or

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after a general election for the Senate and House of Representatives." That would meet the case of a penal dissolution.

Senator PLAYFORD (South Australia).—Looking into the matter a little more closely, I see strong reasons why the Parliaments should be divided as suggested. There is an immense difference between the opening of a new Parliament and the opening of an ordinary session. In the former case there are no sworn members and no President, and Commissioners have to be brought in. Members have to be sworn and a President elected before the Governor-General comes to open Parliament. Although we should not follow slavishly everything done by either the mother of Parliaments or her daughters, we may see that there is a great deal of reason for this difference in the two forms of opening Parliament. At present we should confine ourselves to settling the form which the first part of the standing order should take. If we use the words "periodical election," and afterwards provide for a general election of the Senate and House of Representatives, the case of a penal dissolution will be met.

Senator CHARLESTON (South Australia).—In my opinion everything that is necessary is provided for in the standing orders, although for greater clearness the word "periodical" might be used. It is only in case of a dead-lock that the Senate has to go to the country along with the House of Representatives, and the standing order provides for such a contingency, although it is not stated in so many words.

Senator PEARCE.—There may be a general election of the House of Representatives without a general election for the Senate.

Senator CHARLESTON.—If so then certain things follow. But there must also be a general election when both Houses are dissolved, and it is provided that in such cases certain events happen.

Senator Sir WILLIAM ZEAL (Victoria).—There is a certain vagueness about the standing order, and I fully realize the difficulty to which Senator Clemons has called attention. If the standing order be altered it should provide for an ordinary meeting of Parliament, and for a meeting after a penal dissolution. But the standing order is altogether silent as to the latter, and I suggest that it should provide for the meeting after

a periodical election for the Senate and a general election for the House of Representatives, "or after a general election of both Houses of Parliament." That would meet the case of a penal dissolution, or of an ordinary general election of the House of Representatives, without a special election for the Senate. We stand in exactly the same position as the House of Representatives, so our existence as a body is practically continuous, and, therefore, it is not so difficult to distinguish between the two cases. I suggest that which seems to meet the difficulty, and to explain the difference between the two dissolutions.

Senator DE LARGIE (Western Australia).—I am afraid that if we alter the standing order as now proposed it will put us into a dilemma in the future. We must assume the position that there is no dissolution of Parliament, unless we have a doubt as to the result of the election, and if the President is successful we go before the country next time. So far as he is concerned, he is saved the trouble of electing a President. We should have a continuous President. That may be a disadvantage. I agree with all that Senator De Lergie has said upon the necessity of having a clear definition. We should have a definition of what is a new Parliament. If not, we may find ourselves in some such fix as is indicated. I hope the matter will be brought before for further consideration.

Senator Sir RICHARD BAKER (Victoria).—I am sorry to trouble you so often, but I must express a hope that honorable senators will not alter this standing order without due consideration. On the subject raised by Senator De Lergie, if the standing order is altered, senators will look at the Constitution and they will find that the President holds office so long as he is a senator, and his term as a senator ceases when he ceases to be a President. Then, although at present we hope that the elections for the House of Representatives and for the Senate will take place at the same time, that may not happen always. There may be a dissolution of the House of Representatives without a penal dissolution of the Senate, and the time also may come when the elections for the two Houses may not occur at the same time, and all that is provided for in this standing order.

Senator CLEMONS.—Is a definition of dissolution also provided for?

r Sir RICHARD BAKER.—Yes, dissolution is provided for. I may honorable senators that when the order was first drawn, it contained words “after an election follow the penal dissolution of both Houses,” the words were struck out as being unnecessary. They are not necessary, because there is an election for both Houses and it is not necessarily an election for one. The election for the House of Representatives must take place periodically, even if there is not a general election of the Senate at the same time. I think that more honorable senators study the Standing Orders, the more they will see that the present case is provided for. I shall say more about it, because I have already said my views once or twice. I think it is quite clear, and if any attempt is made to alter it without careful consideration, it will only get into difficulties. If it is re-drafted, let the work be done by the Standing Orders Committee. I think it is possible that if any attempt is made to alter it by this committee in a hurry, it will not be made nearly so clear as it is now.

r DE LARGIE (Western Australia).—With all due respect to Senator Baker, I must differ with his contention. Senator Baker, had to go to the country in the month of November of this year, and if he were elected, he would still be a senator, and if he were defeated, he would remain a senator until the end of December. I ask the honorable and learned member to look at section 17 of the Constitution. The second part of the section states that the President shall cease to hold office if he ceases to be a senator. Presently, if the honorable and learned member is elected when he goes to the country, and if that is before the end of his term, he will still be a senator, and consequently under this standing order, he will be President of the Senate.

r PLAYFORD (South Australia).—His standing order incidentally touches upon the question as to the term for which the President of the Senate is elected — whether for three years or for six years. From the first time the standing order it may be argued that if the President is elected he shall sit as long as he is a member of the Senate. If he is amongst the number of senators who have polled a higher number of votes than the others, it may be argued that he is entitled to retain

the office of President for six years, and if he has to go for election with the first batch because he happens to be amongst the number of senators who obtain a lower number of votes, it may be argued in the same way that he has been elected President only for three years. I do not know whether it was intended when we elected the President that he should be elected for three or six years; but this standing order pretty well fixes his election for six years.

The CHAIRMAN.—The amendment immediately before the committee is to strike out the word “general” with a view to insert the word “periodical.” Although I must confess that I cannot see that the standing order as at present drafted covers the contingency of a periodical election, the amendment proposed will hardly cover what is intended or desired by honorable senators. It is quite clear that the contingency may arise of a dissolution of the other House and the continuance of the Senate. Another contingency may arise in which there may be an election of half of the members of the Senate at the same time as a general election for members of the House of Representatives. It seems to me desirable that the confusion which appears to exist in the minds of honorable senators should be cleared up by some incisive language.

Senator DRAKE.—If this standing order is to be reconsidered it had better be referred back to the Standing Orders Committee, and if it is to be postponed it would be as well, I think, to postpone the whole chapter. I should like, however, before moving the postponement, to draw the attention of Senator Baker and other honorable senators to a matter which I cannot quite understand at the present time. I understand that this chapter is designed to meet every possible case, to provide for cases where there is a President at the commencement of a session and for cases where there is no President. After the words “if there be a President,” the procedure which shall take place during the opening of the session is set forth, and that procedure is the procedure which was followed at the opening of the present session, there being a President. But when we come to Standing Order 3 it states, “The Senate will then adjourn,” and at that stage this session we did not adjourn. We did business after that, and probably should again desire to do business. Standing Order 3 seems to be correct in case there is no President. Honorable senators

will see that reading. But the Senate does not adjourn when there is a President. This session we appointed a committee to prepare the address in reply after that, and we might possibly have gone on to consider the address in reply. That is frequently done, and it was done during this session in the other Chamber. But according to these standing orders, under circumstances exactly the same as those existing at the beginning of this session, we should have had to adjourn as soon as the senator who had been elected had taken the oath. We could not have gone on with the address in reply. The practice here in cases where there is a President does not seem to be the same as the practice hitherto adopted. If the chapter is postponed for reconsideration I hope that matter will be taken into consideration.

Senator PEARCE (Western Australia).—Before the chapter is postponed, there is a question arising out of the first paragraph, which, I think, should also have the serious attention of the committee. Under paragraph (a) "if there be a President" it is provided that he shall take the chair, and we are told that this standing order is intended to deal with the condition of things which arises after an election following a penal dissolution, and after an ordinary periodical election. We must contemplate, as Senator De Largie pointed out, that upon a penal dissolution every member of the Senate will cease to be a senator, and then this paragraph (a) could not apply in the case of a senator elected after a penal dissolution, because there would be no President. The only case in which it would apply, if it applied at all, is in the case of a periodical election. I should like to know whether we assume here that the President is elected for the full term for which he is elected to be a senator. It would be as well for the Standing Orders Committee to take that point into consideration. According to my reading of the Constitution, his term of office as President is not there laid down. What is laid down is that if he ceases to be a senator he shall cease to hold office as President. He may cease to be a senator by resigning before the term for which he has been elected has passed. By ceasing to be a senator he would cease to be a President. By adopting paragraph (a) in its present form, it seems to me that we shall be admitting that our present President, who is one of the six-year senators

under existing circumstances, is to remain President when the new Parliament meets at the coming periodical election. It is the wish of the Senate, well and truly, that it should be remembered that we should not go down the principle that a senator who has been President is to remain President for the full term of six years. The contention which Senator De Largie referred to should then be taken into consideration. If each senator holds office until the end of December, if he is elected at the next periodical election he will not have ceased to be a senator at the end of the year, and if the present occupant of the chair is re-elected, the contention may be well brought forward that he should remain President. We ought to seriously consider whether the Constitution contemplates that the Senate had the power to bind itself in the election of the President. It seems to me that, under these circumstances, on the only occasion upon which the Senate might possibly elect a President would be after a penal dissolution.

Amendment, by leave, withdrawn.

Motion (by Senator DRAKE) proposed.

That Chapter I. (Standing Orders) be postponed.

Senator HIGGS (Queensland).—I do not agree with those who have said that the standing order deals with the position of the President at all. Certainly, there is no provision in the standing order as to the President's term of office it might be construed to be so. When we come to deal with the next chapter we can fix the term during which a senator shall hold office as President. Senator Baker has said that the Constitution provides that the senator shall hold office during his term of membership. But I do not think that is the correct reading of section 42. It says—

The Senate shall, before proceeding to any other business, choose a senator to be the President of the Senate; and as soon as the office of President becomes vacant, the Senate shall again choose a senator to be the President.

Inasmuch as we are now in a position to fix the term of office for the President, we ought to do so. Certainly the senators should be given an opportunity of saying whether they are in favour of a three years' term, or a six years' term, or a life term, provided that the occupant of the chair is not defeated at an

ly reasonable to postpone the con-
on of this chapter in order to allow
orable senator who thinks that the
order should be altered to bring
a proposition.

or CHARLESTON (South Aus-
—I think that Senator Pearce has
verlooked the contingency of the
on of the other House without the
being dissolved at the same time.
oh (a) of the standing order pro-
a contingency of that character.
g that after a general election
House of Representatives, and per-
partial election of the Senate, the
ouse should meet and then be sent
untry, the Senate is still in exist-
h a President at its head, and when
Parliament is called together he
in the chair. It seems to me that
ssary provision has been made to
the business of Parliament. The
of the standing order might be
little plainer by the addition of
ds "after a dissolution of both
; but even without those words I
that provision has been made to
ry case which is likely to arise.
n agreed to.

ing Order 17—

er the office of President becomes
senator, addressing himself to the Clerk,
ose to the Senate for their President
tor then present, and move that such
o take the chair of the Senate as Presi-
ch motion shall be seconded by some
tor.

or PEARCE (Western Australia).
k there is a great deal of force in
estion of Senator Higgs that the
t's term of office should be fixed.

or DRAKE.—Does not that depend
interpretation of the Constitution?

or PEARCE.—Certainly.

or DRAKE.—We cannot affect that
standing orders.

or PEARCE.—I submit that the
the proper body to interpret the
tion in that respect. Surely we
refer a question of that sort to the
Surely the Convention never con-
d taking away from the Senate the
elect its officers, or to say that after
had elected a President no future
no matter how differently consti-
ould have the right to interfere
at election; that the only way in
might be interfered with was by

death, resignation, defeat at the poll, or a
vote of no confidence. In order to test the
feeling of the committee on the point, I
move—

That after the word "whenever," line 1, the
following words be inserted:—"owing to a
periodical or general election of the Senate, or
from any other cause."

Senator HIGGS (Queensland).—I feel
sure that the amendment will not meet the
object of Senator Pearce. One can conceive
that it would apply only to a case where a
senator had lost his seat, and he might lose
his seat owing to a periodical or a general
election or owing to death. It does not say
that he shall cease to be President. I would
suggest to my honorable friend to move the
insertion of a new standing order to this
effect—

The President shall be elected at the first
meeting of the session following a periodical or
general election of the Senate.

Senator DE LARGIE (Western Aus-
tralia).—It was a great pity that this ques-
tion was not considered and settled in the
Senate before the Standing Orders Com-
mittee brought up its report. I do not
feel that I should be justified in voting to
elect a President for a Senate in which
I might not have a seat. Since one-half of
the Senate has to go to the country every
three years, it is not fair that the President
should hold his office for longer than that
term.

Senator CHARLESTON (South Aus-
tralia).—I think it is the usual practice for
the President of a Legislative Council to be
elected for the term of his councillorship.
The President's term of office will expire
when his term of membership expires—on
the 31st December, 1906. I think it was
quite understood when he was elected that
we followed the usual practice in all Legis-
lative Councils. On the 31st December,
1906, his term of office will cease, and,
should he be re-elected, he will come back
as a new senator.

Senator PEARCE.—Yes; but he will be
re-elected before that date.

Senator CHARLESTON.—He may be
a senator-elect for the next Parliament, but
his term of office as President will cease at
the end of the year 1906, and if he should
be re-elected he will come in as a new
senator. If the new Senate should choose
to elect him to the Chair, well and good;
but if not he must give way to another

senator. He could not possibly come back to the Senate as President on the 1st January, 1907.

Senator PLAYFORD (South Australia).—I do not know of any understanding of the kind. My idea is that in common fairness, both the President and the Chairman of Committees ought to be elected for the same term, and that is for the life of a Parliament. We can imagine a case in which we may be looking round for a President under certain conditions. We may say "If we elect Senator So-and-so he will be in office for six years; but if we elect Senator Somebody Else he will be in the Chair for only three years," and the chance is that the latter may get the position simply because it will afford an opportunity to elect another President at the end of three years. Under the circumstances, as one-half of the members of the Senate will retire every three years, I think it would be far better to elect the President for a term of three years. Then let us treat our Chairman of Committees somewhat differently from what we do now. Up to the present he has only been elected for the session. He should be elected for the same term as the President.

Senator CHARLESTON (South Australia).—How would Senator Playford provide for a dissolution of the House of Representatives? He contends that a general election would mean the choice of a "new Parliament." A new Parliament may have been in existence only about a year, and we may have elected our President. Suppose there is then a dissolution of the other House. Then, of course, there would be a new Parliament, and we should be called together by the Governor-General. Would Senator Playford then contend that we should have to elect a new President, although he might have been in office only twelve months, and although the Senate might not have been dissolved at all?

Senator PLAYFORD.—We do not recognise a penal dissolution of the other House if we are not touched.

Senator DRAKE.—We are now discussing the proper interpretation to be placed upon a section of the Constitution. We cannot do that by standing orders. If we pass standing orders which conflict with the Constitution, the Constitution will negative them. The Constitution says that the President shall cease to hold his office if

he ceases to be a senator. Can we say that section by passing a standing order? Certainly we cannot.

Senator CLEMONS.—Who can decide it? I am afraid the High Court is not going to do it.

Senator DRAKE.—All questions requiring an interpretation of the Constitution ought to be decided by the High Court, and certainly the High Court would be affected by the existence of a standing order.

Senator PEARCE.—Not by the standing order of Parliament?

Senator DRAKE.—This is not a question of parliamentary procedure. The honorable senator wants to know what our procedure the interpretation of the Constitution concerning voting may be some doubt. Under one interpretation it may be held that the term of the President under our standing order is not accorded with the Constitution, and then our standing order would be absolutely nugatory. It is not necessary at this stage to discuss the question.

Senator CLEMONS (Tasmania).—I should like to call the attention of the Governor-General to the fact that the standing order 17 is closely intertwined with chapter 1, which is to be read together, so that we may get a definition of a "new Parliament." When we get a definition, we shall be able to put our standing order what will meet the wishes of Mr. Pearce. I agree that the standing order is not one that can be settled by the House of Representatives. It arises under the Constitution, which will be interpreted by the High Court. It would be convenient therefore to postpone the standing order until we get the decision of the High Court which I have referred to.

Senator DRAKE.—Where are the committees to begin their consideration of the standing orders if we are to postpone one now under discussion? Some of the orders can be found for postponing other orders.

Senator CLEMONS.—If these orders are badly drafted, I am not sure it is possible for it.

Senator DRAKE.—I am afraid we postpone this chapter we shall have to debate over again later on.

Senator PEARCE (Western Australia).—On consideration I can see a great force in Senator Higgs' contention that the standing order is in the words which I have

ace will not carry out my intention. The insertion after the word "vacant" the words "which vacancy shall take by reason of a periodical or general election of the Senate," would have the desired effect. Senator Clemons' proposal on the determination we come to in chapter I. If the term "new Parliament" is not defined in chapter I., his proposal will have no effect. It will be open question—What is a "new Parliament?" leave to withdraw my amendment. Amendment, by leave, withdrawn. Amendment (by Senator PEARCE) proposed—

after the word "vacant" the following be inserted—"which vacancy shall take by reason of a periodical or a general election of the Senate."

Question put.	The Committee divided.		
Ayes	16
Noes	6
Majority	10

AYES.

J. G.	Playford, T.
W.	Reid, R.
A.	Saunders, J. H.
ie, H.	Smith, M. S. C.
S.	Styles, J.
W. G.	Zeal, Sir W. A.
J. H.	
or, G.	<i>Teller.</i>
G. F.	Clemons, J. S.

NOES.

on, D. M.	Walker, J. T.
J. G.	
T.	<i>Teller.</i>
ane, J.	Dobson, H.

tion so resolved in the affirmative.

ding Order, as amended, agreed to. ding Order 18—

y one senator be proposed and seconded dent, he expresses in his place his sense of our proposed to be conferred upon him, and himself to the Senate, and he is then at of his place by the senators who proposed and seconded him, and by them con- to the chair.

tor CLEMONS (Tasmania).—I do ink this standing order is very usly worded. I desire to submit an ment, which, however, I shall not there is opposition. I move—

the words "the senator so proposed is y the Senate to the chair without any a being put, and then" be inserted after d "President," line 2.

tor CHARLESTON (South Aus- —The standing order seems better t the proposed amendment. At

present, a senator when proposed as President expresses his willingness or otherwise to act; but the amendment makes him at once take his place in the chair, from which he has to express his willingness to be elected.

Amendment agreed to.

Amendment (by Senator CLEMONS) proposed—

That the word "and," line 4, be omitted with a view to insert in lieu thereof the words "Being again unanimously called to the chair."

Senator DRAKE.—These amendments are not quite clear to me. What is the meaning of the words "in his place"?

Senator CLEMONS.—In his place in the chair.

Senator DRAKE.—Then we have the words now proposed "being again unanimously called to the Chair. Do these words refer to the time when the senator is in the Chair? The meaning usually attached to a standing order of this kind is that a senator so circumstanced shall speak from his ordinary place from which he is called to the Chair; but according to the amendment he is taken to the Chair, and then unanimously called to the Chair again.

The CHAIRMAN.—I understand that Senator Clemons is desirous of adopting the South Australian standing orders relating to this matter. These standing orders are—

9. If only one member be proposed and seconded as Speaker he shall be called to the chair of the House without any question being put.

10. Such member on being called to the chair shall stand up in his place and express his sense of the honour proposed to be conferred on him and submit himself to the House.

11. Being again unanimously called to the chair he shall be conducted from his seat to the chair by the members who proposed and seconded him.

Senator Sir RICHARD BAKER (South Australia).—The Standing Orders Committee had before them the standing orders of the South Australian and other Legislatures, and they adopted in this instance those of the Victorian Legislative Council, because the latter are short and quite as much to the point as any of the others. I am afraid that we have made a mess of the matter.

Senator DRAKE.—The amendments of Senator Clemons do not follow the wording of the South Australian standing orders, but make the chosen senator express from the Chair his sense of the honour which is to

be bestowed upon him. The South Australian standing orders make the senator speak from his usual place in the House.

Senator CLEMONS.—I wish to have the South Australian standing orders.

Senator PLAYFORD (South Australia).—An attempt to make three standing orders of South Australia into one standing order has not had quite such a clear result as one might desire. I see no necessity for the second amendment which is now before the committee.

Senator CLEMONS.—I ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Senator HIGGS (Queensland).—The object of the Standing Orders Committee was to enable the Senate to ascertain that a senator proposed was willing to accept the office, and Senator Clemons' amendment, which has been carried, makes a further amendment necessary. I move—

That after the word "then," line 4, the words "if he accepts office" be inserted.

Senator DRAKE.—I am quite convinced that the standing order will have to be re-committed.

The CHAIRMAN.—I must point out to Senator Higgs that the amendment which he has suggested is not in order.

Standing Order, as amended, agreed to.

Standing Orders 19 to 23 agreed to.

Standing Order 24 verbally amended and agreed to.

Standing Order 25—

Before proceeding to any business, the President, with such senators as desire to accompany him, shall present himself to His Excellency the Governor-General as the choice of the Senate. He shall in the name, and on behalf of the Senate, claim the right of free and direct access and communication with His Excellency.

Senator CLEMONS (Tasmania).—Before we leave this chapter, I point out that so far I have been unable to find any standing order which provides for filling a vacancy in the Presidency, occurring either during a session or during a recess. I am not prepared to submit any standing orders for the purpose, but I think there should be some such standing order. The standing orders of South Australia, under which we have been working, have been held up to us as a model, but in this matter it is not proposed to adopt them. Standing Order 23, of the South Australian standing orders, provides for filling a vacancy in the Speakership occurring during either a session or recess.

Senator Sir RICHARD BAKER. honorable and learned senator will s Standing Order 17 says "Whenever office of President becomes vacant."

Senator HIGGS (Queensland).—I

That the words "He shall, in the name of the Senate, claim the right of direct access and communication with His Excellency," be omitted, with a view to the insertion thereof of the words—"He shall, in the name and on behalf of the Senate, lay claim to the undoubted rights and privileges, and propose the most favourable construction may be put upon all their proceedings."

I am suggesting the form of the Queensland standing orders, and it also follows the form indicated by the Postmaster-General in his opening remarks.

Senator Sir RICHARD BAKER (South Australia).—The old words were dropped from because they are a survival of a procedure which has come down to us from the time of the Tudors and when the Speaker of the House of Commons claimed from the Crown certain rights and privileges. They included the right of being exempt from the common law of libel—the right of free speech—the right of being exempt from arrest, and the right of free and direct communication with the Crown, and prayer that the most favourable construction should be placed upon its proceedings. The use of the words has been continued by our legislatures down to the present time, but they now involve the ridiculous absurdity of the President or the Speaker claiming the Crown rights which the Crown cannot grant, and the Crown solemnly granting those rights. Is it not time we should do that? What right has the Crown to arrogate the common law? Under the 49th of the Constitution we have powers, immunities and privileges of the British House of Commons, and it is that section of our Constitution which are exempt from the law of libel and from arrest while attending Parliament. It seems to me that we should amend our procedure to existing circumstances, and we should not ask His Excellency to grant us that which he cannot grant, and leave him to propose to do that which we know he cannot do. The question received a great deal of consideration in Canada, and a pamphlet written by a clerk of one of the Dominion Houses proposed the whole absurdity. I think

that we should ask the Governor-General for something which we know he cannot grant, and not for something which we cannot grant.

Senator DE LARGIE (Western Australia).—It must, I think, have come as a shock to the many supporters of Senator Higgs to find him proposing such an amendment after his bold declarations of conservatism. I hope that his action is a temporary lapse on his part, and that he has set himself right by withdrawing the amendment.

Senator HIGGS (Queensland).—I was not under the impression that I was in any way changing my views. It was with the object of defining the rights and privileges of the President that I moved the amendment. It seems to me that if there was any choice between the two expressions, to ask "the right of free and direct access and communication with His Excellency" was placing our President in a more and undignified position than if we were to go to the Governor-General and inform him that we claimed "undoubted rights and privileges." Really I feel that there is no necessity for the President doing anything more than stating His Excellency with the fact that he has been appointed President of the Commonwealth.

But if we are to have any form of communication put into the President's mouth I think the form is better than the one now proposed.

If at any time any Governor-General were so injudicious as to refuse to receive our President there would probably be a public scandal, and I have no doubt we should be in a position to meet such a contingency if it should ever arise. This is in the old expression a reminder of the tradition which I think we should do well to hold; the tradition that the Parliament of the people is above all its officers, whether King or Governor-General. The suggestion is to be preferred to a resolution that the Governor-General will be obliged to receive our President any time it is necessary for him to call.

Senator PLAYFORD (South Australia).—I am going back to the origin of this form, and I will see that it is a perfect farce even if it comes from the Governor-General what it is proposed to ask from him here. The amendment originated at a time when the King had no power in the House of Commons, and it was necessary that the election of the Speaker of the House of Commons should be confirmed by the King. The Speaker

was then practically the King's President in the House of Commons, and the King had a right to veto his appointment. We have now come to a state of things in which we do not require the consent of the King or his Vice-Regent, and the whole thing has become a useless form from beginning to end. In my opinion there is no necessity for this or the preceding standing order. However, it seems to me that Senator Higgs is right in proposing that, if we should claim anything, it should be something that sounds well, like our "undoubted rights and privileges," rather than that we should go crawling to the Governor-General and claim the right of free and direct access and communication, which every gentleman would give us under any circumstances, without asking for it. If we must do this kind of thing, let it be done in the old style, and let it be understood that it is a relic of the past, and has only this significance, that it shows how far we have advanced. It will perhaps attract the attention of our children, and when they ask the reasons for it we shall be able to say—"Read up history and you will find how wonderfully we have advanced in democracy." The proposed form is exceedingly childish, and I should like to know the honorable senator who suggested it. I think he ought to be ashamed to argue the matter. We might very well go to the Governor-General and present our President to him, saying—"This is the gentleman whom we have elected to preside over our deliberations," but we should ask him for nothing. If Senator Higgs will withdraw his amendment, I shall move the omission of the last four lines.

Amendment, by leave, withdrawn.

Amendment (by Senator PLAYFORD) proposed—

That the words, "He shall, in the name and on behalf of the Senate, claim the right of free and direct access and communication with His Excellency," be omitted.

Senator Sir RICHARD BAKER (South Australia).—The phrase has been used that we are to go "crawling" to His Excellency to demand a certain thing. Is it not better to go crawling to His Excellency to demand something which he can grant, than to demand something which he cannot grant? I do not mind if all the words are omitted. I do not think that there is very much in them. I never thought that there was, but the reason for demanding the right

of free access to His Excellency is that we have had Ministers of the Crown gradually usurping all power, and claiming rights and positions as against Parliament. In some instances I have known them to want to lay down the rule that communications to His Excellency from Parliament should pass through them.

Senator PLAYFORD.—So they ought.

Senator Sir RICHARD BAKER.—They ought not. Parliament ought to have direct and free communication with the representative of the Crown irrespective of the Ministry, and the Ministry ought to be placed in their proper positions—the servants of the House and not the masters. I do not think it will do any harm to strike out the words, and I do not know that it will do much good to retain them. Whether they are retained or omitted, I contend that both Houses must have direct communication with His Excellency, and not through the Ministry.

Senator CHARLESTON (South Australia).—The Parliament consists of the King, the Senate, and the House of Representatives. In this standing order the Senate is only asked to say that, as a part of the Parliament, it has the right of free and direct access to the King through his representative. We do not crawl to the Governor-General, as Senator Playford has said, when the President, in the name and on behalf of the Senate, claims the right of free and direct access to and communication with His Excellency. If there is any attempt on the part of the Ministry or any one else to deprive us of this right we can fall back on the standing order.

Amendment agreed to.

Standing Order, as amended, agreed to.

Standing Order 26—

At the commencement of each session the Senate may appoint a senator to be Chairman of Committees, who, unless otherwise determined, shall hold office during the session, and until the end of the second week of the next session.

Senator PLAYFORD (South Australia).—I propose to ask the committee to alter this standing order so as to provide that the Chairman of Committees, like the President, shall be elected at the commencement of a new Parliament. In the first place I move—

That the word "session," line 1, be omitted with a view to insert the word "Parliament" in lieu thereof.

Senator Sir RICHARD BAKER (Australia).—Although I am quite in favour with the object of Senator Playford's amendment, I will point out again that if the committee strike out the words "new Parliament," and substitute the phrases "new Parliament" and "Parliament," we shall be subordinating our position to the House of Representatives. I object to that. The Senate does not consist of the House of Representatives alone; it consists of the Senate, and the House of Representatives. I think it will be far better to retain the words "so long as he is a senator." I am sure that we shall get into a confusion about the meaning of the phrase "new Parliament." In South Australia there has been once nearly a conflict between the Houses concerning the meaning of the words "new Parliament." A great difficulty has arisen, and different opinions were expressed. I believe that the committee will make a mistake if it uses the words. I think the amendment will not be pressed. I suggest that the standing order should be in this form—

The Senate may appoint a senator to be Chairman of Committees, who, unless otherwise determined, shall hold office so long as he is a senator.

Senator PLAYFORD.—That may be.

Senator WALKER (New South Wales).—I trust that Senator Playford will propose an amendment to the effect that the Chairman shall be elected until the next periodical election of senators; or, in other words, for a term of three years.

Senator DE LARGIE (Western Australia).—In the case of the election of a senator, we have affirmed the principle that office shall not be held for a period longer than three years, and it will not be inconsistent with that decision if we amend the standing order in its present form.

Senator HIGGS (Queensland).—I suggest that Senator Playford will agree to the suggestion made by Senator Walker.

Senator PLAYFORD (South Australia).—I am quite willing to accept an amendment which will provide that the Chairman shall be elected for three years. At the same time I do not agree with Senator Baker in his contention that in using the words "new Parliament" we shall cause trouble which will cause trouble between the Houses or give up any rights or privileges which we possess. I have no recollection of any trouble arising between the Houses.

ralia from the use of the words. If it existed it must have existed before I ed Parliament in 1868. The words Parliament are always used in that , and we know exactly what they s. They are also used in the other s. However, if my object can be nplished by using other words, I am willing to withdraw my amendment. Amendment, by leave, withdrawn.

Senator HIGGS (Queensland).—I would st to Senator Walker that the stand- order should be framed in this form—

the commencement of a session, after a ical or general election of the Senate, or ver any vacancy shall occur, the Senate appoint a senator to be Chairman of Com- es until the next periodical or general elec- of the Senate whichever first occurs, pro- that he still remains a senator.

Amendments (by Senator WALKER) agreed

at the word "each" be omitted with the to insert in lieu thereof the word "a ;" after the word "session," line 1, the fol- g words be inserted:—"after each periodi- cal or general election of the Senate or whenever a vacancy shall occur."

Senator HIGGS (Queensland).—I beg to

at the word "may," line 2, be omitted, with y to insert the word "shall" in lieu thereof.

ve this amendment for the reason that necessary that a Chairman of Com- es shall be appointed. At the com- ment of the last session there was an that the President might do the whole e work, and that a Chairman of Com- es would not be necessary. I now think that idea is a mistake. But unless we itute the word "shall" for "may" the te might at some time be able to evade ntention of this standing order, which that at the commencement of a session a periodical or general election a rman shall be elected.

Senator DRAKE.—They could get rid of standing order if they wished to do so ; cannot bind any future Senate.

Senator HIGGS.—I think the amend- ought to be made.

Senator PLAYFORD.—We may at some have a President who will be willing the double duty.

Senator HIGGS.—Surely honorable sena- do not anticipate such a period of calm, dering that we have started as strongly have done, and that our troubles are to be multiplied as time goes on.

Senator DE LARGIE (Western Aus- tralia).—I am sorry to find myself so often opposed to my honorable friend Senator Higgs. But I think it reasonable to suppose a state of affairs when a Chairman of Committees may not be needed. Suppose something happens to induce a Chairman to resign before the end of a session, when there is little or no business to be done. It would be unreasonable then to put the Senate in the position of having to appoint a Chair- man. The word "may" is preferable to the word "shall" until we are quite sure that we shall always require a Chairman; and if we need a Chairman, the word "may" will not prevent his election.

Senator HIGGS (Queensland).—Honor- able senators seem to have lost sight of their main object in proposing the alteration of this standing order in the first place. They propose that the words "after a periodical or general election" shall be in- serted, in order that we may define the term of office of the Chairman of Committees. If honorable senators do not alter the word "may" to "shall," it will be quite possible for any Senate in the future to refrain from electing a fresh Chairman.

Senator PLAYFORD.—If they wish to do so, why should they not? Why dictate to persons who come after us?

Senator HIGGS.—But if we do not alter the word "may," we shall have to put in something indicating the term of office of the Chairman of Committees. If that is proposed to be done well and good; but it can be done in a simpler way by using fewer words.

Senator BARRETT (Victoria).—I would point out that it is absolutely necessary that we should have a Chairman of Commit- tees, because later on a certain procedure is provided with regard to the Deputy Presi- dent, who must be the Chairman of Commit- tees for the time being. Therefore the word "shall" ought to be inserted.

Amendment negatived.

Amendment (by Senator WALKER) agreed to—

That the words "during the session, and until the end of the second week of the next session" be omitted, and that the following words be in- serted in lieu thereof:—"Until the next periodical or general election of the Senate, whichever first occurs, provided he so long remains a senator."

Standing Order, as amended, agreed to.

Standing Orders 27 to 30 agreed to.

Standing Order 31 (President relieved by Deputy President).

Senator Sir RICHARD BAKER (South Australia).—At the end of this standing order we have the words—"when requested to do so by the Chairman of Committees." The standing order only provides that one of the deputy-chairmen may take the Chair at the request of the Chairman of Committees. But he may be ill, or absent from any other cause, so that he cannot request any one else to take the Chair for him. To meet such a case, I move—

That the following words be added—"or when the Chairman of Committees is absent."

Amendment agreed to.

Standing Order, as amended, agreed to.

Standing Order 32 agreed to.

Standing Order 33—

A Standing Orders Committee, to consist of the President and Chairman of Committees and seven senators, shall be appointed at the commencement of each session, with power to act during recess, and to confer with a similar committee of the House of Representatives.

Senator DRAKE.—With regard to this and the following standing orders, I wish to know whether the Standing Orders Committee have taken into consideration the number of the senators constituting the various committees? I suppose that the numbers will be similar to those on corresponding committees of the House of Representatives. It is here provided that the Standing Orders Committee shall consist of nine senators, the Library Committee of seven, the House Committee of seven, and the Printing Committee of six. I do not know whether there is any reason for fixing various numbers for the various committees, or whether it has been provided that there shall be equality of numbers between the Senate and the House of Representatives.

Senator Sir RICHARD BAKER (South Australia).—The principle that has guided the Standing Orders Committee in fixing these numbers is this: We have followed the practice of the Senate. The Senate appointed a Standing Order Committee consisting of the number of members mentioned in this standing order, and we have followed that practice. There is no particular charm in any particular number, but we consider that we ought to follow the practice laid down by the Senate itself.

Senator CLEMONS (Tasmania).—I am glad to have heard that expression of opinion. The whole value of this word "practice" lies in the one fact that in the

first session of the first Parliament the Ministry made certain appointments to committees. That is all the principle, and it is easy to deduce the value of the number. The Postmaster-General has asked a very pertinent question, which should be answered by the senator in charge of the business of the committee; and I understand that these are Government proposals. In reply to that question, I heard that there is no reason why the number of senators on these committees should not be different, except that they have been so appointed in the first session of this Parliament. I hope the Postmaster-General will take steps to have the matter made uniform.

Senator DRAKE.—There is no reason why there should not be a difference.

Senator CLEMONS.—We may say that there is good reason for having a different number. In relation to one committee, not one of the committees before the Senate, the Postmaster-General took a very decided view, and the great argument then used was that each State should have one representative. But the Postmaster-General is withdrawing the argument now, when it is hardly applicable, if applicable at all.

Senator WALKER (New South Wales).—I trust that the Postmaster-General will see that the number of senators on each committee, which, in my opinion, should consist of the President and one representative from each State, is that idea I move—

That the word "seven," line 2, be omitted, and in lieu thereof the word "one" be inserted.

Senator Sir RICHARD BAKER (South Australia).—I trust that the committee will not be made too small, because as it is much trouble in getting a quorum, another reason is that if the number be too small it will not correspond with the number of members of the similar committee of the House of Representatives, with which it is given to confer.

Senator CHARLESTON (South Australia).—I hope the amendment will be pressed. This is a very important committee, the members of which should be sufficiently numerous to insure even a bare quorum. No doubt the Standing Orders Committee had good reason for suggesting the number as it appeared in the draft before us. If the number of members be made smaller, the President

man of Committees, in spite of doing best, might not be able to get a quorum her.

Senator WALKER.—I ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Standing Order agreed to.

Standing Order 34 (Library Committee).

Senator CLEMONS (Tasmania).—As to uniformity of numbers, we were told special circumstances attached to the Printing Orders Committee. I do not object to that argument, but in regard to the Library Committee, the House Committee, the Printing Committee no claim can be made for differentiation. On the Library and House committees we have the President and six senators, but the Printing Committee for some reason is bereft of the services of the President. I should like to make all the committees alike, and I fully confess I do not care whether that can be done by eliminating the President from the House Committee and the Library Committee, or by adding him to the Printing Committee. If the honorable senator in charge of the proposals before the Senate could give some indication of his views, it might cause me to move or refrain from moving an amendment.

Senator DRAKE.—I do not attach any importance whatever to uniformity in the number of the number of senators on the committees. What is of importance is that the corresponding committees in both Houses shall have the same number; and that is the reason I asked the question to which Senator Clemons has referred. To me it appears a matter of indifference whether there are six or seven senators on any one of these committees, but I am rather inclined to the larger number, owing to the difficulty of getting a quorum. I do not know whether that is his own desire that the President is on the Printing Committee, but if it is not, I think he should be asked to serve. It is a very important committee, to which I shall draw attention at the proper

Standing Order agreed to.

Standing Order 35 agreed to.

Standing Order 36.

Printing Committee, to consist of six members, shall be appointed . . .

Senator DRAKE.—I think it highly desirable that the President, if he can afford

the time, should be a member of this committee, and, further, I suggest that the committee should have power to sit as a joint committee, in order that there may be uniform action in regard to the printing of papers.

The CHAIRMAN.—I desire to draw attention to the fact that there are at present seven members on the Printing Committee without the President.

Senator Sir RICHARD BAKER (South Australia).—I hope that the President will not be placed on the Printing Committee, because I have a great deal of work in connexion with the other committees of which I am a member. I may point out that the Speaker is not on the Printing Committee of the House of Representatives, and I have never known a Speaker or President occupy such a position in any of the other States.

Amendment by (Senator DRAKE) agreed to—

That the word "six" be omitted with a view to insert in lieu thereof the word "seven."

Amendment (by Senator DRAKE) proposed—

That the following words be added:—"The committee shall have power to confer or sit as a joint committee with a similar committee of the House of Representatives."

Senator WALKER (New South Wales).—Is this committee not to be at liberty, in the same way as other committees, to act during recess?

Senator DRAKE.—The Printing Committee hardly requires to act during recess.

Senator WALKER.—That may be doubted, because there are useful public documents which honorable senators might like to have occasionally.

Senator CHARLESTON (South Australia).—It is not the practice, nor is it necessary, for the Printing Committee to meet during recess. I was a member of the Printing Committee of the South Australian Parliament for years, and the rule was to meet before the close of the session, and decide on what papers we would recommend to have printed. I support the amendment, because a provision to that effect has been found extremely useful in the past.

Amendment agreed to.

Standing Order, as amended, agreed to.

Standing Order 37 agreed to.

Standing Order 38—

A committee, to be called "The Committee of Disputed Returns and Qualifications," to inquire

into and report upon all questions as to the qualification of a senator chosen or appointed in accordance with section 15 of the Constitution Act, or as to the validity of such choice or appointment, and as to the vacation of his seat by any senator shall be appointed. . . .

Senator DRAKE.—Originally this standing order gave power to the committee to inquire into and report upon questions of disputed elections, but that power has been withdrawn, that being a matter for the new court under the Electoral Act. The committee will report as to the qualifications of senators chosen or appointed, a matter which does not appear to come within the Electoral Act.

Standing Order agreed to.

Standing Orders 39 and 40 agreed to.

Standing Order 41 (Senators' roll to be kept by clerk).

Senator DE LARGIE (Western Australia).—I see no provision made for recording the attendance of honorable senators, and I think that perhaps that could be dealt with here.

Senator Sir RICHARD BAKER.—If the honorable senator will look at the journals he will see that the attendance of honorable senators is recorded every day.

Standing Order agreed to.

Standing Orders 42 to 44 agreed to.

Standing Order 45 (Vacant seats).

Senator DRAKE.—This standing order provides that any question with regard to the seats to be occupied by new senators shall be determined by the President, but I take that to mean that the President is to decide where there is a difference of opinion between honorable senators or any disputed claim, and not that he may dictate to a new senator where he shall sit.

Standing Order agreed to.

Standing Order 46 agreed to.

Standing Order 47 (Leave of absence may be given).

Senator DRAKE.—There may be some good reason for providing that a motion asking leave of absence for an honorable senator should not be debated, but it seems to me that occasions may arise when it will be desirable to ask for some explanation. When an application is made for leave of absence on behalf of a senator some reason must be given, and it seems to me that honorable senators should be allowed, if they choose, to challenge that reason.

Senator PLAYFORD (South Australia).—I move—

That the words "and shall not be debated" be omitted.

Leave of absence on behalf of a senator may be asked so frequently that it may be thought desirable that he should be informed that, in the opinion of the Senate, he is not attending to his duties. Under the standing order as proposed, honorable senators are debarred from making a statement in which they could give reasons for voting against a motion asking for leave of absence.

Amendment agreed to.

Standing Order, as amended, agreed to.

Standing Orders 48 to 50 agreed to.

Standing Order 51—

The Chair shall be taken and prayer read at the time appointed on every day fixed for the sitting of the Senate; but if, at the expiration of five minutes after that time, there be not a quorum of at least one-third of the whole number of senators, the President shall adjourn the Senate to the next sitting day; the names of senators present, in either case, being entered in the Journals.

Senator PEARCE (Western Australia).—I think it would be as well to provide for ringing the bells a second time after the Chair is taken, before permitting a senator to move the adjournment of the Senate for want of a quorum. If honorable senators are obliged to stand and hear the bells rung a second time, they will understand that there is not a quorum present and that there is a danger of the Senate being adjourned. I move—

That the words "the bells having been rung for two minutes" be inserted after the word "time" line 4.

Amendment agreed to.

Standing Order, as amended, agreed to.

Standing Orders 52 to 54 agreed to.

Standing Order 55—

If any senator shall take notice, or if the Chairman of Committees on notice being given by any senator shall report to the President that a quorum as aforesaid is not present, the President, standing up in his place, shall call the Senate to order; and, if a quorum be not present after two minutes, he shall adjourn the Senate to the next sitting day.

Senator CLEMONS (Tasmania).—Honorable senators will refer to the minutes. The notes they will see that there is an amendment to Standing Order 55, and on investigation they will find that the amendment is in the omission of words providing for the ringing of the bells for two minutes.

that the standing order should be read so as to read—

any senator shall take notice, or if the man of Committees on notice being taken senator shall report to the President that quorum as aforesaid is not present, the bells shall be rung for two minutes, the President shall then count the Senate, and if a quorum present shall forthwith adjourn the Senate the next sitting day.

Senator DRAKE.—Before the honorable learned senator proposes any amendment in the form he has suggested, I should say that I think what we desire to do is that the bells shall be rung, that the count shall be made before the President is brought in. If that is done the President will very soon be brought into the Chamber quite necessarily, and before he takes the Chair our will have been formed.

CHAIRMAN.—I think honorable senators can better carry out what is intended by Senator Drake by an amendment of Standing Order 267, dealing with the taking of the absence of a quorum Committee. I fully agree with Senator Drake that it is a waste of time as well as trouble, to bring the President in when we can get a quorum by simply ringing the bells.

Senator DRAKE.—Perhaps it would be the views of honorable senators if the standing order were to read in this way—

any senator shall take notice that a quorum as aforesaid is not present, the bells shall be rung for two minutes, and if a quorum is not then the Chairman of Committees shall report the absence of a quorum to the President.

Senator CLEMONS.—I prefer the standing order as I have suggested it.

Senator DRAKE.—But that I think will not carry out the intention of honorable senators. It will not prevent the President from being brought in when honorable senators are within reach, and a quorum may be made before the President has time to get into the Chamber.

CHAIRMAN.—The adjournment of the Postmaster-General has given an opportunity to state what we conceive to be the desire of the committee. I believe that this will carry out the general wish of honorable senators—

any senator shall take notice, or if the man of Committees shall report to the President that a quorum as aforesaid is not present, the bells shall be rung for two minutes. The

President shall then count the Senate, and if a quorum shall not be present, he shall forthwith adjourn the Senate till the next sitting day.

If that draft of the standing order is accepted, it will involve a corresponding alteration in No. 267, which, it is suggested, shall be made to read as follows—

If notice be taken of the absence of a quorum in the Committee, the Chairman shall count the Committee, and if after the bells have been rung for two minutes, a quorum is not formed, or if it appears on a division (by which division no decision shall be considered to have been arrived at) that a quorum is not present, he shall leave the Chair of the Committee, and the President shall resume the Chair.

Standing Order (on motion by Senator DRAKE) amended accordingly and agreed to.

Standing Orders 56 and 57 agreed to.

Standing Order 58 verbally amended and agreed to.

Standing Orders 59 to 61 agreed to.

Standing Order 62 (Routine of business).

Senator Sir RICHARD BAKER (South Australia).—If honorable senators will refer to Standing Order 70 they will see that it adopts a new procedure. It provides that after formal motions have been called on, an honorable senator may move that any notice of motion which he has on the paper be postponed. Therefore it is necessary to amend 62 by the insertion of the words "postponement of business."

Amendment (by Senator DRAKE) agreed to—

That the words "Postponement of business. 6" be inserted after the figure "5."

Standing Order, as amended, agreed to.

Standing Orders 63 and 64 agreed to.

Standing Order 65 (Government Business).

Senator DRAKE.—It is admitted that Ministers should have the right to arrange the order of their own business on all days, and therefore it is necessary to omit the first two lines of the standing order. I move—

That the following words be omitted:—"On days upon which by sessional order Government business takes precedence of other business."

Amendment agreed to.

Standing Order, as amended, agreed to.

Standing Orders 66 to 90 agreed to.

Standing Order 91 (Questions on presentation of petition).

Senator DRAKE.—In its special report the Standing Orders Committee has recommended that this standing order should be amended so as to provide that in the case

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of a petition being presented against a return it shall be referred at once to the Committee of Disputed Returns and Qualifications. It is necessary to make a further amendment. Any petition against the return of a senator is now to be referred to the new tribunal. Consequently the words referring to the matter in this standing order will have to come out.

Senator Sir RICHARD BAKER (South Australia).—No petition against an election can be presented to the Senate. The only petition that can be presented is as to the appointment or choice of a senator or as to his qualifications; and in the draft standing orders laid on the table on the 4th June it is provided that such petitions are to be referred to the Committee on Disputed Returns.

Senator DRAKE.—If the Chairman of the Standing Orders Committee assures me that in the document laid on the table the standing order appears as it should be, there is nothing more to be said. But I should have thought that, seeing that petitions against returns are now to be referred to the new tribunal under the Act, it would be necessary to make an alteration.

The CHAIRMAN.—Under the Act a petition against a return goes straight to the High Court, and does not come here at all. We can only deal with cases where there has been an appointment by the Governor in Council, or a choice by a State Parliament.

Senator DRAKE.—This standing order deals with petitions against disputed returns, and we say that they shall be referred at once to the Committee on Disputed Returns.

The CHAIRMAN.—Those returns that do not come under the Electoral Act are dealt with by the Senate. Standing Order 316 says as regards disputed returns that—

Any question against the choice or appointment of a senator which cannot, under the provisions of the Commonwealth Electoral Act, be brought before the Court of Disputed Returns, may be brought before the Senate by petition.

Those words "choice or appointment" have a technical meaning, that is to say, the choice of a State Parliament or an appointment by the Governor in Council as contemplated by the Constitution. They are the only kinds of petitions that can come to us at all, and we have a committee to deal with them. As regards all other

petitions against returns, the Electoral Act provides that they shall go to and be decided by the court.

Senator GLASSEY (Queensland).—I must confess that this is somewhat new to me. I certainly understood that petitions were dealt with the question of disputes under the Electoral Act that all petitions of that nature, whether involving a choice or a choice on the part of a State Legislature or appointment by a Governor in Council, in the event of the Legislature not meeting in session, were to be referred direct to the court. I think that above all other bodies in the world a committee of Parliament is the least fitting to decide an election, concerning which a considerable amount of heat may have been engendered. It is very much that all petitions of this nature should not to be dealt with by the court.

The CHAIRMAN.—It may be a question of session, but we had to provide for the standing orders, in order that petitions might be received here.

Senator DRAKE.—I quite understand that the new tribunal will not deal with matters concerning returns, but disputes regarding the election of a senator. But if this standing order remains as it is, we have it now, a petition may be presented against a return. It may be a question which ought to be brought before the new tribunal, but we shall have a standing order saying that such a petition shall be brought here and referred at once to the Court of Disputed Returns and Qualifications, whereas only certain petitions are receivable by the Senate. No doubt the President will decide which petitions are not properly receivable.

Senator Sir RICHARD BAKER (South Australia).—The Postmaster-General's statement is quite right. If a petition is presented here which ought to be presented to the court, we can have nothing to do with it. We do not refer it on. This standing order must be read in connexion with Standing Order 316, which refers to the petitions which can properly be received by the Senate.

Senator DRAKE.—Why can we not have that in this standing order?

Senator Sir RICHARD BAKER.—I think it is clear enough. This standing order relates to a petition which comes here.

Senator DRAKE.—Why does it not say so?

or Sir RICHARD BAKER.—I does say so. The standing orders say what petitions shall be received and they shall be dealt with. Standing Order 91 must be read in connexion with the standing orders. Thus, Standing Order 16 says—

A question against the choice or appointment of a senator which cannot, under the provisions of the Commonwealth Electoral Act, be referred to the Court of Disputed Returns, is brought before the Senate by petition.

It classifies the petitions, and if the two standing orders are read together the implication is that only those petitions which are brought before the Senate have no right to be sent here at present.

or DRAKE.—Why not state that? I have to begin with an implication?

Standing Order agreed to.

Standing Order 92 (Restrictions on petitions) (g).

or WALKER (New South Wales).—Frequently petitions are sent to us and we are asked to get them printed for the information of the public. Does this standing order mean that we are not to get petitions printed unless we intend to take subsequent action?

or PLAYFORD.—You ask for the petition to be printed, and say that you are not to take action.

or WALKER.—A petition may be of a public nature, and people may desire to have something about it.

or DRAKE.—The standing order says that a petition is not to be printed if a senator intends to take action upon it. If a senator who wants to get a petition printed will probably state that he is not to take action. I do not say that he deliberately neglects to take action, but I am rather inclined to think that to save his conscience, he may table a petition and even talk upon it; and that presently the time of the Senate will be wasted.

or Sir RICHARD BAKER.—The object of the standing order is to save unnecessary printing.

Standing Order agreed to.

Standing Orders 93 to 104 agreed to.

Standing Order 105 (No notice received prior to commencement of business).

or Sir RICHARD BAKER (South Australia).—There is a question as to whether we ought not to put at the

end of this standing order the words "unless by leave of the Senate." A practice has grown up of leave being given to senators to give notice after business has been called on. I cannot say that it is a good practice, and I am not at all sure that the standing orders ought not to be suspended to enable it to be done. But considering that the standing orders under which we have been acting are merely temporary and provisional, I have not raised an objection to the practice. Unless the words I have mentioned are added, however, I shall in future feel it to be my duty not to allow any one to give notice after business has been called on unless the standing orders are suspended.

Senator MCGREGOR (South Australia).—I move—

That the following words be added:—"unless by leave of the Senate."

Cases may arise when it will be necessary for a senator to give notice of motion at the close of a sitting, and some provision should be made to meet such an event. Every senator will, of course, endeavour to give notice at the proper time, but it would be a pity to prevent that step being taken at any other time.

Senator PLAYFORD.—It ought to be said how the leave of the Senate is to be obtained.

Senator Sir RICHARD BAKER.—"Leave" means unanimous leave.

Senator PLAYFORD (South Australia).—There are cases in which an urgent notice of motion can be explained in a few words, and in my opinion leave ought not to be given without suspension of the standing orders unless under very exceptional circumstances.

Amendment agreed to.

Standing Order, as amended, agreed to.

Standing Orders 106 to 119 agreed to.

Standing Order 120—

If all motions shall not have been disposed of within two hours after the time fixed for the meeting of the Senate, the debate thereon shall be interrupted.

Senator HIGGS (Queensland).—Does this standing order not conflict with Standing Order 59, which provides that the whole discussion on motions for the adjournment of the Senate shall not exceed three hours.

The CHAIRMAN.—Standing Order 120 refers to motions on the notice-paper.

Senator Sir RICHARD BAKER.—I think that Senator Higgs is right, and that the difference between the two classes of motion ought to be shown.

Amendment (by Senator DRAKE) agreed to.

That the words "except motions for adjournment under Standing Order 59" be inserted after the word "motions," line 1.

Standing Order, as amended, agreed to.

Standing Orders 121 to 127 agreed to.

Standing Order 128—

Leave of Senate must be granted without any dissentient voice.

Senator HIGGS (Queensland).—Is this not giving too much power to one senator, who, because he happens to be in a bad temper or has an impaired digestion may feel disposed to refuse leave? I have myself suffered from a similar standing order, and I should like to submit an amendment to the effect that the majority of the senators present, or at least two-thirds of those present, have power to give leave.

Senator Sir RICHARD BAKER (South Australia).—Senator Higgs has overlooked the fact, that when leave is asked for, it is for something which as a rule is contrary to the standing orders. We make standing orders in order that the public business may be properly regulated, and leave to do something which is not in accordance with the standing orders ought to be unanimously given, or otherwise we shall get into difficulties. How should we find out whether one-third of those present objected without taking a division every time? The granting of leave in the manner proposed in the standing orders is the rule in the British House of Parliament, and in every legislative body with which I have acquaintance.

The CHAIRMAN.—I urge Senator Higgs not to persist with an amendment in the direction he indicates, because it will be a very dangerous course to adopt. The word "leave" has almost a traditional meaning in Parliament, and is recognised by authority to mean unanimous leave. Moreover, Senator Higgs will only create greater difficulty for himself if he insists on this two-thirds majority. By Standing Order 438 it is provided that the standing or sessional orders may be suspended on motion without notice, provided that the motion is carried by an absolute majority of the whole number of senators. As Senator Baker has properly pointed out,

leave is generally asked for something which is contrary to the standing orders, it is desired to bring forward a matter of importance, and one or two or half objections are raised, the standing order may be suspended by nineteen senators.

Standing Order agreed to.

Standing Orders 129 to 132 agreed to.

Standing Order 133—

An amendment proposed but not carried. It will not be entertained by the Senate nor entered in the journals.

Senator HIGGS (Queensland).—I like to have a definition of the word "journals." If the word means Votes and Proceedings of the Senate, I have no objection to the standing order.

The CHAIRMAN.—The senator will find, on reference to Standing Order 39, that all proceedings are entered in the Journals of the Senate, and shall be noted by the Clerk, "and shall be entered in the Journals of the Senate."

Senator HIGGS.—I was thinking of the *Hansard*. That publication has been described as a book, and if it were included under the word "journals," I thought it might be possible that on some occasion I might move an amendment which I could not get a seconder, and there would be no record of it in the *Hansard*.

Standing Order agreed to.

Standing Orders 134 to 145 agreed to.

Standing Order 146—

If the Senate resolves the previous question in the affirmative, thereby resolving the original question be not now put, the question and any amendment thereon to the Senate are thereby disposed of, and the Senate shall proceed with the next business on the paper.

The CHAIRMAN.—I think the previous standing order is somewhat inconsistent with Standing Order 148, which provides that the previous question cannot be moved.

The previous question cannot be moved in committee, nor can an amendment be moved thereto.

I believe it is recognised by all that the previous question cannot be moved as against an amendment, and Standing Order 146 appears to me to be in providing that if the Senate resolves the previous question in the affirmative, the original question "and any amendment thereon" are thereby disposed of as a matter of fact, whilst there is an amendment before the Senate, I do not think it competent for the previous question to be moved at all. I shall be glad to hear the views of the President upon the matter.

ing what I have said to be, as I see it, the undoubted parliamentary practice, we should amend Standing Order 146 in order to make it conform to the general parliamentary practice set forth in Standing Order 148.

Senator Sir RICHARD BAKER (South Australia).—It does not appear to me that we necessarily conform to the general parliamentary practice. What we should do is make our standing orders conform to the practice of the Senate; but I do not think the Chairman is right in his contention. I see no inconsistency between Standing Order 146 and Standing Order 148. Standing Order 146 simply affirms that the usual question may be moved whether there is an amendment before the Chair or not. For instance, some honorable senator moves a motion, and another moves an amendment upon it; the previous question then may be moved to dispose of both, and, if carried, it sweeps away the whole question. Whatever the procedure may be in other places, that seems to me to be consistent. Standing Order 148 deals with the matter altogether—the previous question cannot be moved to an amendment. That is not the point. We cannot move the previous question to an amendment, but we can move it to the original motion, if carried, it sweeps away both the original motion and the amendment. There are three propositions in Standing Order 148: the previous question cannot be moved to an amendment, that it cannot be moved to the committee, and that an amendment cannot be moved thereto, and while they are consistent with each other, I think none of them are inconsistent with Standing Order 146.

Senator HIGGS (Queensland).—I point out that if an honorable senator wishes to move the previous question regarding an amendment thereon, he can do it by moving the previous question on the original question. I remember that the chapter dealing with the previous question occupied a good deal of time before the Standing Orders Committee, and a great deal of care was taken by the President in drawing up these standing orders.

The CHAIRMAN.—I have just drawn attention of honorable senators to the fact that if they desire to make what I claim is an innovation I am perfectly satisfied. Standing Order agreed to. Standing Orders 147 to 159 agreed to.

Standing Order 160—

The President or the Chairman of Committees may vote by stating to the Senate or to the Committee whether they vote with the "Ayes" or with the "Noes."

Senator HIGGS (Queensland).—Although this practice was laid down by the Senate a little time ago, I still think it is a practice to which many take exception. I move—

That the words "when in the Chair" be inserted after the word "may," line 1.

That will set at rest the question whether the occupant of the Chair should be allowed to evade the responsibility of sitting on one side or the other. The practice which has been allowed to grow up in the Senate is an innovation. I know that in the Queensland Parliament, when the Speaker is not in the Chair, and wishes to vote, he takes his place on the side either of the "Ayes" or the "Noes." I think that the President of the Senate, whoever he may be, might as well conform to the general usage, especially as the practice adopted here during the last 12 months is taken exception to.

Senator DRAKE.—I should like to hear the opinion of honorable senators on the subject. It is not an important one, but I cannot see that any disadvantage results from the practice of allowing the President to remain in the Chair, and signify that he desires to vote upon one side or the other. The instance quoted by Senator Higgs does not seem to me to be quite conclusive. That might be the practice in some Chambers which are differently constructed, and where it might be more convenient.

Senator WALKER (New South Wales).—I am inclined to agree with Senator Higgs. I myself had an experience of rather an unpleasant nature in connexion with this practice. On one occasion during a division I was not satisfied as to how the President was voting, and I said to the teller—"Have you asked the President how he is voting?" The teller was simply angry with me. That is the only time I have ever had any unpleasantness in this Chamber. I think that the President should be asked to sit either on one side or the other of the Chamber during a division, if he is not in the Chair.

Senator PEARCE (Western Australia).—The matter is one which can be decided without any reference to what has happened in the past. It is undoubtedly an inconvenience to a teller when an honorable

senator sits with the "Ayes" and votes with the "Noes." The teller may or may not hear the "aye" or the "no" of the President when the question is put, and when the seats on either side are of equal comfort I do not see why the President, when voting, should not sit upon one side or the other.

Senator GLASSEY (Queensland).—It seems to me that honorable senators are far too straight-laced in keeping up old customs and old forms. The standing order provides merely for a courtesy, which might very well be extended to the President and the Chairman of Committees. If the President is sitting in the seat which he finds most convenient, it is surely no hardship upon a teller to require him to say—"Well, Mr. President, on which side do you propose to vote." We ought not to be bound by an old custom which I dare say has operated very well in the past. Occasionally we must depart from old customs. I am rather surprised to see Senator Walker, who is generally in favour of preserving old forms, agreeing with Senator Higgs in this matter. I thought last session that this courtesy should be extended to the President and to the Chairman of Committees, and if a division is called for I shall vote in that direction.

Senator DE LARGIE (Western Australia).—We ought to be consistent in framing our standing orders. When we are devising a system of voting, I do not see why a particular senator should be given a privilege which is denied to others. In a committee of the whole it is no more undignified for the President to cross the floor than for any other senator to do so. If it is not thought worth while to adopt a general rule, let every senator have the right to remain in his seat and vote as he chooses. Of course it will give additional work to the tellers, and, if any confusion should result, it can only be ascribed to our desire to uphold the dignity of senators.

Senator PLAYFORD (South Australia).—It amused me to hear Senator Glassey suggest that Senator Walker, as a good old conservative, should follow the good old plan when he is actually following it. In the only other Parliament of which I have had any knowledge, the rule was for the Speaker or the President when the House was in committee to pass to the side of the "Ayes" or the side of the "Noes," and thus indicate on which side he was voting. Another practice

has sprung up in the Senate—we know how. It caused a considerable amount of trouble last session. From that time in which the President was sitting I did not know which way he was voting, and now it is proposed to extend the privilege to the Chairman of Committees. If the President and the Chairman are allowed to sit on the side of the "Noes" and to vote on the side of the "Ayes," I shall not know where we are. It will be a great trouble and annoyance to the senators do. Of course when either is sitting in the Chair it is only fair that he should be allowed to indicate in what way he desires to vote.

Amendment agreed to.

Standing Order, as amended, agreed to.

Standing Orders 161 and 162 agreed to.

Standing Order 163—

No senator shall be entitled to vote in a division unless he was present within the Chamber when the question was put, with the doors closed, and the vote of any senator not so present shall be disallowed.

Senator HIGGS (Queensland) moves—

That the words "he was," line 2, be deleted, and the word "is" be substituted for "was," line 3.

Amendment agreed to.

Standing Order, as amended, agreed to.

Standing Orders 164 and 165 agreed to.

Standing Order 166—

The doors shall be closed and locked after the lapse of two minutes as the President shall think proper to direct; and then no senator shall enter or leave the Chamber until division.

Senator HIGGS (Queensland).—We propose to amend this standing order, because it gives too much power to the President. It will allow him to say—"We shall have a division for some time." We propose to provide definitely that the doors shall be locked after the lapse of two minutes. In Queensland the bells are rung for two minutes, the doors are then locked, and the option is given to the presiding officer to delay the taking of the division.

Senator PLAYFORD.—In South Australia a similar rule has never caused any trouble. The doors have always been locked at the expiration of the two minutes.

Senator HIGGS.—In the Senate the doors have always been locked at the expiration of the two minutes, and therefore

ssary to retain the words which
ption to the President. I move—
e words "as soon," line 1, be omitted.

r PEARCE (Western Australia).
s occasion I have to disagree with
Higgs. Some person must give the

the attendants to lock the doors.
not be allowed to be the judges
n the two minutes have elapsed. The
order simply means that the
shall direct the attendants to lock

r PLAYFORD.—It is a great deal
leave the standing order as it is,
may happen that just as the time is
a senator is entering the Chamber.
ment negatived.

ng Order agreed to.

ng Orders 167 to 169 agreed to.

ng Order 170 verbally amended,
d to.

ng Orders 171 to 176 agreed to.

ss reported.

enate adjourned at 8.58 p.m.

House of Representatives.

Wednesday, 10 June, 1903.

EAKER took the chair at 2.30 p.m.,
prayers.

GOVERNORS: IMPERIAL NAVAL SUBSIDY.

OUCH.—I desire to know from
Minister if his attention has been
the fact that Sir George Clarke,
of Victoria, is delivering an address
on the Imperial Naval Subsidy.
noticed that several of the State
, particularly those of Victoria,
h Wales, Western Australia, and
d, have been prominently advo-
e Ministerial policy in this direc-
will he cause a communication to
to Mr. Joseph Chamberlain, the
principal of these Imperial agents,
at the State Governors shall be
not to intermeddle with Federal
tics?

DMUND BARTON.—I have
the title of Sir George Clarke's
ecture, and I know from what I
d that some of the Governors of

the States who are naval and military
experts are in favour of the policy proposed;
but as at present advised I do not intend
to make any such communication as the
honorable and learned member suggests.

ELECTORAL ACT ADMINISTRATION.

Mr. McCOLL.—I wish to know from the
Minister for Home Affairs if he has received
any complaints from the country districts
about the inefficient manner in which the
rolls have been compiled. Such complaints
have come under my notice, and I would
like to read the following letter which I
have received on the subject:—

Dear Sir,—I see by the papers that the list of
names of voters for the Federal Parliament has
been completed. If that is so, then the list is
not correct, because there was never any one round
this district to collect the females names, con-
sequently they will all be omitted. I think the
females up this way have as much right to have
a vote as those in the towns. Perhaps you could
make inquiries as to the reason that the names
were never collected here.

Sir WILLIAM LYNE.—No complaints
have been received, but inquiry will be
made into the matter. The rolls were col-
lected under an arrangement with the State
Government of Victoria, by which the
police were employed to do the work, and
were paid a certain sum per diem by the
Commonwealth, the detailed arrangements
being left to them.

BONUS ON COFFEE.

Mr. BAMFORD.—I wish to know from
the Minister for Trade and Customs if it is
his intention to take steps to give effect to
the petition of the Cairns Coffee Growers'
Association in reference to the granting of
a bonus for coffee grown in Australia?

Mr. KINGSTON.—The honorable mem-
ber had better give notice of his question.
I do not think that it will be the policy of
the Government, in the present session, at
any rate, to propose a bonus upon coffee.

INTER-STATE FREE-TRADE.

Sir JOHN QUICK asked the Minister
for Trade and Customs, *upon notice*—

1. Has Inter-State free-trade, as required by
law, been thoroughly established?
2. Is there any truth in the statement contained
in a letter published in the Bendigo newspapers
on the 8th inst., that "owing to impossible re-
gulations and tyrannical abuse of necessary
statutory powers by the Minister for Customs,
free intercourse between the States has been
rendered impossible?"

3. Have any complaints to the foregoing effect been received by the Minister since the adoption of simplified forms of Inter-State certificates?

4. What particulars must be filled in as regards an Inter-State certificate to enable a merchant or storekeeper to transfer goods from one State to another?

5. Is it difficult or impossible for an ordinary merchant or country storekeeper to obtain and fill in those particulars?

Mr. KINGSTON.—The answers to the honorable member's questions are as follow:—

1. Yes, so far as permitted by the Constitution. Inter-State trade with Western Australia will not be free till 8th October, 1906; the provisions of section 92 requiring, for two years from 8th October, 1901, the payment on goods imported before that date subsequent to Inter-State transfer of the federal duty, less any duty previously paid, and the requirements of the bookkeeping clauses impose some difficulties on freedom of transfer, which it would be desirable to remove if possible. As to collections under section 92, they are so very small that the Government are endeavouring to arrange for their cesser at the end of the present financial year, instead of the 8th October, 1903; but this will necessitate the consent of all the States, which is now being sought.

2. I have not seen the letter referred to, but the statement quoted is without foundation.

3. Not that I am aware of since the simplified forms were adopted.

4. The following particulars for dutiable goods are required:—

Whether bond or duty paid. Marks and numbers. Description of goods. Country or State of origin. Estimated value or quantity at time of transfer. Estimated value or quantity of dutiable goods at time of transfer. As to whether goods were imported before or after the 8th October, 1901.

The particulars are even simpler for free goods.

5. No; the particulars are simple, and the forms, when not otherwise procurable, are supplied gratis by the Department.

PROPOSED NAVAL AGREEMENT.

Mr. CROUCH asked the Prime Minister, *upon notice*—

1. In the event of the passage of the Imperial Naval Subsidy proposals, has he made any, and, if so what, arrangement with the British Government as to its taking over the officers and men engaged in the State vessels?

2. If no such arrangement has been made, what provision does he propose to make for these officers and men?

Sir EDMUND BARTON.—The answers to the honorable member's questions are as follow:—

1. The Imperial Government has undertaken to provide for existing officers in the new arrangement as far as it is practicable.

2. The position of officers will not, in any case, be injuriously affected during the financial year beginning 1st July next.

TELEGRAPHIC DELAYS.

Mr. KIRWAN asked the Minister for the Colonies, *presenting the Postmaster-General's notice*—

1. Whether the attention of the Postmaster-General has been drawn to the frequent interruptions of business on the overland telegraph between Port Augusta and Perth?

2. Whether the interruptions invariably occur in South Australian territory?

3. Whether the interruptions are due to climatic influences by reason of the proximity of the line to the sea in various places in Australia?

4. Whether, as the Western Australian Government before federation erected a telegraph line to remove the cause of the interruptions, the Federal Government proposes similar action to obviate the interruptions in South Australia?

5. Whether, pending the completion of the necessary work to prevent the interruptions, there is any means under consideration temporarily overcoming the delays and inconveniences to telegraphic business in Western Australia and the other States of the Commonwealth?

Sir EDMUND BARTON.—The answers to the honorable member's questions are as follow:—

1. The attention of the Postmaster-General has been drawn to interruptions and delays in business between Port Augusta and Perth.

2. The Postmaster-General is not aware of the interruptions or delays invariably occurring in South Australian territory.

3. There is no information as to the cause of all interruptions and delays, but a return has been asked for for the last twelve months, showing the number of delays or interruptions, the time thereof, and also the locality, when it is possible to ascertain it.

4. The Western Australian Government before federation erected a line inland *viâ* Enderby and Coolgardie, and the Federal Government has since and have for some time been, taking steps to obviate interruptions in South Australia by providing an additional copper wire *viâ* Yarramouth. This line the Deputy Postmaster-General for Western Australia, reports that it will be distant from the coast till it reaches the west end of Sturt and thence to Eucla it will keep, for the most part, well inland. When this additional line is completed, the Department will be well equipped to cope with the additional business due to reduced telegraph rates. The coast wire between Lincoln will also assist when not occupied by local traffic. Action has been taken to strengthen the operating staff at Eucla.

5. The practicability of making some special arrangement is receiving consideration.

TELEPHONE OPERATORS' OVERTIME.

Mr. CROUCH asked the Minister for the Colonies, *presenting the Postmaster-General's notice*—

1. Is it proposed to pay overtime for extra work to telephone switch operators?

such overtime to count in the case of
rre operators from 1st January last, and
case of Geelong operators from 1st June
? what is the reason for this distinction?

EDMUND BARTON.—The answers
e honorable and learned member's
ons are as follow :—

es, in accordance with the public service
ions.

all cases from the 1st January last.
o distinction has been made.

R REBATE ABOLITION BILL.

oved (on motion by Sir GEORGE
R)—

leave be given to bring in a Bill for an
abolish the rebate of excise duty on

presented, and read a first time.

ion (by Sir GEORGE TURNER) pro-

the second reading be made an order of
for to-morrow.

CONROY (Werriwa).—I would
out to honorable members that the
ne second reading of which we are
being asked to allow to-morrow, is not
fore us. A practice has grown up
ng for leave to read Bills upon certain
which, if continued, will bring us
to the old position of affairs, when we
nothing of what was to be put before
consideration. No deliberative body
its business properly under such a
. Honorable members should not
measures to be read a second time
they have had an opportunity to
their provisions and to ascertain their

So far as possible the House should
e its attention each week to some par-
measure, and proceed as far as pos-
towards the completion of its con-
tion before commencing with another.
the old system honorable members,
giving their attention for some time to
measure, were suddenly called upon to
with some other for the consideration
ch they were quite unprepared, and I
time to enter an empathic protest
t such a method of conducting busi-
One cannot altogether blame the
cry, because the practice of which I
ain is an old one; but we should not
ed to consent to the second reading of
until copies of them have been cir-
d, and we have been able to make
ves acquainted with their provisions.
House is at present discussing the

Judiciary Bill—a measure whose provisions
are fraught with great importance to the
whole Commonwealth, and are to be criti-
cised without party bias. That being so, I
submit that we should not suddenly be
asked to deal with other matters. It will
be soon enough to deal with the abolition of
the rebate of the excise duty upon sugar
next week.

Sir GEORGE TURNER.—All I intend to do
is to make my second reading speech to-
morrow and then adjourn the debate, so
that honorable members may have an op-
portunity of studying the figures which I
shall put before them.

Mr. CONROY.—I submit that we should
not be asked to consider the Bill at all at
the present time. When a second reading
explanation is made by a Minister, and the
debate adjourned, his speech is often quite
forgotten by honorable members upon the
resumption of the discussion. I raise my
voice against the consideration of other
matters while we are engaged upon an im-
portant Bill. Of course, if it is the wish of
the House that the Bill to provide for the
rebate of the excise duty upon sugar be
taken to-morrow, there is no more to be
said, because one man cannot oppose the
will of the whole Chamber; but I am of
opinion that we should not be asked to read
this Bill to-morrow.

Sir EDMUND BARTON (Hunter—
Minister for External Affairs).—The course
which has been taken in the past, and
which it is intended to pursue on the present
occasion, is one which is followed to meet the
convenience of honorable members, and will
conduce to the proper conduct of business.
If it were a rule that no Bill should be in-
troduced or read a second time until some
other measure upon which the House was
engaged was finally disposed of, as a cry is
invariably raised for the postponement
of the discussion after the second read-
ing speech of the Minister in charge,
there would be no other course open
to the House, whenever such a post-
ponement was agreed to, but to adjourn for
some days. It is a far better practice,
when it is intended that the main debate
upon a Bill shall not take place for some
days, for an explanation of its provisions to
be given by the Minister in charge of it on
the motion for the second reading, and its
further consideration deferred, so that
honorable members may have an opportunity
of studying it in the light of the Minister's

remarks. That is what is intended in this case, and I am sure that the proposal will meet with the concurrence of the House.

Sir EDWARD BRADDON (Tasmania).—Are we to understand that the Treasurer having moved the second reading of the Bill, the debate will be adjourned?

Sir EDMUND BARTON.—Certainly.

Question resolved in the affirmative.

JUDICIARY BILL.

In Committee:

Resolved (on motion by Mr. DEAKIN)—

That it is expedient that an appropriation of revenue be made for the purposes of a Bill for an Act to make provision for the exercise of the judicial power of the Commonwealth.

Resolution reported; report adopted.

SUGAR BONUS BILL.

In Committee:

Motion (by Sir GEORGE TURNER) proposed—

That it is expedient that an appropriation of revenue be made for the purposes of a Bill for an Act to provide a bonus to growers of sugar cane and beet.

Mr. CONROY (Werriwa).—It seems a very back-handed way of going about their business for the Government to ask for an appropriation for the purposes of a Bill which has not yet been placed before us. It may be that after the consideration of the Bill we shall be prepared to appropriate a certain sum of money, but I think the House out of regard for itself ought to insist upon an alteration of the present method of procedure. I am aware that we are following a precedent that has been set for some time past, and therefore I do not intend to raise any further objection at the present stage; but I ask the Government to avoid following any further the present loose method of procedure, which is not in accordance with the best political practice, and to refrain from asking honorable members to make an appropriation before we know the full extent of the expenditure involved.

Question resolved in the affirmative.

Resolution reported; report adopted.

Bill presented (by Sir GEORGE TURNER), and read a first time.

Sir GEORGE TURNER (Balaclava—Treasurer).—In moving—

That the second reading be made an order of the day for to-morrow,

I may mention that it is intended to follow the same course in regard to this Bill as was

indicated in connexion with the Bill to provide for the abolition of the rebate of excise duty on sugar.

Question resolved in the affirmative.

JUDICIARY BILL.

Debate resumed from 9th June (page 653), on motion by Mr. DEAKIN.

That the Bill be now read a second time.

Mr. McCAY (Corinella).—Although in connexion with this Bill it may not be possible for one to say anything that is very new, or to submit any argument in a more convincing manner than has been adopted by previous speakers, the importance and the far-reaching effects of the measure are such that no honorable member need make any apology for addressing the House on this occasion. I must confess that when I listened yesterday, as I did last session, to the lofty description of the Attorney-General of the Court that he hopes to call into existence, I was to a certain extent carried away. He described a court whose decisions would always be right and just, which would win the complete confidence and secure the complete happiness of the people of Australia, and which would do everything for our benefit—a court which, although it would be subject to having its decisions referred to the Privy Council in all but a limited number of cases, would nevertheless deal with all matters coming under its consideration so faithfully that all we should know of the Privy Council would be conveyed to us by the faint clapping of distant hands and the faint cheering of distant voices, accompanying the communication of the Judicial Council from the seas—"Well done thou good and faithful servant." The description given by the Attorney-General made me think of "Light that never was on sea or land" and it also carried my mind back to Mark Twain's description of Fenimore Cooper's celebrated Leather Stocking Indians as "an extinct tribe of Indians who had never existed." Notwithstanding the explanation of the Attorney-General of the high character of the British tribunals, I can hardly be led to suppose that if the Court is to be as good even as the best of it will attain to that state of perfection suggested by him as not only possible but probable. He told us that if the Bill were altered to provide for any other kind

that proposed, the responsibility at with us, and that he would then hands of the evil and pernicious consequences that would inevitably follow. I wish to suggest that we cannot in Australia a High Court regard to the intellectual calibre character for integrity and im- of the men who would com- would not be capable of ful- many of our aspirations, and command the respect of British- communities in general, and of ns in particular. Granting that the Judges are obtainable, such a court constituted only if the conditions rich these desirable results might ed were in existence, and I regret at, so long as the provisions of the ion with regard to the Judiciary they are, we can never hope to High Court, whether as a final or al court of appeal for Australia, ld occupy the dignified position in had hoped to place it. My own throughout the federal fight was in tion of securing, as a final court of an Australian High Court, but use I believed it would be necessary te that High Court forthwith. I to say that "forthwith" is the word to use in connexion with s such as those made by the -General to the necessity for the establishment of our Judiciary. n Act passed during the first nt to all intents and purposes— of what we hope will be the life of monwealth—constitutes an imme- npliance with any commands or re- a the Constitution. I never ex- hat we should find it necessary to a High Court immediately, and as t on, and the character of the High as altered more and more in the of making it less independent and than was anticipated and hoped any supporters of the federal move- d by its opponents as well, it ap- be more and more clear that the of the court was a question of pure cy. I propose to point out why the has not arisen, and why we are not on to establish a High Court at In view of the warning of the -General with regard to chang- character of the Bill, those who osed to the system, in essence,

embodied in the Bill, as well as those who think that this is no time to establish such a court, must fearlessly and without favour vote against the second reading, and not merely rest content with making alterations in committee. I think that the court as proposed is unnecessarily complete, and that the results will be unduly cumbrous, and I am also of opinion that the present is not the time for the establishment of a High Court because the necessity for it has not arisen. I would remind honorable members that there is power of direct appeal from the State Courts to the Privy Council. Although I do not profess to have the same experience as some other honorable and learned members, I venture to predict that appeals to the Privy Council will continue on the whole to be the choice of litigants. One among the several reasons which induce me to take this view is the fact that under the Constitution as it stands, even if the High Court has finally dealt with any dispute, there is still power for the Privy Council to grant special leave to appeal from the High Court to itself upon all but *inter se* questions. The result will be that the litigant who has failed before the Supreme Court, and who desires to carry an appeal to a higher tribunal, will be face to face with the fact that if he goes to the High Court and wins there, he may still have to fight the matter through another stage, and eventually appeal to the Privy Council. Consequently, the inclination will be to go straight to that court from which there can be no further appeal. I heartily agree with the statement which was made by some honorable members, and especially emphasized by the honorable and learned member for Northern Melbourne, that litigants desire finality. They are not imbued with that abstract and highly desirable love of settling nice questions of law which is more marked, perhaps, amongst the members of the legal profession than it is amongst those who have to pay for their legal determination. Moreover, in cases of appeal from the decisions of the Supreme Courts of the States, it often happens that both parties are dissatisfied, and that cross appeals are lodged. If, then, we establish the High Court, we may have the unhappy object lesson presented to us of a defendant appealing from the Supreme Court of a State direct to the Privy Council, and of the plaintiff appealing to the High Court. In such a contingency it may

be suggested that one of the courts would stay the appeal pending the decision of the other tribunal. But if that course had to be adopted which of the two courts would stay the hearing of the appeal? If the High Court of Australia stayed its hand pending the result of an appeal to the Privy Council, its action would be tantamount to a public announcement that it is not to be regarded as a court of appeal possessing equal authority with the Privy Council. However, I do not wish to labour that particular point, beyond repeating my previous statement that the appeals will usually go to the Privy Council. We cannot hope to materially lessen the cost to litigants by providing for appeals to the High Court instead of to the Privy Council, especially if the High Court be established in the federal capital at a very early date, for the reason that that tribunal will not be called upon to do sufficient work to warrant the creation of a federal bar. Consequently, special briefs will have to be given to the leading barristers in the various States, who will be required to make special journeys to the federal capital in order to appear before the High Court, unless that Court is to sit in the different State capitals and deal with appeals as they arise. That would scarcely be a feasible mode of procedure.

Mr. GLYNN.—There is no resident bar at Ottawa.

Mr. McCAY.—That is so, and that fact I think accounts for so many appeals in Canada going direct to the Privy Council. In addressing himself to this question yesterday the Attorney-General used one argument which struck me as being a two-edged weapon—one the use of which was just as likely to injure himself as it was to damage his opponents. He expressed the opinion that there are certain matters mentioned in the Constitution which it would be improper to refer to the States Courts. The use of such an argument is a direct implication either that the States Supreme Courts would not be qualified or willing—or perhaps both—to deal impartially with such questions. Of course honorable members can speak only for those courts with which they are familiar, and in this connexion I do not profess to have accurate knowledge of the status of the Supreme Court benches in other States as judged by the best opinion available, namely, that of the bar practising before them. But in Victoria we have had a long and happy

experience of a court whose impartiality is beyond question.

Mr. WILKS.—The same remark is applicable to New South Wales.

Mr. McCAY.—I do not profess to know for the other States because I have no personal knowledge of the conditions existing there, but I have no reason to suppose that in them a different state of affairs exists. If the ground referred to by the Attorney-General be really the ground upon which the proposal to vest the High Court with original jurisdiction is based, we ought to be told so explicitly, so that the honorable gentleman reflecting upon the interference or implication upon the part of the Court benches of the other States in the connexion of the Attorney-General with the federal spirit which would be shown by the High Court, and subsequent to the federal knowledge which it would have, I quite agree with him that a court which was continually dealing with matters of importance conferred by the Constitution, and which, in the event of practice, become much more familiar with them than would a tribunal which only dealt with them occasionally. No one would propose to controvert that statement. I mentioned earlier in his speech, when the Attorney-General spoke of the federal spirit which would actuate the High Court, that to my mind a somewhat different impression was conveyed. His remarks would imply that in matters arising under the Constitution in which the limit of power as between the States and the Commonwealth were under consideration, there would be an unconscious bias on the part of the Supreme Court benches as to the Federal power, and that in the development of the law there would be a similar development of the law that which actually occurred in the States in the early years of the nineteenth century. In other words, it would be inferred, the High Court would give a wide interpretation to the Federal power, thereby rendering it more elastic than it otherwise would be. I think that we all agree that in the States that development has worked for the general good of the Commonwealth. It is open to doubt whether it is wise to place an extension of the judiciary to place an extension of interpretation upon the Constitution to produce elasticity. If the Attorney-General's argument means anything, it certainly means that if the States

Judges would be disposed to in-
the Constitution too narrowly,
eral Judges, from the States point of
would be inclined to interpret it
rally. Seeing that a citizen of Aus-
quite as much interest in the
to which he belongs as he has
Commonwealth, it seems to me
is no more desirable to encourage
endency of the Federal Court to con-
ly expand federal powers than it is
the powers of the State Supreme
I am quite sure that consciously
no such intention upon the part of
e. Up to the present time the
es which have been given by the
Supreme Courts—although I do not
with one or two of them, probably
to my lack of appreciation of the
ns raised—have given general satis-
One or two of those decisions, it
tend to limit the federal powers,
t possible that, underlying that fact,
conscious irritation exists?

WATSON.—That is hardly a fair
tion, considering that this measure
ought forward last year.

McCAY.—I did not put the suggestion
d in the nature of a positive state-
I merely asked a question. There
eters upon the political bill of fare
present session which are much
urgent than is the passage of the
ry Bill.

WATSON.—That is a matter of

McCAY.—I do not profess to speak
one but myself. I am merely ex-
g my opinion, as it is my duty to do.
v that upon this particular matter
d of the Government, the leader of
position, and the leader of the Labour
are all agreed. They do not often
but when they do their unanimity is
wonderful. I do not know what the
f this political triple alliance will be
e present occasion, but I venture to
few reasons why it should not accom-
e object which it desires to attain,
rate, at the present time. I trust
e shall give the alliance time for
consideration, in order that they
ave an opportunity of determining
r the proposal before us is really the
e that we can adopt.

WILKS.—Let them resign.

McCAY.—If this Bill be defeated
annot all resign, so that we must

leave that parliamentary contingency alto-
gether out of consideration. I am glad that
this matter is being discussed free from all
party influences. It seems to me to be one
which is far superior to party considera-
tions. The High Court, when it is estab-
lished, and the Constitution under which it
is created, will be in existence and flour-
ishing when parties as they now exist in
Australia are remembered only in the pages
of the historian, and are very infrequently
read there. When we recollect how utterly
the character of parties—although the names
have lasted pretty well—have changed in
the United States, we must realize that,
similarly in this continent, the platforms of
rival political sections will completely alter.
I propose to vote upon this Bill irrespective
of all considerations of who introduced it,
who is supporting it, and who is oppos-
ing it. My endeavours will rather be
directed towards ascertaining whether it is
wise to pass it at the present time. The
one point which the Attorney-General in
his speech emphasised more than any other
was that the Constitution practically com-
mands us to establish a High Court. I
quite agree with other speakers that if this
tribunal is to be established it must be made
strong, and that nothing in the character
of a make-shift will be sufficient. It would
be a very inauspicious commencement if
the High Court were not put upon a
satisfactory basis from its very inception.
The Attorney-General quoted those sections
of the Constitution which deal with the
judicial power of the Commonwealth. He
declared that it is there clearly laid down
that that power shall be vested in a Federal
High Court—that the Justices shall be
appointed by the Governor-General, and
that the High Court shall have jurisdiction,
&c. By the time he had finished his ex-
position of these mandatory sections, the
“shall” which appears in them sounded
almost like an omen of doom in the ears of
those who dared to withstand the irresistible
command and authority of the Constitution.
If I believed that either under the law as it
is laid down in the Constitution, or under
any honorable obligation which was under-
stood as between the people of the various
States, or as between our constituents and
ourselves, we are bound to institute a High
Court, I should be prepared to carry out
that obligation, even though I felt that it
would be an unwise step to take. But I say
just as emphatically in intention—if not, in

language—as that used by the Attorney-General that no such mandate is contained in the Constitution. I think that the omissions from the judiciary chapter of the Constitution are quite as significant as are the words included in it. Let us take an illustration which was used last night by the honorable and learned member for Bendigo. There is a direction contained in the Constitution that the Federal Tariff shall come into force within two years from the establishment of the Commonwealth. That is plainly an instruction that as soon as possible a uniform Tariff is to come into operation. Similarly, let us take the section which declares that the Parliament shall meet within six months of the inauguration of the Commonwealth. That is a direction that as soon as possible the Commonwealth Parliament shall be elected. Time is the essence of the contract. But in the sections of the Constitution dealing with the establishment of the Judiciary no such time limit is imposed. They merely provide that a High Court shall be ultimately established to complete the various powers which are contemplated under that instrument of government. No specific time is mentioned for the establishment of that tribunal, and obviously the sections referred to, if read fairly, show that Parliament is to decide when, in its opinion, it is desirable to create it. The people of Australia in accepting the Constitution have implicitly trusted us to establish the High Court at a time when it shall be deemed desirable so to do. Nor do I place any stress upon the suggestion that if we do not obey any of these mandates—if they are mandates—contained in the Constitution, there is no practical power that can compel us to do so, because I think there is one power left to compel us to carry out these orders. I refer to the power of the electors, who choose the Parliament which has to carry out these mandates. In my opinion the public of Australia, and wisely too, are not directing us at the present time to establish a High Court. The Attorney-General pointed out that, in addition to what appeared to be mandates, there were also options given in the Constitution. He enumerated every option except that of time, which is the essential one in this particular case. In framing the Bill he has exercised, with one exception, every option that the Constitution gives with regard to the Judiciary. Every

Mr. McCay.

optional power that we can confer. High Court he proposes to confer, and he has exercised every option of that of waiting until the time of the establishment of the court. There are matters of more importance and urgency for which the people of Australia are asking more insistently than for the establishment of a High Court—asking—if asking at all—for the establishment of a High Court. It is essential to remember that fact when we realize that we have but comparatively few months to get the bill in disposal before this Parliament will be dissolved, and which has been made that if this Bill makes sufficient progress with its second session, there should then be a general election for the House of Representatives at the end of the present year. In the circumstances, I think it would be open for the Parliament not to hold a general election for the House of Representatives at the present time, but to continue currently with the Senatorial election, and the High Court be held at the close of the year.

Mr. CONROY.—If we did not do so, the expense would be involved.

Mr. McCAY.—Yes. I do not think it should even be suggested that the bill depends upon the progress of business of the House of Representatives. It is even a desirable suggestion, and I have calculated to assist the due expenditure of business. There are certain things which we must attend during this session, and we have very little time to do so, and we must set to work to do that which is essential instead of dealing with matters which, or about the urgency of which, there is a great diversity of opinion. As regards the establishment of the High Court, we have also had quoted to us the fact that it is not with any great insistence—the United States of the United States. It has been pointed out that the United States established the Supreme Court practically immediately after the federation had taken place; but the circumstances are entirely different from those in which it is proposed to establish a High Court for Australia. It is not so desirable that there shall be some court of appeal, which shall cause the judicial opinion to flow along definite uniform channels, so that, whether the result is good or bad, litigants shall be under a certainty in that respect, whatever the result may not be certain about. We have a Privy Council to discharge that duty, but the United States had no such

ness that, apart from pressing questions of immediate necessity, I would much prefer an Australian final court of appeal to the Privy Council. I think we ought to have a best tribunal, and I do not think the Privy Council is the best available, even in the British Empire. I believe that an Imperial final court of appeal could be made much stronger court than is the Privy Council at the present time, good as the Privy Council may be, and sound as its judgments usually are.

WATSON.—It did not come off too far from the New Zealand case.

MCCAY.—It did not. I have not read the New Zealand statutes sufficiently well to be able to say whether the Privy Council was wrong in its law in that case, but I have read the newspaper reports of the decision of the local court, and the reports of the judgment given by the Privy Council, and I say undoubtedly that I should have been one of the members of the Judicial Committee of the Privy Council. I should not have thought it necessary to say what was practically a reflection on the independence of the New Zealand Court. Apart from all questions of law, however, I think the Judicial Committee of the Privy Council did not do well in colloquial language, we should call it a committee; although they certainly said that about the New Zealand court which had no right to say. I should prefer an Australian court to the Privy Council; and considering the United States precedent, it must be remembered that we have a Privy Council available to us, while the United States had not. We have Supreme Court Benches in Australia, from whom we have the right of appeal to the Privy Council, and upon whose impartiality, at least, I have heard no justifiable imputation. We have Supreme Court Benches in Australia which are independent of their Governments, because the members of those benches have practically permanent tenures of office. But, in the United States at least, referred to, all the Judges were elected; and I venture to say there was one case which did more to cause the establishment of the Federal Supreme Court of the United States than did any abstract consideration.

I refer to the case with which the Attorney-General is familiar—the paper money case in Rhode Island. We all know that the Legislature of Rhode Island did not approve of the decision in

that case, which declared their law making the paper money legal tender to be unconstitutional. The Judges were elected annually by the State Legislature, and while that Legislature did not impeach or remove them, it did not re-elect them at the end of their year of office. If we had anything of that kind in connexion with our State benches, no circumstances should prevent us from immediately establishing a court which would not be open to the very grave objections to which every elective system of Judges is exposed. In many of the States of America all the Judges are elected, while in most of the States some of them are; consequently there is still a reason which we do not find in Australia for a court like that of the Supreme Court of the United States. It seems to me, therefore, that none of the conditions which existed at the time of the establishment of the Supreme Court in the United States, and which made its establishment essential, are at present existent in Australia, and that when the Attorney-General speaks of the establishment of the High Court, and draws such a glowing picture of all the beneficent results which are to flow from its creation, he is dealing rather with ideals than with actual facts; he is getting away from the practical facts which confront him, and which offer objections to the course which he proposes to pursue. Then the honorable and learned gentleman said, in reference to some criticisms that have been made upon his proposals during the debate on the address in reply, that we were “scarcely federal,” and “scarcely taking a federal view.” There is a certain degree of truth in that charge. We sometimes fail to fully recognise that we are dealing with the whole of Australia, rather than with the individual States with which most of us have been familiar during our lives. But I would retort upon the honorable and learned gentleman that if in this Parliament we are scarcely federal yet, notwithstanding the opportunities we have had to enlarge our views, the people of Australia are still more open to that allegation, and that there is a primary duty, greater than the establishment of the Federal Judiciary, cast upon this Parliament—the duty of making the people of Australia federal in their feelings and thoughts. In order to achieve that result it is essentially necessary that this Parliament, even at the sacrifice of matters which it would otherwise think desirable,

shall not pass legislation which does not appeal to the growing federal instinct of the people of Australia. It is just such a measure as this, the advantages of which are not immediately obvious, although its supporters may ultimately be convinced that the advantages exist, that does not appeal to the federal instinct of the people. It is just such a measure as this, whose advantages are not immediately obvious, while the expense which it involves is palpable, that causes the people of Australia to feel dissatisfied.

Mr. FOWLER.—That may be only the Victorian view.

Mr. McCAY.—So far as I am able to judge, from conversation with honorable members, the opposition to this Bill is not confined to Victoria. An honorable member, when he is speaking, must refer to that which he knows, and I repeat that, in my opinion, the advantages of this Bill are not obvious, and in no respect equal to the disadvantages which it now offers. Those disadvantages are obvious, and I venture to think that the great majority of the people of Australia have no desire at the present time for the establishment of the High Court, with the inevitable expense which it must involve.

Mr. FOWLER.—The desire for it seems to exist to some extent.

Mr. McCAY.—Yes. I suppose the honorable member is referring to public opinion in Western Australia. He knows that State thoroughly, and, if I may say so, much better than he knows the other States. But he will not find any excessive enthusiasm, even in Western Australia, in favour of the establishment of the High Court. It is not one of those questions with which a Government could sweep the polls, for example, or in favour of which there is an overwhelming mass of public opinion.

Mr. KENNEDY.—There is nothing to enthuse about.

Mr. McCAY.—Exactly. One reason why a proposal of this kind should not be pressed at the present moment is that in most of the States—with the exception of Western Australia, which, perhaps owing to her special Tariff, is more fortunate in this respect—the Governments, as Governments, are hard up. In Victoria they have been pursuing a policy of retrenchment of the most drastic kind. I do not express any opinion as to whether it is right or wrong, but as a matter of fact

there have been economies of the most drastic kind practised in this State. As I am aware that policy has not yet been taken up in New South Wales; I fear the day is coming when that State will find it just as necessary to adopt the same. This State can indulge in an unlimited expenditure with loan moneys, or any other kind of moneys on which it can lay its hands, without having to pay for it in the long run. I must say that in the past the eastern Governments and Parliaments, that have certainly not displayed, through their excessive desire to be careful in the expenditure of money—that desire for the avoidance of any unnecessary expense—tends in the long run to satisfactory domestic conditions.

Mr. FOWLER.—All the blame is to be put on federation.

Mr. McCAY.—I do not care to be blamed for this state of affairs. Although at times one has seen tendencies to extravagance, and although one may find isolated cases in which sums of money might have been saved, this Parliament as a whole has not been extravagant. Economical in its spirit, more economical than was, at the outset, the Government which leads it. Indeed some people say that the Parliament as a whole exhibits a more economical spirit than do the members of the Government at the present time. My experience has been that the parsimonious man who prospers is more than the extravagant man.

Sir JOHN FORREST.—If we do not save late we cannot accumulate.

Mr. McCAY.—Accumulate what? Most of the States at the present time are in a condition in which even comparatively small sums of money are of moment to them. Every penny we spend is a penny from them, and it is our duty to be economical in expenditure wherever it is possible to do so. The Attorney-General suggests that the establishment of the High Court would ultimately save money in the direction of the States Judiciaries, and to that I have the very gravest doubts. The inevitable result of the establishment of federation must be, for a time at least, a rate, not to decrease the crop of litigation. There are all kinds of new questions coming up for decision—new in the sense that there are no precedents to guide us, and we go to America, where the circumstances

ently so different that we cannot ourselves of their decisions. I do not think that the flow of current litigation will diminish to any material extent. In very few matters will there be such a curbing of laws as will diminish the volume of litigation, I do not see how I can hope that the total volume of litigation in the Commonwealth will be any appreciably increased by the conclusion of federal union. The fact that there is one customs law for the whole of Australia will not diminish litigation in any way. There was one customs law for the whole of Australia before federation, and there is one now. As a matter of fact there has been more customs litigation in Victoria during the last twelve months than in the preceding ten years. I do not say that the administration of the law has been improper. I do not wish to express any opinion upon the subject at the present time, but the fact is irrelevant. But, in this case the facts show that litigation has increased rather than diminished by legislation. The only way in which the work of the States courts can be lessened is by taking from them and giving to the High Court almost exclusively a large part of the business which they now transact. I do not think that a change of course. In my opinion we cannot save for any appreciable saving in the expenditure upon the States courts from the establishment of a High Court. When the Attorney-General tells us that his proposal is economical one, and contrasts the expenditure under the Bill with the expenditure upon the Supreme Court of the States, he is, in my opinion, making his comparison upon a false basis. He gets that there are two kinds of economy, the first of which consists of saving nothing unnecessarily upon existing institutions. I believe that if the High Court were in existence that kind of economy would be practised under the Bill. The second kind of economy is that of avoiding the establishment of institutions which require the expenditure of money until they are absolutely necessary. The honorable and learned Attorney-General is not proposing to practice that kind of economy. Of course, in his opinion the establishment of the High Court is necessary, but I did not hear a word from him last night, which carried to my

mind that conviction, or even a reasonable justification for the opinion. Consequently it seems to me that he is proposing to indulge in the extravagance of establishing an institution which will cause an expenditure of money when its establishment is not immediately necessary. I have already said that I do not think that litigants will save anything in expense by appealing to the High Court; neither do I think that they will save very much in time by doing so. Furthermore, the number of appeals is likely to be so small that the establishment of a High Court to save a short delay in dealing with a few cases a year is like using a steam hammer to crack a nut. I wish now to draw attention to the jurisdiction which it is proposed to give to the High Court. The Attorney-General in speaking of the desirability of establishing a High Court spoke chiefly upon the need for a duly qualified, duly respected Australian Court of Appeal. But the Bill proposes to do more than establish an appellate court, and I am forced to the conclusion that, consciously or not, the Attorney-General proposes to give the High Court so much original jurisdiction because he feels that there would not be enough work to justify the creation of a purely appellate court. If all the work which it is proposed to give to the High Court goes before the five Judges, who are to be appointed, they will certainly have plenty to do. It seems to me that the Government is endeavouring to do with a single court what it takes in the United States two sets of Judges to do; because there they have a Supreme Appellate Court and Circuit Courts. The Attorney-General, however, intends that the Judges of the High Court shall act as an Appellate Court, and also go on circuit. But they will not be able to carry on both functions satisfactorily if the High Court, in its original jurisdiction, gets all the work which it is possible under the Bill for it to receive. In my opinion the bulk of that work will not go to the High Court, but will, in the vast majority of cases, continue to go to the States courts. If that be so, it obviates the necessity for the creation of a High Court, with original jurisdiction, at the present time. But if the work does not continue to go to the States courts, litigants will have to suffer great delay in getting their cases heard by the High Court. The Attorney-General

drew attention to the fact that the Judges would frequently visit the capitals of the various States, and to secure business for the High Court he provides for the removal of causes by defendants to that Court as of right. That is tantamount to inviting defendants to go to the High Court, so that they may be able to postpone trials for longer periods than could elapse if the cases were heard before the States courts. The Government propose to set up an unnecessary rival to the six Supreme Courts of the States by giving to the Judges of the High Court a jurisdiction which they will be quite able to satisfactorily carry out.

Mr. FISHER.—Will the High Court do better work than the Supreme Courts of the States?

Mr. McCAY.—I do not think so. I do not think we could expect better work from a Judge of the High Court than from a Judge of the standing of the members of the Supreme Courts of the States. The Judges of a High Court will be chosen from the same class of men as are the Judges of the Supreme Courts of the States, and, on the whole, appeals from the decisions of Justices of the Supreme Courts of the States are not frequently successful. The original jurisdiction of the High Court will, to a large extent, be ordinary *nisi prius* work, and I do not see why State Judges should not do it as well as Federal Judges. I am not enamoured of the proposal that Federal Judges shall wander from capital to capital to do work which there are already State Judges able and willing to perform. During the recess the Government expressed a willingness to become a peripatetic Administration, and they still seem to have the ambulatory disposition, since they are now proposing to set up a peripatetic High Court. A stationary court would be very much better. I see no reason for giving the proposed original jurisdiction to the High Court.

Mr. WATSON.—What has the honorable and learned member to say on the subject of appeals upon constitutional questions?

Mr. McCAY.—There is nothing to prevent appeals upon constitutional questions being taken direct from the Supreme Courts of the States to the Privy Council.

Mr. WATSON.—Does the honorable and learned member object to that, or does he think it a good thing?

Mr. McCAY.—If we had a final court of appeal in Australia, and circumstances were not as they are at present, reference would be for an Australian court of appeal. Such a court would be in accordance with the Australian aspirations and sentiments; we have something else to satisfy justice, and that is the Australian pocket. The question itself was a sufficient satisfaction to our sentiment; but it will not content us unless our pockets are satisfied too. I have no sympathy with the course as that cabled from England the other day about bonds of mutual interest being a very way squalid. I think that mutual interest is a matter of very great importance in a community, and that its consideration is very desirable for the well-being of the State. But at the present time, seeing that few constitutional questions are likely to arise, and that all matters of appeal will come direct from the Supreme Courts of the States to the Privy Council, and that there is no appeal even from the High Court except in two or three cases, it is not that we cannot obtain that Australian court of appeal which was contemplated by many people when the Convention was sitting. We cannot now get the court we want, even if it were desired to establish a High Court of Appeal immediately. I have very grave doubts as to the constitutionality of the provision made to by the honorable and learned member for Northern Melbourne last night, in referring appeals to the High Court, and judgments by the States Courts within the limits of their federal jurisdiction. I do not bind myself to a definite expression of opinion on the subject, but my impression is that that is *ultra vires* of the Constitution, because it exceeds the power conferred by section 77. I do not think it comes within the words authorizing the definition of jurisdiction, but I admit the point is open to considerable doubt. In my opinion the provision is a vain endeavour to secure appeals to the High Court instead of allowing them to go at choice to the Privy Council. I have related briefly some of the reasons which compel me to vote against the Bill, and that course with no pleasure, because I would rather support a measure introduced by the Government of which the Attorney-General is a member than oppose it. I think one has a duty in these matters to say the higher and more important the

ation of that kind. But while I shall
against the Government with reluc-
shall have no reluctance in voting
the Bill, because I feel that it is
essary, and that our duty is to see
thing is done in the way of spending
unnecessarily.

HUGHES (West Sydney).—I should
say a word or two upon this measure;
first place, because, viewed from any
point, it must be regarded as of the
importance; and in the second place,
that importance has been enhanced
eloquent speech of the honorable and
gentleman who has charge of the Bill.
has apparently exhausted the argu-
which can be used in favour of the
Bill, because, so far as I can learn, no
honorable member on either side of
the Chamber is ready to say a word in sup-
port. Doubtless, those who will sup-
port away trying to find reasons for
it. Those who have opposed the Bill
have dealt with it from strictly legal stand-
points. I propose not to traverse the ground
on which they stood, except to a slight
extent, but to confine myself almost wholly
to those upon which they have not touched,
on which I will bear argument. I
may take it for granted that, as
the integral part of all federal Constitu-
tions, there must be a court to adjust the
relations between the various component
parts of the Federation. We have been
told by the Attorney-General that it is
his duty that the High Court should be
maintained, but we need not discuss that
on the very simple reason that this
Court has no element of time in it. It is
not a matter of indifference so far as
the public interest is concerned. The provision in
the Constitution amounts to very much the
same as if we were told—"You can do it if
you like, or you need not do it at all." But
we might consider for a moment the
various references that have been
made by the Attorney-General to the Con-
stitution of the United States, and to the
important part played by the Judiciary
in its development. We need not hesitate
to accept the statement, that had it not
been for the Judiciary, or more correctly
said, perhaps, for Chief Justice Mar-
shall, undoubtedly the American Constitu-
tion would have tottered headlong to ruin in
a very short part of its existence. Undoubtedly
in America the Judiciary has played a very
important part, as it must do under a Federal

or any other Constitution in which the law
is a settled and stable institution. It has
done so even in England. The Minister
has sought to draw an analogy, and certainly
there is one—although how far it holds
is another matter—between the American
Constitution and the importance of the
Judiciary in all such Constitutions, and our
own. At the same time he pointed out
that there are very great distinctions
between our Constitution and any other.
He has reminded us that we have some-
thing of the American, something of the
Canadian, and something of the Swiss Con-
stitution, and also elements which are not
to be found in any of them, and that we
should judge our own Constitution as a
whole, and not confuse it with any of
those from which we draw it. At the
same time it is undeniable that the
Attorney-General has sought to show us
that the Judiciary to be established here is
to take for its pattern that of the United
States. It is necessary to consider for a
moment the powers of the Judiciary where
there is a written Constitution with funda-
mental constitutional laws, capable of being
amended only in a certain way, and differ-
ing altogether from the ordinary laws, and of
the Judiciary in any one of our States or in
Great Britain. The function of the Judi-
ciary in Australia and in Great Britain is to
declare what the law is. It interprets the
law, and having declared it in the lower
courts, power of appeal exists to the higher
courts or to the highest court of the Empire
—in England to the House of Lords, and
outside of Great Britain to the Privy
Council. Even when the law has been de-
clared by the highest of these tribunals we
are by no means shut out from further re-
dress, because we may appeal to Parliament
and have the law altered. Where there is
a written Constitution, which is not sus-
ceptible of amendment in the same way as the
ordinary laws under which the citizens live,
then the Judiciary is a supreme power. You
cannot get behind the Judiciary. It is at
once the interpreter and the guardian of
the Constitution. You may appeal to Par-
liament, and you may, if you have plenty
of time and energy and hope, appeal to
the people, but the Judiciary is the begin-
ning and end of all things, and behind
that you cannot go. You may, if you like,
submit everything to the arbitrament of
arms, and then you may, perhaps, secure an
amendment. But as the Attorney-General

was careful to point out, there has not been an amendment of the American Constitution, except during the earlier months of its existence, beyond that achieved by the civil war. Now, we have never experienced anything of this kind in these States or in Great Britain. When a judgment has been given, even by the House of Lords or the Privy Council, we have never sat down tamely and said—"That is the beginning and end of things," but we have agitated and appealed to Parliament to get the law altered. The Judiciary, whilst we have honoured it and looked up to it, has never held the same position as in the United States. The Attorney-General seeks to establish such a Judiciary here. He is not satisfied with the mere declaration of the law. That could be effected by a State Court, or by the appointment of any Judge who can interpret the Constitution and understand the law. Even by what my honorable and learned friend calls a scratch court, as well as by the carefully erected Federal Judiciary that he proposes. The Attorney-General, in short, asks honorable members to erect a Federal Judiciary which is to have great powers in the interpretation of the Constitution. He said in the speech with which he introduced the Bill in the first instance, that the Constitution was written at large—that the details were not filled in, and that it was necessary to have men well trained and with able minds to interpret it. We were told, in effect, that whilst the Constitution was up to date in 1900, the requirements of the people and the exigencies of the situation as time progressed would demand that it should be drawn out at one point and filled in at others. Now this means that we are to intrust to the Judiciary the task of filling in the Constitution. Here is an empty building, the appointments of which are evidently to be left to the tastes of the tenants from time to time, and the Judiciary is to be intrusted with the task of finishing and completing the structure. But those who are far more familiar with the traditions of parliamentary methods would rather see it performed by the means hitherto adopted.

Mr. DEAKIN.—We must have a judicial interpretation of doubtful points before we can know whether it is necessary to amend or not.

Mr. HUGHES.—But it is not so much the judicial interpretation of doubtful points

at which we are aiming. What the honorable member has in his mind is very clear. It is not the doubtful points in the Constitution, but those which admit of no doubt, those which the public will not face—stone walls. The people say, "You must either make your way through this stone wall, under the Constitution, or we shall knock the wall down," and the Attorney-General prefers the Judiciary and its ingenious methods of going round or over or under stone walls instead of that straightforward way of knocking the walls down and have done with it, by which we have achieved every liberty we possess. He says that if it had not been for the Judiciary in America the Constitution in that country would not be the revered instrument it now is. That is very true. There would have been no Constitution and may be no United States if it had not been for the Judiciary. But we are not to argue from that that our position is analogous. In America there was no other method of getting over their difficulties. They had to rely on the Judiciary, or appeal to arms, or to disband and thereby abandon all hopes of national life. These alternatives are not presented to us. We can get an interpretation of our laws from the Privy Council or from the States Courts, and we are not likely to be involved in any very serious difficulties under this head, because we are only six States as against thirteen at the outset of the federation of the United States. More than that, the American Constitution is very much more difficult of amendment than ours; and the fact that ours is so difficult is not due to our fault but to that of the Attorney-General and those who acted with him. Those very honorable members who are now crying out for means to get round the awkward places were those who went through the land pointing out how easy it was to amend the Constitution. Now the Attorney-General says that whilst our Constitution is not nearly so difficult of amendment as is that of the United States, still it remains difficult of alteration. He says—

As honorable members are aware, scarcely any amendments have been made in the Constitution of the United States without a violent national convulsion. Of amendments of the Constitution in the ordinary constitutional fashion, there are practically none. At this very moment there are before the Congress sitting at Washington no less than 44 Bills for amending the Federal Constitution, and it is the confident opinion of those who have watched the course of American legislation,

one of them is likely to become law. To the complicated assents they have to give. Under these circumstances the Americans found themselves with a Constitution might have been a dead letter, and must have been a heavy burden, but for the fact that they had a Supreme Court capable of interpreting a court which had the courage to take that part, drawn in the eighteenth century, and in the light of the nineteenth century, so as to relieve the intolerable pressure that was put upon it by the changed circumstances of time. It is not too much to say that, but for the work done in this direction by the Supreme Court of the United States, we might not see it as it is still, the revered bond of 70,000,000 or 80,000,000 free people. In the same situation must arise in Australia although it be much easier to amend the Constitution, it is yet a comparatively costly and difficult task, and one which will be attained only in grave circumstances.

It is a difficult and costly task is very owing to the fact that certain men would insist upon our having this Constitution or none whatever. It is a difficult and costly task to secure amendment of the Constitution under present conditions, but it is no more so than it would be if we had a Federal Judiciary. As to the people would involve an outlay exactly equal to the expenses of conducting a general election, and we may estimate that would reach the sum of £50,000. It is proposed to erect the High Court at a sum cost of £30,000 per annum, and might therefore appeal to the people once in two years at a smaller cost than that incurred in maintaining the Federal Judiciary in the same period. However, that is only a way of looking at this measure, and is not altogether a fair way. So far as the amendment of the Constitution is concerned, we can see that we could effect our purpose easily, at any rate quite as cheaply, through a Federal Judiciary. The Federal Judiciary in America has read into the United States Constitution clauses and provisions that its framers could never have contemplated. I defy any human being to read that Constitution to find any grounds for such elastic decisions as have been given by the Supreme Court of the United States. The Judges have been only men, and they have been aware that their must be decisions such as they have made, or the conditions would be so intolerable that it would be impossible for the Constitution to cohere. As Bryce puts

anywhere else in the world, and Judges are only men. To yield a little may be prudent, for the tree that cannot bend to the blast may be broken. There is, moreover, this ground at least for presuming public opinion to be right, that through it the progressive judgment of the world is expressed.

Public opinion thus finds its only method of permanently impressing itself upon the Constitution of America through the Federal Judiciary; that is to say, through public meetings and the press, and other means which the public have of making their opinions known. We have always distinctly set our faces against any recognition of public opinion which did not find its expression in one of two ways, either through a plebiscite or through Parliamentary representation. It has been said by the Honorable B. R. Wise, a gentleman very closely allied with the Attorney-General and with the Prime Minister, that the referendum is opposed not only to the principles of representative government, but to the very spirit of the British Constitution, and undoubtedly we now have presented to us a method of governing through the press and public meetings, for in no other way could the Judiciary feel the impress of public opinion. Thus we are not to have public opinion rightly, sanely, and constitutionally expressed at the ballot-box, but we are to have it expressed by the Judiciary when the latter can no longer withstand it. When, in short, it is necessary to avert a dire calamity, such as an appeal to arms, we are to have some sort of a make-shift amendment. The Attorney-General knows perfectly well that under one set of circumstances only can an amendment of the Constitution be effected. There must be such widespread dissatisfaction with it or with some part of it, that the whole of the States, or a majority of them, together with a majority of the people of those States, are simultaneously seized of some disability, and resolve to tolerate it no longer. If we have a Federal Judiciary when such a contingency arises, it will introduce some sort of patchwork amendment by a convenient interpretation of the Constitution, and so, by relieving the pressure here or there, prevent the people from ever securing any beneficial reform of the Constitution.

Mr. DEAKIN. — I do not agree with that statement.

Mr. HUGHES. — The honorable gentleman knows that with the erection of this

Supreme Court feels the touch of public opinion. Opinion is stronger in America than

Judiciary all hope of securing an amendment of the Constitution disappears.

Mr. DEAKIN.—I think that the honorable member put the position correctly a few minutes ago, when he said that the people had power to break down the "stone wall." The Judiciary has to deal only with other parts of the Constitution.

Mr. HUGHES.—The Attorney-General knows perfectly well that it is only by fighting against "stone walls" that the British nation has advanced. Was it not necessary to go against a "stone wall" in order to obtain Magna Charta? Was it by judicial decree that that charter was secured? Was *habeas corpus* so obtained?

Mr. DEAKIN.—They were obtained very largely by parliamentary agitation.

Mr. HUGHES.—Undoubtedly, but how was parliamentary agitation aroused except by the demands of the people outside? In England, no reform has ever been achieved without popular agitation. A notable instance of that is afforded by the great Reform Bill. Did not the people assemble in thousands and demand the passage of that measure? Is it not a fact that the Duke of Wellington had presented to him the alternative either of giving way or of having the House of Lords flooded? In short, the people have obtained every liberty which they at present enjoy by direct rather than by indirect effort. If the Attorney-General desires a Federal Judiciary merely to interpret the law, I say that the State Judiciaries can perform that duty equally well. But if he desires to erect a Court which will be at once superior to Parliament and the people, he will seek to establish such a tribunal as he advocates to-day.

Mr. DEAKIN.—No.

Mr. HUGHES.—Undoubtedly. Let honorable members consider his arguments in favour of the appointment of this Judiciary. It is to be an impartial Judiciary. What does that mean? It means that the existing Judiciaries are not impartial. From the ill-concealed sneer and contempt with which the honorable gentleman speaks of State Benches and the Privy Council, one would imagine that they were composed of men who are tottering upon the verge of senile decay, who sleep whilst evidence is being submitted—a practice not unknown amongst other gentlemen who have occupied judicial positions and who have slept calmly through days and days of weary iteration of testimony—but have at length

woke up and given an admirable judgment upon questions involving thousands of pounds. The right honorable member who leads the Opposition with such distinction sleeps calmly through a great deal of thunderous eloquence from the other side of the Chamber, but manages to give a very effective reply to it when his turn comes. The Privy Council is held up by the Attorney-General as an institution which is good enough to decide small "tiddlywinking" matters, such as the determination of whether a man's life has been rightly taken away by the courts of our country, or whether another man's liberties are imperilled or his property is at stake. But strange to say this body of gentlemen, who have been trained in the Imperial Courts of the Empire, who have attained to the highest position within the gift of the Imperial Government, who are above ambition, for they have attained the highest of legal rewards—above the possibilities of bribery—who have achieved all in the way of reputation and career that this life has to offer, are adjudged incapable of settling constitutional questions, such as how the riparian rights of South Australia and New South Wales are to be equitably adjusted. In the minds of some honorable members these grave constitutional questions call for the exercise of abilities that no other men in Australia, and certainly none of those upon the States Judicial benches, possess. Apparently the members of the Privy Council are quite unfitted even to attempt to grapple with them, though there are some gentlemen in Australia with whose names we are not acquainted who are qualified to undertake the task. Their abilities we can only suppose to be supernaturally acute, otherwise the Attorney-General would not speak of them with such confidence. These gentlemen know exactly the position. They are acquainted with the intentions of the framers of the Constitution. They propose to violate the very first principles of law, in that they purpose interpreting the Constitution, not as it is expressed in the bond, but according to the intention of its framers—a proceeding which no court would tolerate. We are told that the High Court is to be constituted of men whose sympathies are with the Federal Government. What does that mean? It can only mean one thing, because the chief objection urged against the Judges of the States Supreme Courts is that they

biased against the Commonwealth Government. In plain language, it means that Federal Judiciary will be biased against States. If it does not mean that, it is that somewhere in our midst we have a body of men unafflicted with the ordinary weaknesses of mankind, for, whereas the States name Court Judges are to be biased in favour of the States, these men will be biased in favour of nobody. Are we to entertain the suggestion that the States Supreme Court Judges would not dispense justice? Are we to suppose that the rights of our fellow citizens are of less importance than are those of the States in constitutional questions? If a man is standing his trial before a court, his liberty, his property, or even his life may be at stake. Is it not of importance that the man in which tries him shall be without fear and shall dispense justice without fear or favour? I admit that we have men of ability upon the Judiciary, but I should be very sorry to find that our States Judges did not enjoy the deserved reputation in that respect. I say that either the States Supreme Court and the Privy Council, above all other courts, are not capable of determining any constitutional questions that may arise, is to take an extraordinary position to take. The Attorney-General declares that if we establish the High Court, time will be saved in securing decisions in cases of appeal. He pointed out that the decision appeals to the Privy Council occupies on an average a year and nine months. I am likely it does. But, even admitting that how long, I ask, is occupied in obtaining decisions in appeal cases in the United States? There, appeals have been known to be hung up for years. The question is whether a man had committed an offence upon Federal or State territory affords a remarkable instance of this. Its decision has been left in abeyance for years, during which the unhappy litigant has been at large, and for aught I know, remains so to the present day. In the United States, I understand, one can hang up anything or anybody. I have read all the glowing panegyrics which have been uttered upon the American Judiciary and all its decisions given approval? What does which gives this Federal Judiciary such importance? Its ability and incorruptibility are undeniable, but in that country incorruptibility means something, whilst in Australia it means nothing. I do not believe any court in the British Empire has

ever been guilty of corruption, and therefore to argue that in America the Federal Court is incorruptible, is to say nothing. It merely affords a refreshing contrast to the States Courts there, which obviously are not incorruptible. If we accept the statement of one eminent American, some of the courts of the United States are not incorruptible. The State Judges there hold office during the pleasure of parties, but the members of the Federal Judiciary do not. Their position therefore is entirely different. The State Judges hold office during pleasure, but the Federal Judges cannot be removed except after impeachment upon certain well defined methods. Here we have courts that are at least impartial, that are possessed of ability and are incorruptible, and I do not see what advantage we are to obtain from the creation of the High Court. We are to expend a sum of money which in the maximum will amount to £30,000 a year. We have recently passed through a distressing period. We were told during the federal campaign that the Federal Judiciary would cost a certain sum.

Mr. DEAKIN.—I have said that the cost has been estimated to be £23,715.

Mr. HUGHES.—I remember that Mr. Wise was before the country, and acted a very useful part in that campaign. He was a sort of John the Baptist, going before the right honorable gentleman at the head of this Government to prepare the way, and to leave him to qualify many things which he said. Mr. Wise said that the whole cost of Federation would be something less than a dog tax, and he held up to ridicule and contempt those parsimonious wretches who would not even face the cost of an extra dog tax a year. But this Bill involves something more than the payment of a dog tax. It is a regular pack of hounds which the Attorney-General proposes to let loose upon us. £30,000 a year is to be the maximum cost.

Sir EDWARD BRADDON.—The minimum.

Mr. HUGHES.—In these circumstances they are convertible terms. The Government propose to involve us in this expenditure, and they tell us that there is a sheaf of cases awaiting determination. They also remind us that this is the third year of the Federation; but whose fault is it that this measure was not introduced last session at a stage that would have permitted it then to become law. The fault rests with the

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Attorney-General or his colleagues. The honorable and learned gentlemen brought in the Bill last session at a stage when it was physically impossible to pass it into law. He brings it before the House now, and he reminds us that he is doing so in the third year of the Federation. But for three years we have managed to pull along without this Judiciary; there is no rumour of war outside, and those learned gentlemen, who are teeming with ideas as to how this Constitution ought to be developed, are lying low. Thanks to fairly substantial showers of rain, the country is pulling through, and it appears to me that in the circumstances there is no real reason for any hurry. If a Federal Judiciary is wanted—and I admit that some court is required—there is no reason why a tentative arrangement should not be made that would enable us to go on for another three years. If that scheme proved unworkable we might then come down and accept the Attorney-General's proposal for the creation of a permanent tribunal. If the temporary tribunal proved incapable of carrying out its work, if the litigants would have none of it, if its judgments excited contempt and were continually overruled by the Privy Council—in short, the members of that temporary court proved themselves incompetent—what would be easier than to erect such a tribunal as is indicated in the Bill? We are told, however, that we must at once have that tribunal. The honorable and learned member for Bendigo very properly pointed out last night that we are now within measurable distance of an election. We are going to ask the people some questions. Doubtless they will put some to us, but whether we or they shall be able to answer them the more readily I do not know. I propose, however, to ask my constituents whether they think this Federal Judiciary necessary. If they say they do, it is extremely probable that I shall vote for it. I remember a colleague of mine in the New South Wales Parliament—a representative of that canny and indomitable race that is found all over the world except in Scotland—who said on one occasion in the House that he had been down to his constituents; that he had just laid the matter before them; and that his constituents told him in so many words that they were not in favour of it. In these circumstances he said that he could not see his way to vote for the Bill in question.

Mr. Hughes.

I am not in that position. I have no the advantage of laying this matter to my constituents, but I do say that they look twice at their share of the £30,000 year which this proposal will involve, they consent to its expenditure. So I know my constituents have been very content with the very small benefit they have received from Federation. They are paying very handsomely for what they have secured from it. They have one and one destiny. They may wrap themselves around them, and their destiny is undeniable. But I think a demand for payment of £30,000 per annum is more than they are at present inclined to stand.

Mr. CONROY.—The honorable member should double that sum.

Mr. HUGHES.—I think so. I think the Attorney-General will find it difficult to show why we should not adopt a temporary scheme. Confer Federal jurisdiction on a Court composed, if you like, of the Justices of the various States, and impartiality must be the result. The honorable member for Gippsland has very properly pointed out the position. He said that in a matter concerning a State might be brought before a Federal Bench composed of a Chief Justice of each of the States. A case might concern two States, but we must not imagine that it would affect more than one honorable member pointed out that, if it affected three States, there would be three members of the Bench who would be interested. In 99 cases out of 100 it would be only one or two States interested and the Judges from all the other States would be quite impartial. It would be possible to obtain a more impartial court so far as Inter-State questions are concerned. If we have the High Court composed in this Bill, the members of that court will come either from one or two States, and they will presumably be impartial in one direction or another. If not, they will be persons so far removed from ordinary frailties of mankind, that we do not know them now. Public bodies have not seen them; the Bar has never heard of them, and probably will never know them, believe, indeed, that the Federal Judiciary will not know them. Such people are interesting characters to read about, but we do not know them. The honorable member for Bendigo says that we should have some control over the Federal Judiciary. Of course that is possible. We can have no control over a Federal Judiciary.

y. Both will be equally independent. No kind of control could be exercised in either case. Therefore, that point is worthy of consideration. It is held by honorable members that a Federal Judiciary would be of great service in connection with the State which was inclined to pass a measure similar to that introduced a few years ago by the Irvine Government. I am sure that it is imagined that the Federal Judiciary could declare such measures *ultra vires*. Such a belief is, however, absurd. The Federal Court could do so only if such a measure were an infringement of the Federal Constitution. Whatever may have been the reasons for such a measure, they would not be touched in the slightest degree, as we can see, by the Federal Constitution. If such a measure would have been valid at the laws of England or not is a matter which we need not consider. In any rate, the existence of the Federal Court would not have affected it in the least. It will thus be admitted that that measure should not be considered. I shall oppose such a measure, because I consider that the establishment of a Federal Judiciary, with the purpose of rendering it superior to the State Courts and the people, would be most unwise.

Of course the Attorney-General has said in so many words that that was the intended intention of the Government, to establish a Federal Judiciary clothed with such powers and animated with such a spirit as to have that effect. This Federal Judiciary is to be animated with the spirit of the Government. According to the Government cannot be separated from any other Judiciary that is similarly constituted. It is to be established for the express purpose of filling in the gaps in our Constitution, to develop the Constitution here and there in a manner and by methods of which the people had no knowledge when they accepted the instrument of which the Imperial Parliament was not seized when it confirmed it. The functions of the High Court are to be impregnated with the spirit of the framers of the Constitution. They are to build up the Constitution according to some well-defined lines not expressed in the letter of the Constitution, and they are, so to speak, to infuse the spirit of the Convention into the Constitution like every other citizen of Australia, prepared to accept the Constitution as it stands; to leave to a Judiciary the task of interpreting it. I have indicated the task of interpretation, and to the people the business of

amending it. I believe that the Constitution can be amended, although not without difficulty, and that it ought to be amended. I understand that the Adelaide Chamber of Commerce recently preferred a request that it should be amended in the direction of making either Melbourne or Sydney the Federal capital. There will be a demand for the amendment of the Constitution in various directions as time goes on, and amendment will come the more readily if we have not a Federal Judiciary that is ostensibly and avowedly placed above the Parliament and the people. Undeniably it is the intention of the Government to erect such a Judiciary. This is what the Attorney-General says—

If the members of the High Court, as we have every reason to suppose they will be, are the best men that Australia can produce, it is inevitable that the court will draw to itself, naturally and without coercion, a considerable share of the litigation which has hitherto flowed to the Supreme Courts of the States. There may remain a sufficiency of business for the State Courts for some time to come, owing to the growth of population and the increase of prosperity; but it cannot be denied that the business which will be done by the High Court will assist to relieve, not only the State Courts, but the Privy Council.

That is to say, in so many words, that this is to be a dominant court throughout the Commonwealth, and that it will usurp the functions hitherto exercised by the Parliament—that is by the people. The fingers of the American citizen are not so directly on the lever of government as they are here. Here the machinery is direct and simple. The people may at intervals of every three years elect to Parliament whom they choose, and their representatives may make what laws they please. They have hitherto not been bound by any written Constitution. They are now bound in some measure, but they are bound only within the limits of the Constitution. I am quite at one with the honorable and learned member for Bendigo and others in the proposal that the people be given an opportunity at the next election of saying whether they wish for an amendment of the Constitution, and that they should be allowed to determine whether the Court shall be established, or whether we shall remain quiescent, and accept a tentative scheme for the next five years, or, at any rate, until the dissolution of the next triennial Parliament. Let Australia get on her feet. We are now enmeshed in one of the most fearful periods of depression which the country has ever known. Is this the time, now that we

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are struggling in the octopus-like grip of depression, to introduce a proposal which, by involving the country in additional expense, will bring the Federal Government into disrepute, and the whole machinery of the Constitution into contempt? There is absolutely no need for the High Court at the present time. If there were an outcry for its establishment, the position would be different. We are told that there are hundreds of cases awaiting settlement. What cases are they? I venture to assert that no litigant will wait for the establishment of the High Court if he can obtain justice in the courts of his State. If the judgment of the State Court did not suit him, he might then wait until the establishment of the High Court; but to say that there are hundreds of such cases is to assert what does not seem to be the fact. If I had an urgent case, I should take it into the Court of my own State, and, if the decision of that Court did not satisfy me, I should appeal to the Privy Council. But to suppose that hundreds of people are waiting for the establishment of the High Court in order to have their grievances remedied, is to suppose that litigants are changing their usual methods of procedure. Why should a man be content to sit still, and do nothing, before he has tried to obtain a remedy from the Supreme Court of his State? I shall oppose the establishment of the High Court at this juncture, because it would be very costly, and is unnecessary. I have not gone into details, because other speakers have done that, and if the Bill passes the second reading they will come under our consideration in committee. Undoubtedly the measure is an important one. A Federal Judiciary is an integral part of our written Constitution. But the people can obtain every safeguard they require by the adoption of such a tribunal as I have referred to. As a whole, they will be better satisfied to obtain justice from the Courts which they now know, with an ultimate appeal to the Privy Council, than to rear at this juncture a costly and unnecessary High Court, and thus burden themselves with expenditure which they were led to believe when they were asked to accept the Constitution, was unnecessary, or, at all events, would not have to be incurred for a considerable time to come. I shall oppose the Bill, and I trust that the motion for the second reading will not be

Mr. Hughes.

carried. If the second reading is agreed we shall have to do the best we can the measure in committee.

Mr. V. L. SOLOMON (South Australia).—After the very able speeches to which we have listened from the Attorney-General, the honorable and learned member for Bendigo, the honorable and learned member for Northern Melbourne, the honorable and learned member for South Australia, Mr. Glynn, and others who have addressed themselves to the subject, I feel somewhat in touching upon a question of such importance as this and one which involves deep legal issues. But it seems a pity that most of these honorable and learned gentlemen have taken a great dislike to the provisions of the measure. It is something to find that the proposal for the creation of a High Court, which was so lauded when the people were being asked to accept federation, is now regarded as something to be condemned. According to some of these honorable and learned gentlemen, the measure which we should create is a mere shadow court, which would sit in one place and another as time and the work of the Justices of the Supreme Courts of the States might permit. We have heard a good deal about the High Court of the Dominion of Canada, and of the High Court of the United States, but the conditions in both countries are in no way comparable with those under which the six States of Australia have united. We have one vast continent six States, with different climatic conditions, and different industries, whose people hold different ideas, and have different aims and conflicting policies. But after some years of consultation and discussion, a Constitution was framed by a Convention appointed by the electors of the States, which was afterwards submitted to them for approval and adopted. Prominent among the advantages to be secured by the adoption of the Constitution, and for which its adoption was recommended by the leading federalists, went throughout the country with that were the removal of the fiscal barriers existing between the States, and the substitution of absolute free-trade and free interchange of products between the States; and the establishment of a High Court to which the people of Australia could appeal with confidence in the integrity and intelligence of its Judges, and with the certainty of obtaining speedy and reasonable justice.

decisions upon their disputes. A advantage that was to be gained the establishment of an Inter-State Commission, a judicial body which would be linked in some degree with the Federal Court, and which would prevent the interference with Inter-State free-trade which is caused by the war of railway rates and the imposition of preferential duties. Without the establishment of a High Court there can be no Inter-State Commission. The two are closely interwoven, and a High Court is made the final arbiter of points of law in regard to matters coming before the Inter-State Commission. Being so, the question arises, in my mind, how is it that those who are much opposed to the establishment of a High Court, some of whom were members of the Convention, did not there raise an objection to the idea on the score of the probable increase in cost of the institution, or because it would be unnecessary. Why did they raise those objections when they were commencing with all eloquence and fervour the adoption of the Constitution to the people of Australia? The creation of a High Court was put before the people as one of the best things next to Inter-State free-trade and the creation of an Inter-State Commission to be gained from Federalism. The people of Australia—I speak from personal knowledge of my own State and from what I have read of the feeling in other States—evidently approved of the establishment of Inter-State free-trade and the creation of a High Court and an Inter-State Commission. If they had not done so, they would not have voted by an overwhelming majority for the Constitu-

Mr. WILKS.—How often was the establishment of a High Court advocated on the various platforms?

Mr. V. L. SOLOMON.—The question was referred to by every person who submitted himself for election to this Parliament.

The creation of the High Court and the Inter-State Commission were both advocated. I believe that the honorable and learned member for South Australia, Mr. [Name], suggested in the Convention that a High Court should be constituted of the Justices of the Supreme Courts of the several States. That idea was not accepted by the Convention; but the honorable and learned member did not then oppose the creation of a High Court. Far from it; he even went

the length of desiring to make the High Court the final court of appeal, and abolishing the right of appeal to the Privy Council.

Mr. GLYNN.—But the Convention finally retained the right of appeal to the Privy Council.

Mr. V. L. SOLOMON.—Yes, but to my mind that was a grave mistake, and one which should be remedied if possible. The importance of establishing a High Court and an Inter-State Commission is such that an expenditure of £30,000 or £40,000 per annum, which would be distributed amongst nearly 4,000,000 people, sinks into absolute insignificance compared with it. The Attorney-General gave it as his opinion that section 71 of the Constitution is mandatory, and I am inclined to agree with him, though other speakers have combated that view.

Mr. WILKS.—While mandatory, it is permissive as to time.

Mr. V. L. SOLOMON.—Yes; but I think that I shall be able to show that it has ceased to be permissive as to time, because of the action of this Parliament in passing certain measures. Section 71 reads as follows :—

The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other Federal Courts as the Parliament creates, and in such other courts as it invests with federal jurisdiction. The High Court shall consist of a Chief Justice and so many other Judges, not less than two, as the Parliament prescribes.

The Attorney-General argues that the judicial power of the Commonwealth must be vested in a Federal Supreme Court, and I agree with him. I am inclined to think that the Minister has missed the full meaning of one little word that puts a strong complexion upon his argument, and which seems to force us into the position of establishing the High Court. The word to which I refer is “and,” and it occurs in this way—

The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, . . . and in such other Federal Courts as the Parliament creates, and in such other courts as it invests with Federal jurisdiction.

This does not provide that the judicial power of the Commonwealth shall be vested in a Federal Supreme Court, “or” any such other courts as the Parliament may create, “or” in such other courts as it invests with Federal jurisdiction, but it is provided that the three

classes of Court specially mentioned shall be the repositories of the judicial power of the Commonwealth.

Mr. GLYNN.—But the other Federal Courts have not yet been created.

Mr. V. L. SOLOMON.—They have been, to some extent.

Mr. GLYNN.—No, they have not, and there will be no reason for creating them for another generation or two.

Mr. V. L. SOLOMON.—Certain Courts have been vested with Federal jurisdiction.

Mr. GLYNN.—Yes, but no "other Federal Courts" have been created by Parliament.

Mr. V. L. SOLOMON.—I am not so sure about that. I am inclined to think that Act No. 21, 1902, which makes temporary provision for enforcing claims against the Commonwealth, creates "other Federal Courts."

Mr. GLYNN.—No. That invests the States Courts with Federal jurisdiction.

Mr. V. L. SOLOMON.—The Act to which I have referred contains the following provision :—

The Supreme Court of each State is hereby invested with Federal jurisdiction for the purpose of hearing and determining actions and suits brought under this Act, and shall have that jurisdiction as a court invested with Federal jurisdiction, and not otherwise.

Then we have Act No. 14, 1901, providing for the punishment of offences, which in section 3 provides—

The several courts and magistrates of each State exercising jurisdiction with respect to the summary conviction, or examination and commitment for trial, or trial upon indictment or information, of offenders against the laws of the State, shall have the like jurisdiction with respect to persons who are charged with offences against the laws of the Commonwealth committed within that State, or who may lawfully be tried within that State for offences committed elsewhere.

Provided that such jurisdiction shall not be judicially exercised with respect to the summary conviction or examination and commitment for trial of any person except by a Stipendiary, Police, or Special Magistrate, or some Magistrate of the State who is specially authorized by the Governor-General to exercise such jurisdiction.

In these two cases we have invested other courts with Federal jurisdiction, and we shall not completely carry out the provisions of section 71 of the Constitution if we ignore the opening words relating to the judicial power of the Commonwealth being vested in the High Court. This judicial power must be vested first and foremost in the High Court, and afterwards in such other Federal

Courts as the Parliament creates, and in other courts as it invests with jurisdiction. The section does not say "or" in other Federal Courts, &c. This appeals to my lay mind to afford the very strong reason why we should regard the Constitution as mandatory. It further occurs to me that we had no right to invest the State Court with Federal jurisdiction if we had established the judicial power of the Commonwealth by creating a High Court. That should have been the first step, and the others would have followed in natural order. I should not like to go to the length of saying that the action which has been taken in this respect is unconstitutional or *ultra vires*, but I hope that point will receive the attention of honorable and learned members. In connexion with the provision made for investing the States Courts with Federal jurisdiction, I think, perhaps it will be advisable to limit the extent to which this may be done. I have not had time to study the Bill as closely as I should have liked, but I fancy that some provision is made in that direction. The suggestion of the honorable and learned member for South Australia, Mr. Glynn, that a Federal High Court should be constituted by the appointment of the Chief Justice of the States, does not commend itself to me. In the first place; most of our Chief Justices complain of being very much overworked, and the States Supreme Courts have frequently to hold over business from one sitting to another because of the lack of time and opportunity for dealing with it. Then again, the Chief Justices of the States are often called upon to act as Lieutenant-Governors, and in spite of all these demands upon their time and attention, it is suggested that we should throw upon them the work of the Federal Supreme Court. That would mean that if Chief Justices of South Australia were called upon to take part in the deliberations of the High Court, he would be simultaneously filling the positions of Lieutenant-Governor, Chief Justice of the State Supreme Court, and Justice of the High Court. The same condition must obtain in any of the other States. I should like to ask the honorable members what sort of work would be performed by a perambulating High Court composed of the Chief Justices of the various States who would have to finish their ordinary work to meet together and decide a host of appeal cases?

JOSEPH COOK.—Why there would be such cases in a year?

V. L. SOLOMON.—More than ten cases would have arisen since this Government was first sworn in, had there been a High Court to which appeals could have been taken. Without exaggeration, I think that there would have been dozens of appeals connected with the Customs administration. Only last week the spectacle was presented of a citizen of the Commonwealth desiring to appeal to a tribunal for reasons on account of his documents, books, having been seized by the Customs Department. The Supreme Court of New South Wales declared in that instance that it had no jurisdiction.

GLYNN.—That is because Parliament last year to endow the States Courts Federal jurisdiction.

V. L. SOLOMON.—I am satisfied that if the High Court had been established in the early history of the Commonwealth, such a difficulty would not have arisen.

WILKS.—The honorable member is referring to Goldring's case.

V. L. SOLOMON.—I do not know the particulars of the case beyond those which I read in the newspapers. The individual in question can appeal to a tribunal for redress, because the provisions of the Constitution, for which he has probably voted, have not been set out. It is all very well for my colleague to say that the position of that individual is due to the fact that Parliament refused to give extended powers to the new Supreme Courts. But I ask was it contemplated that we should vest such powers in those Courts? If so the wording of the Constitution is very strange indeed, giving the able legal talent which was consulted in the Federal Convention. The Constitution declares that the judicial power of the Commonwealth shall be vested in the High Court, and yet we find that no tribunal exists which can determine the rights of our citizens. In the case to which I have drawn attention, the individual cannot appeal to the Privy Council, because it is one in which his goods have been seized by a Commonwealth Department.

JOSEPH COOK.—The whole question is as to the expenditure that would be incurred in establishing the High Court.

Mr. V. L. SOLOMON.—This is not a question of what will be the cost of conferring a right upon one citizen, but of the cost of bestowing it upon every citizen. Let us come to a little more important matter—that of the establishment of the Inter-State Commission. Such a tribunal will probably be created by this Parliament, but it will be utterly valueless unless we erect the High Court, because the latter must decide all questions of law. If we refuse to establish the High Court, we shall absolutely prevent the Constitution from being carried out in two most important respects. Honorable members demur at the expenditure of £30,000 or £40,000 involved in the establishment of the High Court. But I would ask, did the people of Australia rise in arms over the question of the expenditure of a couple of hundred thousand pounds upon our legislation in connexion with the production of sugar? Did they offer any protest against a large increased expenditure in connexion with our mail contracts owing to the provision inserted in the Postal Act?

Mr. GLYNN.—They are talking about it enough just now.

Mr. V. L. SOLOMON.—If this Parliament desired to spend only 4½d., there would still be newspapers and growlers at every street corner, condemning our doings in loud tones. Many of these growlers are entirely ignorant of the advantages being gained for them by their representatives in this Parliament, who are fighting to erect a Constitution of which future generations may be proud. Certain individuals will growl whatever the expense may be. Personally, I take very little notice of their criticisms. Even upon the eve of a general election, when it has been whispered in my ears that honorable members require to be unusually cautious before sanctioning any expenditure, I am prepared to justify the establishment of the High Court. I am not afraid that when the common sense portion of my constituents realize the necessities of the case, they will think any the less of me for exercising my vote in the direction in which I intend to record it.

Mr. O'MALLEY.—The honorable member has not an *Age* or an *Argus* in South Australia.

Mr. V. L. SOLOMON.—Both daily newspapers in Adelaide are opposed to the creation of the High Court. I do not think that a court constituted of the Chief Justices

could give proper time and thought to the consideration of the host of questions which are bound to come before a Federal High Court. We are very proud of our Constitution, but even in the brief period which has elapsed since the election of this Parliament we have discovered many blemishes in it. It contains numerous provisions upon which we have absolutely declined to permit the Privy Council to adjudicate. In the absence of a High Court, questions concerning its interpretation as between the Commonwealth and some of the States, or as between a State and State must absolutely be hung up. They cannot be dealt with by any other tribunal. Would it be fair to trust a mixed court sitting occasionally when time permitted—a court constituted of the Justices of the various Supreme Courts—to deal with all these cases? What sort of confidence would the people of South Australia, Victoria, and New South Wales have in relegating to such a Court the big questions which will probably arise in the near future regarding the division and utilization of the Murray waters, and the interpretation to be placed upon that provision in our Constitution which contains the words “reasonable use.”

Mr. A. McLEAN.—Does the honorable member propose to go outside the Commonwealth for its Judges?

Mr. V. L. SOLOMON.—No, but I certainly wish to go outside the States Supreme Courts. Surely the honorable member does not imagine that the gentlemen who have been elevated to our States Judiciaries have been so raised because they were head and shoulders above all others practising at the Bar in their respective States? I have known of instances where the accident of who happened to be the Attorney-General of the day has had a great deal more to do with appointments to the Judicial Bench than has the particular ability of the gentlemen who were elevated to that position. I have seen the Attorney-General of the day quietly hoist himself into the office.

Mr. O'MALLEY.—Yes, in South Australia.

Mr. V. L. SOLOMON.—It has occurred in more States than that of South Australia. Without questioning the integrity or ability of the States Judicial Benches, I do not think that all the highest legal intelligence of Australia is to be found on those Benches. We know that the contrary is the case. I

do not think that the legal education and the career of our Chief Justices—who are pretty well aged—has been such as to lead them to evince a very strong interest in questions of constitutional law, whereas there are men in the different States, outside of the Supreme Courts Benches, whose special study for many years has been that of constitutional history and constitutional law. A great deal too much has been said upon the question of economy when we come to consider how very carefully the expenditure of the Federation has been guarded. It has been guarded to such an extent that except for the extraordinary charge upon our revenue involved in the payment of the sugar bonus, it would be well within the estimate framed at the time the Federal Convention sat for the purpose of framing the Constitution. That bonus is an extraordinary charge which was not reckoned upon at the time. Of course, the members of that Convention knew that there must be a loss in revenue if Australia prohibited the employment of black labour. The voice of this Parliament, and of a majority of the people, has insisted upon the abolition of black labour, and consequently we are faced with an expenditure which was never anticipated at the time of the Convention. A good deal has been said about the satisfactory nature of the appeals to the Privy Council. The honorable and learned member for Northern Melbourne declared his belief that the cost of an appeal to the Privy Council would be no greater than that of an appeal to the High Court if it were established. I differ from him. I believe that when the High Court is created we shall find many able lawyers in Australia who will make themselves thoroughly competent to deal with cases of the class likely to come before it upon appeal, and that the cost of transferring those cases from the Supreme Courts of the States will not be nearly so great as that involved in an appeal to the Privy Council. It is all very well to estimate that cost upon the basis of the extremely high fees which are sometimes paid to the leaders of the Bar in the various States. Half-a-dozen leading men probably receive extremely high fees for conducting specially important cases. But the ordinary sort of appeal will be conducted for about one-fourth of what these lawyers would charge by equally clever and younger men. The Attorney-General has stated that the shortest time occupied by the Privy Council during the

five years, in deciding an appeal from South Wales, was something under a year, that the longest period was three years and ten months, whilst the average was one year and nine months. I venture to think that the longest period that would be occupied in the settlement of cases by a properly constituted High Court would be less than six months.

A. McLEAN.—Then appeals would afterwards taken to the Privy Council.

V. L. SOLOMON.—Even if an appeal were subsequently made to the Privy Council, there would still be less likelihood of misunderstandings being made such as those made by the Attorney-General. The very existence of the High Court would be of advantage to the Privy Council if any case of sufficient importance to justify its being taken to that body. But I venture to think that with a fairly strong High Court—a Court, the decisions of which would, as the years passed, gain the respect of the people of Australia, who are already predisposed to have their cases tried by a tribunal—litigants would be satisfied. The question of cost was raised—whether a popular spirit or not I do not know—the honorable and learned member for Northern Melbourne, and the view taken by him has been echoed by certain other honorable members, who say that in addition to the expenditure involved in providing for the salaries of the Judges and their associates, as well as for travelling expenses, there will be the cost of providing courthouses, offices, and police officers necessary to deliver processes. The honorable and learned member for Northern Melbourne says we should even require special gaols for prisoners of the Commonwealth. That conclusion is all very well, but it occurs to me that when the States know, as they must know, that the whole of the cost of the High Court has to be paid *per capita* by the individual States, very little desire will be shown by them to get anything out of the Commonwealth. They will recognise that the money will have to be repaid by them in another form, and they will be pleased to render assistance to the Federal High Court, and to facilitate the working of its processes. They will be delighted to see the High Court established in reasonable reach of their own people. The Attorney-General estimates the maximum cost of this court at £30,000 per

annum. I am inclined to think that he is cutting the figure rather low. Having regard to the expense involved in providing registrars, and Judges' associates, and in meeting travelling expenses and various other details which will have to be considered later on, I shall not be surprised to see the expenditure go a little higher. I believe that an expenditure of £30,000 per annum will be somewhere near the mark, although it will not be the maximum, and I do not think there will be much opposition on the part of the people to such an expenditure. I have read the Bill two or three times, but I have not yet studied it sufficiently to enable me to go closely into the provisions contained in the various clauses. In conclusion, I would point out that a Federal High Court was promised to the people of Australia. The High Court together with the Inter-State Commission were promised to protect the rights of the smaller States. It was specially referred to when they were asked to vote for the Constitution as put before them. The provision for it appeared in cold print in that Constitution, and whether the Court is constituted in the way suggested by the honorable and learned member for South Australia, Mr. Glynn, or in any other way, it is our duty to see that it is established at the earliest possible moment. In that way alone shall we carry out our pledges. It would indeed be a pity if the second reading of the Bill were defeated. Whatever we may choose to do in regard to the details, I contend that the second reading should undoubtedly be carried. Let the clauses be amended in such a direction as may seem to be wise and just to the majority of honorable members. Control, if you choose, the amount of the original jurisdiction to which so much reference has been made, but above all things—for the credit of this Parliament, for the credit of those who induced the people of Australia to come into the Federation under this printed Constitution—let us pass the second reading of this Bill. I shall support it.

Mr. O'MALLEY (Tasmania).—I am quite satisfied that an extraordinary transformation has taken place within the last six or seven months. We now hear honorable members, who a few months ago were the greatest supporters of the court, standing up in this House and battling against the establishment of a High Court with all the

determination of profound thinkers and mighty investigators. What has happened? It is difficult for me to understand this extraordinary change. But I always read a certain great journal very carefully, and I take it as being the thermometer of the Victorian temperature for political morality. After reading it I invariably know the way in which the crow will jump. I do not know why it is so, but it is remarkable that one is able to obtain such information in the way I have described. I intend this afternoon to be fair. My whole nature is permeated with the desire to be fair to every one. When I see the poor down I help to lift them up, and when I see the rich down I go to their rescue. I well remember the statements that were made not only in South Australia, but in Victoria and New South Wales, by every man who stood on the platform prior to the Federation, in regard to the glorious Constitution. I remember hearing them speak of the fairyland into which we were about to enter, and declaring that the dome of the Constitution was the High Court. Alas, that after the lapse of a few short years, I should now stand here absolutely saddened by the change in the brethren. I do not propose to discuss this matter as a lawyer. Indeed, I am sorry that I am not a lawyer, for I should like to secure some of the fees which are flying around this country. I shall endeavour to discuss this Bill according to my understanding. I have heard honorable members who belong to the legal profession assert that certain powers cannot be exercised—that the Federal Court would have no power to deal with any State law which in its very essence was a violation of the Constitution. The Constitution guarantees life and liberty in the pursuit of happiness. That being so, if a State passes a law which cripples that liberty, does it not stand to reason that the High Court, on appeal, would declare that law to be unconstitutional. Would it not be in violation of the Constitution? The fact is that most of the lawyers out here know no more about this Constitution than do the lay members of the community. They have not lived and developed under a Federal Constitution; they have not yet had the experience which is necessary to enable them to understand really what the Constitution means. I do not claim to know everything, but I contend that I know a little. I have lived in Canada, in the

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United States, and in Mexico, and I know that whenever a State passes a law that the people of the United States believe to be an infringement of their liberties, a sum of money is at once raised, lawyers are engaged, and the whole matter is swept into the Federal Court. That Court examines it carefully, and if satisfied that the law is a violation of the Constitution it declares it to be unconstitutional. In nearly every case in which action has been taken that result has followed. I remember the time when, in the State of Missouri, a number of men were slipped into gaol under some kind of suppression law similar to the measure introduced the other day in the Victorian State Parliament. They were sent to gaol without a hearing; a trial was refused them. I speak with some experience of these matters, and experience is the unerring test of all human undertakings. It is useless to tell me that occasions do not occur when people are excited, and when even the Judge on the Bench is carried away by popular clamour. Such things do occur. I believe that the honorable member for South Australia, Mr. V. L. Solomon, will remember very well a case in which I figured before the Supreme Court of South Australia, and the popular clamour which existed at that time. The people were excited, and because of my *Barnaid's* Bill I was looked upon as a scoundrel by the licensed victuallers. You, too, Mr. Speaker, will remember that occasion. I went to a Judge, and what did I obtain? Some of my honorable friends, who belong to the aristocracy, will say that I got far too much for my character. But that is a question. Every man should stand equal in the eyes of the law, and unless you can bring some charge against a man's character, he should not be condemned by public clamour. Unfortunately, however, such a thing sometimes occurs. Returning to the men who were thrown into gaol in the State of Missouri, I should say that I well remember that as the result of an appeal to the Federal Court, these men were liberated, and that the State was ashamed of having brought a charge against them. Similar cases have occurred within my knowledge in the State of Texas. The men appealed from the State Court to the United States Circuit Court, with the result that they, too, were liberated. Notwithstanding the good feeling which I entertain towards the Judges on the various State Benches, I maintain

until we secure a High Court there can be no certainty of liberty in the Commonwealth. I may be mistaken, but that is my opinion. Experience, travel, observation, investigation may be of no use to some honorable members, but the belief is entertained in the United States and Canada that the Federal Supreme Courts of those countries stand out nobly and grandly above all the other tribunals, and deal with justice fairly and impartially. Let me make an illustration showing what will be the position upon the establishment of a High Court. I do not say for the moment that the Judges of the States are prejudiced, but they are human. They may live in communities where popular prejudice prevails. I saw something of the kind here only the other day. In such circumstances, what would a resident of a small island do if he desired to sue a man in Hobart? He would serve a writ on the defendant requiring him to attend before the High Court. A Judge of the High Court would then go over to the island, and preside on the Bench there. He would give the various Supreme Courts of the Federal circuit jurisdiction, and if they were done the Judge of the High Court would go to Hobart and sit on the Bench with the local Judge. The case would be dealt with there, and if either party were dissatisfied he would be able to appeal from Hobart to the High Court, which is constituted, at Melbourne. In that way he would obtain satisfaction. It has been said that the right of appeal from the High Court to the Privy Council will still remain. I hold that such a right will not be necessary. The Constitution gives the right, and we are at liberty to decide which class of cases should be allowed to go on appeal to the Privy Council. Every honorable member who has spoken has done so in favour of the creation of some kind of a High Court. What is it to be? In the United States Governments have appointed Chief Justices, and if certain members of the States Courts are selected for the High Court they must be appointed for life. As they have been selected, however, they are not relieved of them, and the Executive Governments will replace them with other Judges. Is not that what would happen? I would ask the honorable member from South Australia, Mr. Glynn, whether he is in favour of some kind of a High Court? I would ask the honorable and learned member for

South Australia, Mr. Glynn, in favour of the establishment of a High Court, whose members shall be the Chief Justices of the Supreme Courts of the States? But let me point out to him that the Constitution provides that the Judges of the High Court shall be appointed for life, and that, once appointed, Parliament shall have no control over them. How any member of the labour party can vote against the establishment of a High Court is beyond my comprehension. There is shortly to come before this House a Federal Conciliation and Arbitration Bill. Do the people whom we represent, those men imbued with the spirit of God, consider that a Federal Court of Conciliation and Arbitration should be presided over by a Judge of one of the States Courts, and that the Act by which it is created should be interpreted by the Privy Council? Do they want a Judge of one of the Supreme Courts to preside over the Conciliation and Arbitration Court, and perhaps administer the law in accordance with the savage bigotry and sectarianism of the State from which he has come? Do they want to break down the law, so that employers' associations in other parts of the world will point to it as a failure? Do they want to make the law a failure by allowing it to be falsely interpreted by a prejudiced Judge? Or do they wish to see the Conciliation and Arbitration Court presided over by a Judge of the High Court, with an appeal to that court? I was sorry to hear the only legal light in our party—the stevedore party—oppose the Bill. But even the twelve apostles were not all of the same spirit, and the honorable and learned member's action is another proof that some are always liable to stray. Last year there was a great battle in this Chamber over a proposal to pay away over £250,000 in bonuses for the establishment of the iron industry. If I am not mistaken, nearly every one of the Christians who fought heroically for that proposal are opposed to the establishment of a High Court, although a High Court could be run for nearly fifteen years without costing as much as it was then proposed to pay away in a lump sum. I do not forget that thousands of pounds were voted without a word of protest in order that men might be sent to South Africa. But now that it is proposed to spend £23,000 a year in interpreting the Constitution, so that its provisions may be made clear, and the people may understand the laws under which they live,

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great opposition is being shown to the proposal. Honorable members who were against any reduction of the military Estimates providing for gold braid and horse chestnuts are heroically opposing the proposed expenditure of £23,000 a year upon the establishment of a court which is absolutely necessary. The decisions of the Inter-State Commission must be interpreted by a High Court or by some other court. Are honorable members willing to hand over the work of interpretation to State Judges? The Judges of the High Court will be selected from the greatest men in the Commonwealth. No man can be a Judge of the Supreme Court of the United States until he has had 25 years of successful practice. I do not know of an instance in which a Judge of one of the States Courts has been appointed to the Supreme Court Bench. Why is that? It is because the Judges of the States Courts become prejudiced by their environment. Human beings are only human beings, and in moments of excitement are often not to be trusted. During the late railway strike in Melbourne, the best friends I have almost insulted me in the streets because I was unable to see as they saw on the matter. Could I, under such extraordinary circumstances, have hoped for justice from such men? What would have been the verdict if they had composed a jury to try me for some alleged offence? I should have had to go to gaol for ten years. Take an instance of what actually occurred. Three men were arrested and brought down from the North Melbourne Police Court to Russell-street, and next Monday morning twelve or fifteen antiquarians, who had been preserved since the dark ages and transmitted to posterity by the art of the embalmer, were waiting to condemn them. The Victorian Government withdrew the information, because no charge could be brought against the men; but if the case had been allowed to go on, they would each have got three months. Why? Because the men appointed to try them were men who had no control of themselves in times of excitement. We want a High Court whose members will be selected from amongst the ablest lawyers in Australia. Whether they happen to be politicians or not, I care little; but I want them to be men who are not prejudiced in favour of the Commonwealth, but are in sympathy with its aims, and full of the love of

Mr. O'Malley.

justice. If there is one thing is peculiarly characteristic of lians, before they become prejudiced foreign ideas, it is their love of and of justice. We want the Judge High Court to be above the prejudice bigotry of the States, so that people feel that they are suffering injustice, appeal to them, and be certain of justice, or, at least, of getting very it. But while I intend to vote establishment of a High Court, I have been better pleased if the Attorney-General had proposed a court which consist of three Judges—a Chief Justice to receive £3,000 a year, and two Judges, to receive £2,500 each. But not going to storm about the salaries proposed. If an amount such as £100,000 were at stake in a dispute between the States and the Commonwealth, the Commonwealth lost its case through incompetency of the Judge appointed to try it, it would lose much more than the cost of the court. I always go for the cheapest, in the end, it is cheapest. If you have a bad case, you must obtain the services of the best attorney you can get. It is the best thing to have a cheap attorney, I believe in the establishment of the High Court, because without it the Constitution will be incomplete. It will be like a building without a roof, well enough on fine days, but on wet days every one has to leave it. I shall have great pleasure in voting for the Bill.

Mr. FULLER (Illawarra).—Feel I do, that the High Court is a necessary corollary to the establishment of the Federal Executive and Legislature, and essential to complete the Federal arch, I support the motion for the second reading of the Bill. No measure has received such a scarifying at the hands of its opponents as this measure has received. As the honorable and learned member for Northern Melbourne, the honorable and learned member for Bendigo, and the honorable and learned member for South Australia, Mr. Glynn, were present at the convention in 1891, and at similar gatherings held subsequently when this matter was discussed, their opinions are entitled to the highest respect. At the 1891 Convention a series of resolutions regarding the Judiciary were submitted by Sir John Parkes, and the Prime Minister and Attorney-General supported them. The res-

ing particularly to the establishment of a High Court for Australia proposed—

Judiciary, consisting of a Federal Supreme Court which shall constitute a High Court of Australia, under the direct authority of the Sovereign, whose decisions, as such, shall be final.

DEAKIN.—Yes, but that was a Court of appeal only.

FULLER.—Yes. Sir Henry Parkes has said—

speaking to create this Supreme Court of Australia it will be observed that I seek to create it as an Appellate Court from which there shall be no appeal to the Queen in the Privy Council.

That is the whole of the difference. He

think we shall make a great mistake if we allow any appeal to be made outside the shores of New Australia.

He would remind the Attorney-General, who has reported the resolution, that he is not bringing out that resolution by means of this Bill.

DEAKIN.—Hear, hear; because it is possible.

FULLER.—I know that it is impossible under the Constitution to go to the length of that resolution. Whilst I am supporting the Bill on the second reading, I reserve to myself the right to submit amendments, or to support others which may be proposed. It is absurd for honorable members to contend that the subject of establishing the High Court was not brought before the public of Australia during the federal campaign. I do not suppose there was one platform from which references were not made to the High Court.

G. B. EDWARDS.—Yes, it was “the whole Bill, and nothing but the Bill.”

FULLER.—The honorable member is quite right. The honorable and learned member for Northern Melbourne said that the Constitution Bill was not agreed to by the people because provision was made for a High Court, but in spite of that fact. I should like to know what warrant the honorable and learned member has for making that statement. In the smaller States, particularly, the advocates of federation put the High Court a very prominent place, and pointed out that it would afford the guarantee of their freedom and liberties, and also give them assurance that, in the event of any difficulty arising, it would not

be necessary to go through the long and expensive process provided for in the Constitution in order to secure some trifling amendment, but that the High Court, acting on the up-to-date lines adopted in the United States, would make the Constitution a workable instrument for the whole of Australia. For this reason alone it seems to me that the establishment of the High Court is absolutely necessary. Some honorable members have urged that there will be no business for the High Court to transact. The honorable and learned member for South Australia, Mr. Glynn, said that the court would have to sit in solemn silence, and wait for business to turn up. Upon this point I should like to quote some remarks made by the honorable and learned member for Northern Melbourne at the Federal Convention held in Melbourne in 1898. He pointed out that some members of the Convention had been contending, just as has happened to-day, that there would be no business for the Court, and this was his reply—

It has been said that there will not be enough business for the court. I do not think that what happened in the United States affords any clue to the business that will be done here. In the early years of the Constitution of the United States there was very little federal business. There were then no Inter-State railways, and very few Inter-State canals, and the relations of State with State were much less intimate than they have been since the introduction of railways.

Mr. SYMON.—What was their commerce then?

Mr. HIGGINS.—Owing to the conditions of travel, it was impossible that there could be such Inter-State relations and Inter-State difficulties as there will be under the complexity of modern commerce, and we in Australia will share in the complexity of modern commerce, although we cannot suppose that, with our small population, we shall have as much legislation, and as much litigation, as America had in the Federal Parliament and in the Federal Court.

Thus we find that the honorable and learned member in the year mentioned entertained a strong opinion that there would be ample business to engage the attention of the High Court.

Mr. KENNEDY.—Were not appeals much more restricted under the draft Constitution at that time than they were subsequently?

Mr. FULLER.—Not so far as I can remember.

Mr. GLYNN.—The right of appeal to the Privy Council was abolished at Adelaide, and, perhaps, the honorable and learned member for Northern Melbourne was speaking in view of that fact.

Mr. FULLER.—Perhaps that would to some extent affect the business to be transacted by the High Court, but I am simply showing honorable members what was the opinion held by the honorable and learned member for Northern Melbourne in 1898. A great deal has been made of the value of appeals to the Privy Council. The honorable and learned member for Northern Melbourne, speaking upon this subject, is reported at page 338 of the records of the Convention of 1898 as follows:—

Not one man in 100,000 cares a snuff about a Privy Council appeal. Very few people go there—only a few wealthy corporations, and a few working against them particularly. Who cares about the Privy Council, or the Privy Council appeals? It is not a matter of popular rights. It is simply a question of whether we here, in framing a Constitution are too timid to take upon ourselves the responsibility of carrying out rights between party and party. Of course I admit there is no popular demand for it. But I ask is there a popular demand that the appeal to the Privy Council should be given.

It appears to me that a popular demand has been made for the High Court. The honorable and learned member for Bendigo said that the public opinion of Victoria was against the establishment of such a Court, but I should like to know how he arrives at that conclusion. So far as I am aware, there have been no public meetings held to protest against the establishment of the Court. It is true that both the *Age* and the *Argus* have been publishing very strong articles in opposition to the Government proposal, but I should like to know whether we are to be guided in our legislative actions by the opinions of the newspapers in the State capital in which Parliament happens to be holding its meetings. If so, the sooner we get away to the Federal capital the better.

Mr. A. McLEAN.—When we get to the Federal capital we shall probably have the *Bombala Snorter* seeking to direct our actions in Parliament.

Mr. FULLER.—I do not know how we shall fare in that regard, but I hope that there will be no further unnecessary delay in establishing Parliament at the permanent seat of Government. The great daily papers of Sydney are just as strong in their advocacy of the High Court as are the daily papers of Melbourne in their opposition to it.

Mr. CONROY.—They may be in favour of the High Court, but at the same time may not support the Bill.

Mr. DEAKIN.—That cannot be. Those who are against a High Court of any kind would vote against the Bill.

Mr. FULLER.—I cannot speak with confidence with regard to press opinion of other States, but, as I have pointed out, honours are easy so far as the *Argus* and the *Age* of Sydney and Melbourne are concerned. There can be no question of the value of the Bill in providing for the establishment of a High Court, we shall be simply carrying out what was promised to the people at the time the Constitution was submitted. I was told at that time that we should have the “whole Bill and nothing but the Bill.” I was opposed to the Constitution Bill at that time, now that it has become law I am as much in favour of it as any other honorable member is. I determined to see that effect is given to it in every respect. We have heard a great deal about the necessity for economy and the figures which the Attorney-General has submitted relating to the cost of maintaining the High Court have met with much objection. Upon this point the honorable and learned member for Northern Melbourne spoke very strongly at the Convention of 1898. He said that it would not be deterred by any consideration of expense from making the High Court a weighty and influential tribunal. Now he is using his best efforts to prevent its establishment. So much has been said with regard to Privy Council appeals that I would think that the Privy Council is a kind of heaven-sent institution with which we could not get along in Australia. I have the greatest admiration for the British Empire and for its courts of justice, and recognise that in years gone by the Privy Council has given decisions of great importance to the people of Australia. I would like to direct attention to what the honorable and learned member for Northern Melbourne said regarding the Privy Council at the Convention which met in Adelaide in 1897. At page 986 of the records of the Convention he is reported to have made the following expressions:—

There are certain phrases becoming current about this subject which are scarcely appropriate to the position. It is said that we are one of the links which binds Australia to the United Kingdom. I rather like the expression “link” if you consider it one of the irritating “links” one of the fetters round the feet of the people of Australia—then, of course, it is by no means conducive to amity between the old count and ourselves. If there is an appeal to the Privy Council when one of the parties to the ac-

does not like that body. As a rule both like the Council because of the expense. In, it is to be regarded as conducive to between England and Australia I do not how many are effected by this appeal to the Council? I undertake to say there is an in 100,000 who has an appeal to go to the Privy Council; and I am sorry to think William Zeal, and others who agree with me, that this appeal to the Privy Council is means by which the Empire is held

WILLIAM ZEAL.—I have not expressed an opinion on it. You have talked me out.

GGINS.—We have a stronger link with the country than this—a silken tie in the matter of language, history, and sentiment—which is a miserable right of appeal to the Privy Council.

strong language for the honorable member to use in connexion with the right of appeal.

ROUCH.—He still takes up that question and would consent to the creation of an Australian court if the appeal to the Privy Council were abolished.

ULLER.—Quite so. I quote the honorable member's opinion of the Privy Council at the time. I do not labour this matter, because after the advances of the Attorney-General, and because he has declared in favour of the Bill, there is very little left to add. The opposite side of the case has been well and strongly put. I believe in the Constitution it is necessary to abolish this court immediately. It was one of the principal matters which were submitted to the people of Australia at the time of the Federal referendum, and we shall be untrue to our trust if we do not create the court at the earliest possible moment. Therefore, I do not agree with every proposition contained in this Bill. I think that, to a large extent, it fails in the provision it makes for the Court of Appeal which is proposed to establish. With all the jurisdiction which it is proposed to give it, it appears to me that five Judges are inadequate to perform the duties required of them. All these points will require serious consideration in committee. I give them that consideration which the urgency of the occasion demands, and I trust that honorable members, generally, will pursue the same course in the interests of Australia.

SALMON (Leaneoorie).—As a layman very loath to obtrude my opinion

concerning this measure, which may be regarded as one of a strictly legal character. Though it will have very far-reaching effects, it is of immediate interest only to the legal profession. At the same time I feel that the statements made and the arguments advanced by the supporters of the Bill need to be dealt with by honorable members outside of that profession. As one who assisted to insure the acceptance by the people of the Federal Constitution, who believes in that Constitution, and is prepared to sacrifice everything to maintain it in its integrity, I say that there is no breach of its provisions involved in further deferring the consideration of this Bill. I agree with the appointment of a High Court, and I thoroughly indorse the action of those who were responsible for the very important position assigned to it under the Constitution; but I entirely fail to see that there is any obligation imposed upon this Parliament to immediately institute a Federal Judiciary.

Mr. EWING.—Why leave the responsibility and odium to others?

Mr. SALMON.—I do not think there is any odium attaching to the matter at all. My attitude is very largely dictated by expediency. I desire to see the Constitution—which has not been working with as much smoothness as we could desire—fitted to the needs of the people in such a way that they will not feel that they have been betrayed. At the inauguration of the Commonwealth, the greatest danger against which we have to guard is that of extravagance. Throughout the length and breadth of Australia charges have been levelled against this Parliament. It has been asserted that we have disregarded the wants of the people; that we have not practised due economy; and have set a bad example to the State Parliaments. I do not admit the truth of these allegations. But if this measure is carried, and we thereby impose an additional burden of £30,000 annually upon the taxpayers, we shall merit their displeasure, and some of the odium which undoubtedly will be cast upon us. In the absence of a time limit, which was most carefully inserted where it was thought necessary by the framers of the Constitution, I hold that we are not bound to at once constitute the High Court. I object to its immediate establishment primarily upon the ground of the expense that it would involve; and, secondly, because I

fail to see any immediate necessity for its creation. If it were clear that a very large number of people actually suffered from the lack of a Federal Judiciary, even in face of the expenditure involved, I should not be willing to further postpone its creation. But the evidence is all in the other direction. Indeed, one of the strongest arguments against its establishment was that advanced by the honorable member for South Australia, Mr. V. L. Solomon, when he declared that its erection would mean the beginning of an enormous amount of litigation. If we can avoid the increase of litigation we shall render a double service to the Commonwealth, by saving the expenditure that would be incurred in carrying out the Government proposal, and by depriving people of the opportunity of indulging in what is always an expensive luxury. In his endeavour to show that the creation of the High Court was necessary, the honorable member for South Australia affirmed that quite a number of appeals would have come before that tribunal had it been in existence. But he also admitted that these would be litigants, with the exception of one who is labouring under a peculiar disability, were satisfied with the decisions given by the States Supreme Courts, which have been invested with federal jurisdiction. The honorable and learned member for Illawarra hinted that the Victorian representatives in this House who are opposed to the Bill were following the dictation of the daily press rather than the desires of their constituents. But I would point out to him that in this State the press follows public opinion rather than attempts to lead it. He alluded to the absence of public meetings to protest against the passage of this measure. But in Victoria I might inform him that if the daily press evinces any intention of forcing public opinion along an improper channel, it is the practice to hold public meetings in all parts of the State to protest against it. That has happened within the last few weeks, and it would occur again very readily if the people imagined that they were being misrepresented by the metropolitan press. During the past fortnight I have travelled over a very considerable part of this State, and I have never heard a desire expressed by any single individual for the establishment of the High Court.

Mr. CROUCH.—What has that to do with the matter?

Mr. Salmon.

Mr. SALMON.—I am merely replying to the argument of the honorable learned member for Illawarra. More than the Victorian press has had a good deal to do with placing the finances of this State upon a proper basis, whereas the South Wales press, which differs from the Victorian press upon this particular measure, has never in the past shown any great desire to reduce the economy exercised. The present condition of that State is ample justification for my statement. In Victoria we are paying a heavy penalty for previous extravagance, and the people of this State, having been severely scorched, are not anxious to place themselves too near the fire in future.

Sir WILLIAM LYNE.—What evidence do you have to support the honorable member as to the condition of New South Wales?

Mr. SALMON.—My statement is supported and confirmed by the reception which was accorded to the last loan placed upon the London market by that State.

Mr. SPEAKER.—I would remind the honorable member that he is departing from the subject under discussion.

Mr. SALMON.—I think we have overlooked one very important factor in the argument which the Attorney-General drew attention to with great point when dealing with the finances of the Commonwealth. He emphasized the fact that the State and Commonwealth taxpayer are identical. The same argument is applicable to the work to be performed by the Federal Judiciary. I believe that we can do so by some means whereby the present courts can undertake all the urgent work which would otherwise devolve upon the Federal High Court. It must be remembered that we have not deprived the people of Australia of the opportunity of appeal to the Privy Council. That right remains to every citizen in the Commonwealth. Under these circumstances should not be justified in incurring additional expenditure—expenditure which cannot calculate with any degree of accuracy but which has been variously estimated from £30,000 to £60,000 per annum. It is not merely the amount involved in the salaries of the High Court Judges that we have to consider. We have to consider the expenditure necessary to provide for every one whose services are required as an adjunct to the court—from the Chief Justice down to the crier. It means also imposing upon the Commonwealth the payment of a cer-

per of pensions. All these points ought to be considered by honorable members. I think that there is no immediate necessity for the establishment of the High Court, I did not vote against the second reading of the Bill. My regard for the Attorney-General, who—as the two Bills which have been submitted to us show—has undertaken a enormous amount of patriotic and self-sacrificing labour in connexion with this Bill, makes it extremely difficult for me to adopt the attitude which I have taken. But I owe a duty to the citizens of the Commonwealth, and I cannot allow myself to be swayed by personal feelings.

MR. WILKS.—There is no personal friendship in politics.

MR. SALMON.—There ought not to be any question so vitally affecting the interests of the Federation. I understand that the Government regard this question as an open one, and I think that they are wise in doing so. They were bound to bring this question forward at some time or the other, but I do not think they have incurred any blame by introducing it at the present time, although they would have displayed better judgment had they postponed its consideration for a year or two, until there was clearly an urgent necessity for it. When that time arrives I am sure that honorable members upon both sides of the House will be able to carry out what is the evident intention of the framers of the Constitution. At the same time, I hold that the Constitution contains no mandatory order for the immediate institution of this particular measure.

Upon these grounds I regret that I cannot support the second reading of the

MR. CROUCH (Corio).—I did not intend to speak during the second reading of this Bill, but I have arranged to do so with another honorable member, and my name will not appear in the division list if it comes on to-night, I feel that I could very clearly express the reasons which actuate me in supporting the Government. I sincerely trust that they will carry the second reading of the Bill. I shall support this measure for the reason that I believe that the sooner the Privy Council, as a court exercising authority over Australian Courts—as a final court of appeal for the Australian States—has been established, the better it will be for the Commonwealth. I very much regret that

during the negotiations, prior to the acceptance of the Constitution by the British Parliament with Mr. Chamberlain, amendments were made in the Constitution which, while perhaps assisting the passage of the measure through the Imperial Parliament, were certainly contrary to the wishes of those who brought the Bill through the Convention, and of those who sent the delegates to England to facilitate its passage into law.

SIR EDMUND BARTON.—We had a very hard fight to obtain what we did.

MR. CROUCH.—I am certain that the Prime Minister and those associated with him fought very hard, and I very much regret that their efforts in the direction of making the Australian Court the final court of appeal were not entirely successful. Any one who studies the recent history of the Privy Council will see that there is a need for the creation of a High Court. Residents of the United Kingdom have a right of appeal to the House of Lords; but only those who reside outside the United Kingdom, except in regard to ecclesiastical matters, have to appeal to the King in Council. As a consequence, the Privy Council is inferior in authority to the House of Lords, and its decisions are quoted and regarded in that light in our own courts. This also largely arises from the inferior status of Privy Council Judges.

MR. CONROY.—But the Bill does not take away the right of appeal to the Privy Council.

MR. CROUCH.—I object to the right of appeal to the Privy Council, and to that right of appeal remaining in full force, as it undoubtedly will, unless we create the Australian High Court.

MR. CONROY.—But we cannot take away that right of appeal.

MR. CROUCH.—I am aware that to a very limited extent we are compelled to allow an appeal to the Crown; but our Parliament can regulate and almost entirely abolish that right, and if we have a half-way house, and particularly if that half-way house comprises the best legal ability obtainable in the States, it is far more likely that the decisions obtained in that Court will satisfy litigants, and that they will have no desire to go to the Privy Council.

MR. CONROY.—Why should they go to a half-way Court when they can go direct to the ultimate Court of Appeal?

Mr. CROUCH.—I believe that most of those who go to the Privy Council are dissatisfied with the Supreme Courts of the States, but that they would accept the decision of a Supreme Court consisting of Judges coming from States other than those in which their cases were originally determined. I think that the creation of an Australian court would largely help to do away with the necessity for the Privy Council, just as in consequence of the creation of the Federal Court in Canada the number of appeals from that State was largely reduced. I think it is to be regretted that when the Privy Council made an attack, and a very insulting attack upon the Supreme Court of New Zealand, this Parliament did not show its sympathy for the institution of a sister colony by reprobating the language used by the home tribunal. I protest against the use of language of that kind towards any of the Supreme Courts of the States by Judges who do not appreciate Australian legal ability, and do not understand Australian legislation or local conditions. In the New Zealand case, the language used was so outrageous that it was necessary for the Chief Justice of that State to protest against it. Cases have also occurred in which the Privy Council has used objectionable language in reference to the Victorian courts. The sooner the High Court is established the sooner we shall have the complement of the Australian Constitution. The necessity for an Australian Appellate Court has been brought home very vividly to one of my own constituents by the recent decision of the Supreme Court of New South Wales, that the imports of a State government are not liable to pay duty. Shortly before the decision was given the gentleman in question placed an order in England for some £50,000 or £60,000 worth of machinery which is protected under the Tariff, but as the result of that judgment the order has been cancelled until it is known what the Government propose to do in regard to it. If the Government find it necessary to appeal to the Privy Council, it has no means, such as would exist in the Australian court, of bringing its case on promptly for hearing in cases of urgency affecting many business arrangements.

Mr. CONROY.—Why should not the Government have provided for simply an Appellate Court?

Mr. CROUCH.—The High Court which will be created under this Bill will either be the Government, or any other litigant appeal immediately from the State Court to the Federal tribunal, and to have its decision speedily determined. The honorable learned member for Northern Melbourne urged that because we have the Privy Council, and because the Court proposed in the Bill will not be a final court of appeal, we should not have a High Court. He has also said, with equal force, that as the Parliament of the United Kingdom has, unfortunately, the final control of our legislation, we should not have any Australian Parliament. As it is, the legislation of the Australian Parliament can be over-ruled by an Imperial Act, and the honorable and learned member for Northern Melbourne, together with others who argue that because we have the Privy Council, we should not have a High Court is to be only a half-way to the Privy Council it should not be created, might just as well take up the position that we should not have a Federal legislative body because we are some 10,000 miles away one which would do all the legislation necessary for us. I desire Australia to be self-contained in every direction. When the Privy Council ceases to work, the Australian Court will be complete, and will be able immediately to take over the work of hearing all judicial appeals. I think the real question relates to the Commonwealth itself. The honorable member for Gippsland has spoken against the proposed High Court, while the honorable member for Laanecoorie asserts that there are many of the public who do not favor its creation. In this matter, however, I think that those outside Parliament are the ones of whom we should think.

Mr. A. McLEAN.—They are the people who have to pay.

Mr. CROUCH.—Certainly, they have to pay, but they and the press are considering this matter purely as a question of economy; and there are times when public opinion is really the last word which should be considered by honorable members. That is more especially the case when public opinion is misled by the press, and when the people themselves have not had time to study the question at issue. I venture to say that of the thousands with whom the honorable member for Laanecoorie

fesses to have discussed this matter, not out of every 100 have read the Bill nor speech delivered by the Attorney-General in moving its second reading. We are here as the leaders of the community. We are chosen as its most intelligent representatives, and in a matter of this sort we should have regard to our own opinions, and we think it is best for the Commonwealth that a certain course should be followed we should stand up against public opinion—we should do what is best for the Australian nation.

Mr. CONROY.—Or the best thing for the lawyers.

Mr. CROUCH.—If the honorable and learned member insinuates that this Bill will be a good thing for the lawyers I think he would insinuate anything.

Mr. WILKS.—Is it not a good thing for lawyers?

Mr. DEAKIN.—No.

Mr. CROUCH.—I come now to the question of economy. It is not by any means certain that members of the Supreme Courts of the States will not be chosen to positions on the High Court. They might be chosen, although I think it would be far better to have the position filled by politicians. A lawyer, who is also a politician, knows the constitutional points which are likely to come before this court. And the pleasure of hearing the Attorney-General arguing before the Full Court in Victoria a few days ago, and I was glad to see that he succeeded in winning his case.

He had the greatest difficulty in making the Judges grasp certain constitutional points, from the fact that they had no political experience. The member of the Victorian Supreme Court Bench who has had political experience is the Chief Justice, and when we remember the questions which will be argued before the High Court and the constitutional matters with which they will have to deal, we must recognise that next to being a good lawyer it is essential that a gentleman chosen to act as a High Court Judge should have had parliamentary experience. On only other point I desire to touch upon that of the salaries to be paid. It appears to me that the salaries proposed in the Bill are too high, and that they are really on a scale of the Victorian Supreme Court. They should not take the State expenditures as precedent, but should economize on them.

There is a popular impression that a Judge suffers considerable monetary loss in leaving the bar for the Bench. On this point I should like to make the following quotation from the Memoir of the late Chief Justice Higinbotham, written by his son-in-law, Professor Morris:—

The profession of barrister was not by any means so lucrative to Mr. Higinbotham as to others in a leading position. It has often been said that he made a patriotic sacrifice in taking a judgeship. As a matter of fact it was no sacrifice at all. The salary of a Judge of the Supreme Court is £3,000 a year; and only in one year had his practice at the bar brought in as much.

Mr. CONROY.—He mixed himself up too much in political matters.

Mr. CROUCH.—For some years Chief Justice Higinbotham did not figure in politics.

Mr. CONROY.—He lost a great deal owing to his association with political matters.

Mr. CROUCH.—For a considerable time he was not mixed up in politics. He was a leading barrister when he left the bar for the Bench, and yet his Memoir shows that his elevation to the Bench involved no monetary loss to him. I think this Bill will be of great value to every citizen, and I trust the House will accept it.

Mr. ISAACS (Indi).—I apprehend that no legislative proposal has been yet offered for the consideration of the Federal Parliament which was more pregnant with the future of this Commonwealth than is the Bill now before us. So far there has been nothing, not even the Tariff—which can be recast and remodelled at our will—which has called for so close and careful an investigation into the terms of the instrument of government under which we live, as the measure so ably and eloquently introduced by the Attorney-General. I think that I should not be acting fairly if, before passing to the principles which we have to consider, I did not say a word or two about the composition of the Bill. However much we may differ about the propriety of enacting it, either in its present or in an amended form, and whatever we may consider the just fate of the measure, I think we can all agree that the lucidity of its expression, its comprehensiveness, the symmetry of its arrangement, and the manner in which its provisions cover almost all the essentials of the subject, reflect very great honour upon the honorable and learned gentleman who has had the privilege of introducing it. I think

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that, together with the speeches which he has delivered in moving the second reading on two occasions, it will add to even his reputation. I shall have occasion, in the course of my observations, to make reference to some of its provisions, of course not in the detail which is more appropriate to another stage; but I now pass by the consideration of particular clauses, to inquire what are the principles which should guide us in casting our votes for or against the measure. I agree thoroughly with many of the honorable members who have preceded me that one great question which we have to put to ourselves is this: Is there a mandate to the Federal Parliament to pass the measure? I take it that if such a mandate is to be found in the Constitution we are not at liberty to disregard it. We are not here for the purpose of remodelling the Constitution. If those who represented the people of Australia in the framing of the compact laid down in it an imperative duty, and the people by accepting it on more than one occasion confirmed that duty, and if while the Bill was under the consideration of the Imperial Parliament—during which time the fiercest light of criticism, both British and Australian, was concentrated upon these very judicial provisions—there was no hint of an alteration in the construction of the High Court, or of its abolition, or of the substitution for it of some other tribunal, a very great responsibility will rest upon those who advise us at this juncture to ignore so plain and definite a duty. I think that calm and careful consideration of the terms of the Constitution will leave no room whatever for doubt that there is such a mandate. After the best consideration I can give to the matter, I believe that there is an obligation resting upon this Parliament to carry out the bargain, and to effectuate the intention of the people of Australia, as evidenced in the only way we can recognise it. I quite admit that it is an obligation of an imperfect nature, that is to say, we are not under any compelling force but our consciences in regard to it. There is no power on earth, short of an Act of the Imperial Parliament, which can compel us to move a single step in this or any other direction without our will. There is no force known to nature, short of such an Act, which can correct our wilful inaction. We are told that if there is a mandate, if there is

Mr. Isaacs.

an imperative command, we are at liberty to disobey it, because no one can go to a competent tribunal and procure a mandamus to compel us to perform our admitted duty. There are many things which are in fact obligations in that sense. It is a perfect obligation to be truthful; it is an imperfect obligation upon any country to carry out its treaty pledges. I believe in the sense in which the phrase has been put before us in this House, half the commandments of the decalogue are imperfect obligations. But if we pass by the legal meaning of the phrase, and look only to its spirit, we find in the Constitution the clear and definite duty to proceed without delay to the establishment of the Federal Supreme Court of Australia, and to equip it with the means and power to discharge its great responsibilities and necessary functions. Whether we look at the Constitution with the eyes of a student or of a lawyer, or simply as citizens, we cannot fail to find the greatest recognition in it of the foundation upon which the Federal Government rests. Considerations of history and reason, and the long deliberations of many years, led the two great Conventions of 1891 and 1897 to the conclusion that and every one of the three great pillars of the government—the Federal Executive, the Federal Legislature, and the Federal Judiciary—were essential to a true federation. Amid all the dissensions as to the adoption of the Constitution, among all the struggles for its amendment, through that final commotion regarding the right of appeal, we heard not a word, not a suggestion, as to the desirability of altering the provisions we are now debating with reference to the constitution of the tribunal which is to be charged with the interpretation and enforcement of the Constitution and the laws made under it. I think we shall derive very great help indeed in dealing with this question from a consideration of the sections in the Constitution which relate to the judicature. If honorable members would, during the course of the observations which I shall have the honour to make to them, refer to those sections, I think they will be better able to follow me, whether they agree with me or differ in their conclusions from those which I desire to place before them for consideration. Section 71 is a central provision which should guide

operations and in our votes upon this. That section provides that—

Judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia.

That provision, as I read it, is imperative. It has to bring under the notice of the House the most luminous judgment—one of the great American judgments to which I referable and learned member for South Australia, Mr. Glynn, referred—which, I think, I will throw an immense amount of light upon the question which we are now dealing with.

It is, however, a mandate of the Constitution that the judicial power—that is, the power in the Commonwealth of deciding litigation—shall be vested in a Federal Supreme Court. Not in a State Supreme Court, nor in a Federal inferior court, but in a Federal Supreme Court, to be called the High Court of Australia. Those are the words, not of mandatory force, but of discretionary power—

such other federal courts—

Members will remember the words of the Constitution. It shows that the Federal Court is first to exist—

Parliament creates.

It is to the discretion of the Parliament to create "other" federal courts.

In such other courts as it invests with judicial power.

There is a discretion given to this House to create inferior Federal Courts. It will invest State courts—it will subvert them. It will be seen that the word "other" refers to State courts—with federal jurisdiction. The position is this—and I think I have to elaborate it in regard to matters a little further on—that it is not, consistently with the spirit of the Constitution, to have the exercise of the Commonwealth judicial power in the absence of a Federal Supreme Court. But you can have the exercise of that judicial power either in a Federal Supreme Court alone, or in association with any other federal courts, or of a degree that Parliament chooses, or in association with State courts, or in which it may invest with jurisdiction with both these inferior tribunals. You cannot properly, however, transact business in the absence of what I call the Federal Court. It is not permitted to call the predominant power; you are not to have the judicial power vested in either or both classes

of inferior courts in the absence of the Federal Supreme Court. The last-named tribunal has not only been mentioned by name, but has been to a large extent already fashioned by the Constitution itself. It is to be composed of a Chief Justice and at least two other Judges, or as many more as Parliament, according to what it thinks are the needs for the Commonwealth, may enact. The Judges are to be appointed by the Governor-General in Council—like those for every other federal court. They are to have a life tenure—this is not expressed, but is implied—and they are to be removable only by the vote of both Houses, after proved incapacity or misbehaviour. They are dependent for the amount of their remuneration upon what Parliament gives them, but, again, the limitation is imposed that the remuneration is not to be diminished during their term of office. The High Court is also endowed by the Constitution itself with appellate power supreme in the Commonwealth. It is endowed also with original jurisdiction, in other words, power to hear cases which originate in that court, and do not come to it by way of appeal from other tribunals, and, further, it is within the power of the Parliament, at its discretion, to confer other powers. The Federal Supreme Court stands in the Constitution indicated, not only by name, but to a considerable extent, as I have said, shaped for us, and all that Parliament has to do is to organize it and equip it with the means of performing the duties allotted to it. The court is, therefore, specially designated by our organic law as the tribunal that, before all other courts and in all circumstances, shall exist, and shall possess and wield the highest judicial power in the Commonwealth. It is the court that is to stand as the authoritative expositor and arbiter as to the meaning of the Constitution and of the laws made under it, and, as I shall show, it will practically be the final expositor and arbiter of the Constitution and the laws. It is intended as one of the constitutional checks and balances. It stands as a touchstone with which to test and try the validity of our legislative acts. We, as the trustees of the people, sitting in this Parliament by virtue of the Constitution, have no right to say that the creation of the judicial body which is specially designated to watch us, as well as to do other important acts in the Commonwealth, shall

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be delayed, or that it shall not be constituted, or that it shall be replaced by some other tribunal. These are the considerations with which we ought to commence the review of our duties, and I protest that we are not to take into account, at this moment, anything but what is right in order to discharge our obligations as fearless legislators in view of the Constitution.

Mr. CONROY.—We are to carry out the spirit of the Constitution.

Mr. ISAACS.—Yes, to carry out its spirit, undoubtedly. I have directed the attention of honorable members to the words of section 71 of the Constitution, and I think it will be of assistance if I mention that they are not without precedent. There are corresponding words in the Constitution of the United States, which I shall read, and I shall then endeavour to indicate the difference, so far as appears to me to be material, between our position and that of the United States. The words in the United States Constitution are—

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.

Honorable members will see the very strong similarity between the two sets of words. Before I read some extracts from a notable decision which has been given. I desire to make an explanation which may prevent honorable members from attaching to them more weight than they may deserve, although I think they go to the extent to which I have said my mind is led. As the Attorney-General has pointed out, the United States Supreme Court has no original jurisdiction, except in matters affecting consuls and ambassadors, or in cases where a State is one of the parties. It has, however, full appellate jurisdiction in federal matters, and the inferior courts, which Congress had a mandate to ordain and establish—as we have a mandate—were capable of being endowed, and have been endowed, with both original and appellate jurisdiction. Mr. Justice Story, the eminent jurist, who was a Judge of the Supreme Court of the United States, and is also recognised as a great writer on jurisprudence, delivered the decision of the court in the celebrated case of *Martin* against *Hunter*. Passages from this judgment are found in Quick and Garran's well-known work, *The Annotated Constitution of the Australian Commonwealth*—a work which

I have no hesitation in saying is an perfect repository of suggestion and dent. At page 723, honorable member will find, under the heading of *seet*, most instructive observations with reference to the words “shall be v I may say, by way of introduction, the Justice Story, in his *Commentaries*, out that it was for a long time a ma discussion in the United States w the words “shall be vested” were i tive on Congress, or whether they applied to what he calls “the future that is to say, something which mi done in the future. The decision gi the case to which I have referred that question for all time. In Qui Garran's work one passage reads lows:—

The language of the (third) article three is manifestly designed to be mandatory u Legislature. Its obligatory force is so tive that Congress could not, without a v of its duty, have refused to carry it into tion. The judicial power of the United *shall be vested* (not may be vested) in one S Court and in such inferior courts as C may from time to time ordain and es Could Congress have lawfully refused to o Supreme Court, or to vest in it the Consti jurisdiction? . . . But one ans be given to these questions; it must be negative.

Mr. CONROY.—Quite so, because were no courts of any kind to constr law.

Mr. ISAACS.—I do not think it n whether there were any courts or not we find the words I have mentioned were discussing the force of the When the Convention framed our Co tion they knew very well that there other courts, and when the Imperia liament passed the Constitution the similar knowledge, and the meaning words cannot be altered by the fa there was one court or one hundred

Mr. GLYNN.—I think that Mr. Story expressly says that the United where obliged to create a Federal because there was no authority to inv State courts with Federal jurisdiction

Mr. ISAACS.—Of course. It is true that it was mandatory on the gress to create inferior courts in the States—that is what Mr. Justice speaks of—because there was no aut to invest the State courts with E jurisdiction. But I am addressing to the subject of the Supreme Court,

the body under both Constitutions, that the United States Court has no of original jurisdiction as has the Court under our Constitution. The that we have determined, under the tion, to give to our High Court, jurisdiction such as is not given Supreme Court of the United States to me to make our obligation r.

MCDONALD.—Why is it that the of the Court has been deferred for ars?

ISAACS.—The honorable member recognise that it is impossible for ernment to do everything at once.

MCDONALD.—According to the view honorable and learned member we have established the High Court at set.

ISAACS. — Will the honorable allow me to address myself at pre- the constitutional aspect of the

JOSEPH COOK. — Upon what date the decision of Mr. Justice Story

ISAACS.—In 1816. I had better the observations of Messrs. Quick arran with reference to our own They say:—

words (shall be vested) are imperative, so far as the High Court is con- and are mandatory on the Parliament to vesting into effect by prescribing the of Justices of which the Court is to con- fix their salaries, and to make provision appointment. Under the same words nited States Constitution, there was, at e, much discussion whether Congress l any discretion as to creating a Supreme r investing it with jurisdiction—a dis- which would allow Congress to practically e the Judiciary as a co-ordinate depart- it has been decided, however, that no cretion exists.

ome the words of the judgment, have read. There are other obser- of a like character, and then follows tion from Chancellor Kent's *Com- es*, as follows:—

respect it is mandatory upon the Legis- establish courts of justice commensurate judicial power of the Union. Congress discretion in the case. They were bound he whole judicial power, in an original or form, in the courts mentioned and d in the Constitution, and to provide ferior to the Supreme Court, in which ial power unaborsorbed by the Supreme ight be placed. The judicial power of

the United States is, in point of origin and title, equal with the other powers of the Government, and is as exclusively vested in the courts created by or in pursuance of the Constitution, as the legislative power is vested in Congress, or the executive power in the President.

In order to emphasize this point, I invite honorable members to turn to section 1 of the Constitution. There they will find words analogous to those which I have been discussing—

The Legislative power of the Commonwealth shall be vested in a Federal Parliament.

These are quite as mandatory, quite as declaratory as are the words—

The judicial power of the Commonwealth shall be vested in a Federal Supreme Court.

If honorable members entertain any remnant of doubt as to whether these words constitute a mandate or a mere discretion, I would direct their attention to another reference in the Constitution. We all know that section 51 contains a list of the powers of Parliament. This Parliament is given power to do certain things. If it had been intended that it should exercise its own views in determining the time when the High Court should be created, would it not have been included in those discretionary powers? Would the Constitution not have said—"Parliament shall have power to create courts and invest them with federal jurisdiction?" But instead of that, we find a special chapter devoted to the Judicature, just as we have a special chapter dealing with the formation of the Executive and of the Legislature, a chapter erecting, in a co-ordinate form, the Judicature of the Commonwealth, dealing with its judicial power, and using words which in themselves should convince honorable members. I say that, if we consider a decision of the highest rank, which was given when Chief Justice Marshall presided over the United States Court, and Mr. Justice Story delivered his memorable judgment—when the judicial bench of America was never stronger—we cannot fail to believe that these words were intended to be peremptory. As to the time when they were to be exercised this is the answer: No time is mentioned, because it is clearly intended that as soon as there is occasion for exercising the judicial power of the Commonwealth the means of exercising it shall be provided. If we regard the reason and the precedent which I have quoted we cannot relegate this matter to the realms of discretion. The Constitution itself ordains

that this court shall be established, and partially creates it. To bring this machinery into motion awaits only the exercise of the power committed to Parliament by the Constitution. After giving the matter my best consideration, I say that for Parliament to refuse to carry out this obligation would be simply an abandonment of duty. It has been said that if we must have a High Court we should utilize the States Benches. Before going one step further I wish to remind honorable members of one landmark, if I may so call it, namely, that the constitution of a High Court of some sort is essential. I have endeavoured to show, and wish to emphasize, that unless we have a Federal Supreme Court we have not the means of exercising judicial power, as I conceive the Constitution intended, or the means of exercising, without doubt, the judicial power of the Commonwealth in federal jurisdiction. We have passed Acts of Parliament, we have moved under them, and this question has not been raised. But I believe that if it is raised, and if the courts are guided by what has been decided in the Supreme Court of the United States, it may be that if we do not institute a High Court in some form to accord with section 71 of the Constitution, we shall incur a risk which may cost the Commonwealth a great deal more than any of the sums which have been mentioned during this debate. Having arrived at the stage that there ought to be a High Court, let me deal with the suggestion that the Chief Justices of the States should compose it. Again, I would ask honorable members to look at the Constitution itself. Section 72 provides that the Justices of the High Court and of the other courts created by Parliament—and honorable members will perceive that these are Federal as distinguished from State courts which are to be invested with jurisdiction—shall be appointed by the Governor-General in Council, and shall not be removed except on the addresses of the Federal Houses after proof of misbehaviour or incapacity. The section further provides that they shall receive such remuneration as the Parliament may fix, and that such remuneration shall not be diminished during their continuance in office. Do not honorable members see that we cannot validly pass an Act which shall declare that the Chief Justices of the States Courts for the time being shall be Judges of the High Court? We can pass

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an Act declaring that the first Judge of the High Court shall be the persons who at the time of its passing are the Chief Justices of the States Courts, but when we have done that we have created Federal Courts, and who will hold their office for life, just the same as if we allowed the Government to appoint those whom they thought fit, which means we do not get rid of new appointments. We cannot get rid of new appointments. We can fix the remuneration at whatever sum we choose, and we can appoint whatever number of Judges we think fit, so long as it is not less than three, but that is all we can do.

Mr. WATSON.—Does the honorable learned member contend that the appointments must be permanent?

Mr. ISAACS.—Yes. Then I ask would be gained by appointing the Justices of the different States? Honorable members do not intend for a moment that they should hold dual positions. No men should serve two masters, however they might be. Neither do honorable members mean that gentlemen who are Justices of the States Supreme Courts, and who can be removed by the States Legislatures, shall hold positions as Federal Judges and be removed in the way I have indicated. Surely honorable members do not think that two anomalous positions could be held by the same gentleman, or that our States Justices would sit upon the Federal Bench and be content to draw varying salaries according to the State from which they come. We do not imagine that the Justices, who are Lieutenant-Governors of the various States, should be Judges of the High Court under the control and creation of this Parliament? A similar proposal was put at the Federal Convention met with no determined opponent than the honorable learned member for Northern New South Wales.

Mr. DEAKIN.—That proposal was rejected by 29 votes to 9.

Mr. ISAACS.—The Attorney-General has anticipated me. The honorable learned member for South Australia, Mr. Glynn, submitted a proposal that the High Court should consist of a Federal Judge and the Chief Justices of the different States. If I remember right, the proposal contained an addendum that in the event of the death or illness of the Federal Justice the other Judges could proceed

duties. That proposal was defeated, all I say, scouted, by the Convention.

CONROY.—There were too many members in that Convention.

ISAACS.—There were nine, including my honorable friend, who gallantly supported his proposal, as he does for every proposal which he supports. Yet, in a gathering consisting of 38 members, 29 were opposed to it.

GLYNN.—It was the suggestion of Samuel Griffith, and the honorable and learned member will pay some respect to his authority.

ISAACS.—I pay great respect to his authority, but in this matter I pay tribute to the decision of the representatives of Australia assembled in that Convention. With all the weight of that learned Judge's name, and with all the civility of my honorable and learned friend, the proposal was defeated by a majority of arguments, some of which have been read to-night by the honorable and learned member for Illawarra. It was taken out of the Convention, and was never heard of again. It has now been forgotten, in complete oblivion of the fact that the Convention pronounced against it, at its first or second sitting, but at its third sitting, after the fullest light had been thrown upon it. Therefore it has been completely placed aside. It has been made impossible, as I have previously pointed out, by the very words of the Constitution.

Mr. HENRY WILLIS.—Sir Samuel Griffith adhered to that opinion in 1897.

Mr. DEAKIN.—But the Convention rejected the proposal after 1897.

Mr. ISAACS.—The Convention discussed and rejected it in January, 1898, and it has not been heard of since. There is a misunderstanding in the public mind in regard to this matter. The idea prevails that we can utilize the services of the States Judges as Judges of the High Court. I should like to draw the attention of honorable members once more to the words of the Constitution, because it is only by a close study of them that we can hope to avoid mistakes.

Mr. GLYNN.—It is admitted that we cannot do it now, except with the consent of the States.

Mr. ISAACS.—We cannot do it now, without the consent of the States; and I point out why. We have only power to organize the Federal Supreme Court, to

create Federal Courts, and to appoint Judges to both of these tribunals. Whilst we have power to invest other courts with jurisdiction, we have no power to invest Judges or individuals with jurisdiction. We can take the States Courts, regardless of who compose them, and say—"We will invest those Courts with such jurisdiction as we think right." Of course we cannot give them jurisdiction of appeal over the High Court; indeed it is not absolutely clear that we could give them appellate jurisdiction at all. That, however, is a matter for careful consideration, and I pin no faith to it. The point to which I desire to draw attention is that we cannot take an individual Judge, and say that Mr. Justice A, or Chief Justice B, shall exercise Federal jurisdiction. The courts to which the Judges of the States belong remain State courts whether we invest them with Federal jurisdiction or not.

Mr. GLYNN.—Is there not a provision in the Bill that they cannot be appointed? What necessity can there be for such a provision if that course cannot be followed under the Constitution?

Mr. DEAKIN.—There is no such provision in either measure.

Mr. ISAACS.—I have not heard of such a provision. The honorable and learned member will allow me to say, however, that that is not material to the point I am discussing. I am considering, not what is proposed to be done under the Bill in this regard, but what can be done, and I assert that the power of the Federation in this respect is to invest State courts with Federal jurisdiction. If we said, for example, that the Supreme Court of Queensland should have certain Federal jurisdiction, it would be perfectly immaterial to us if every one of the present occupants of that Bench resigned to-morrow, and a new set of Judges were appointed. The new set would have precisely the same jurisdiction under that investiture as would the present members of the Bench. But we cannot pick out individual Judges and say that they shall exercise individual jurisdiction. We are to say "yes" or "no" in regard to the question of conferring the jurisdiction on the Court. A State court upon which that jurisdiction was conferred would be a State court exercising Federal jurisdiction, but its Judges would be nominated by the State, paid by the State, removable by the State, and answerable to the State. All that we should do in such

a case would be to confer Federal jurisdiction upon it by way of giving assistance to the Federal Supreme Court. Therefore, it should be evident that it is impossible to carry out the suggestion that the States Chief Justices should be also Justices of the High Court. It is beyond our competency as I read the Constitution, and I have endeavoured to lead honorable members to read it with me. They must judge whether I am regarding it rightly.

Mr. EWING.—If it were possible, would any saving be effected?

Mr. ISAACS.—I should object to it for reasons which caused me to object in the Convention, as well as for the reasons I have given to-night. I think it would be wrong to ask one man to hold these two offices. He could not do so with advantage to either. As pointed out in the Convention by the honorable and learned member for Northern Melbourne, there is a business reason, which appeals to practical men, against the adoption of such a course. How could we expect the Chief Justice of a State who has not only to perform judicial work, but to supervise the judicial work of his brethren, to arrange the course of and give directions for the judicial business to be performed in his State, and also to occupy from time to time the position of Lieutenant-Governor—to go to another State, to be under the direction of the Federal Parliament, and to perform his offices to the satisfaction of either party. I think that even if it were possible legally to make such an arrangement it would be impossible so far as practical conditions are concerned. But as I have already pointed out it has been placed beyond the range of legal possibility by the provisions of the Constitution itself. Then we have the suggestion made by the honorable and learned member for Northern Melbourne, that we should not create a High Court, but that we should leave the State courts invested with Federal jurisdiction. The investiture of State Courts with Federal jurisdiction is provided for in section 77, which is a most important one. Under section 75 the High Court has certain original jurisdiction inalienably conferred upon it. Shortly speaking, that jurisdiction applies to all cases in which certain persons or States or the Commonwealth itself are parties. That power is quite independent of this Parliament. We do not give that jurisdiction, and we cannot take it away. Section 76 allows the Parliament, if it thinks fit, to

confer original jurisdiction upon the Court in certain matters which have relation to parties, but relate to law jurisdiction. Then section 77 comes in and provides that, with regard to any of matters, Parliament shall have power to confer jurisdiction upon inferior courts. Those words are material, because I wish to inform the House that I cannot agree to the contention put forward by the honorable and learned member for Northern Melbourne with regard to paragraph (b) of clause 2 of clause 41, in the Bill now before us. I had better state his contention to understand it, at once, in order that honorable members may see the point of my reference to this section. Clause 41, after referring to the exclusive jurisdiction of Federal courts, says that, in the matters referred to, the several courts of the States shall—

within the limits of their several jurisdiction, whether such limits are as to locality, subject-matter, or otherwise, be invested with Federal jurisdiction, subject to the following conditions and restrictions:—

The particular condition and restriction referred to is that contained in paragraph (b)—

Except as hereinafter provided, every appeal from the decision of a court or Judge of a State exercising Federal jurisdiction, not being an appeal from one inferior court to another inferior court, shall be brought to the High Court.

I understand that my honorable and learned friend's contention was that it was not competent for us to say that we conferred Federal jurisdiction upon State Courts subject to appeal to the High Court. I cannot myself think that that contention is correct. We have power to give all or part of this jurisdiction to all or any of these courts. We are not required to give the whole jurisdiction, or none at all, to any of them. We must remember that we can deal, not only with the Supreme Court, but with every inferior court of a State. We may deal even with a petty court, and are we to be driven to say that we must give the whole of the jurisdiction, or none at all, to every court, however inferior it may be? Certainly not. It is to me perfectly clear that we can give jurisdiction to a limited extent to the inferior court. We can give greater jurisdiction to the higher court, and we can give such jurisdiction as is possible within the limits of the Constitution to the Supreme Court. I can see no reason whatever why

not say that that jurisdiction shall be taken away from the right of appeal to the High Court.

MR. GLYNN.—Does it not take away the right of appeal to other courts? Is not the right of appeal to the Privy Council abolished by the direct appeal, overlooking the right of appeal to the High Court?

MR. ISAACS.—Where is there an appeal taken away from the Privy Council from Federal jurisdiction at the present moment?

MR. GLYNN.—There is a right of appeal from any subordinate court, which, if the appeal is taken through the Supreme Court is taken away, can be exercised as an act of grace by the Privy Council.

MR. ISAACS.—The honorable and learned member is speaking of an English Act of Parliament—the 7th and 8th Victoria.

MR. GLYNN.—Yes.

MR. ISAACS.—Under that Act the Privy Council may pass an order or may give a right of appeal from any court in the various dominions, with the exception of those in the British Isles. But I do not mean to draw the honorable and learned member's attention to certain well-known provisions. At present I do not mean that that right is given. At present the orders in Council, certainly in the case of the Dominion of Wales and Monmouthshire—and although I am not so clear as to the other States, I imagine that they are in the same position—appear to me to be a right of appeal to the Privy Council in certain limited cases within the jurisdiction of the States Courts as constituted under State jurisdiction and exercising State jurisdiction. I doubt very much whether we can point to any provision in the Act at the present time by which the Privy Council has conferred the right—the right of appeal, honorable members will observe—taken away from any litigant from this federal jurisdiction. But beyond that there is plenty of ground for saying that the right of appeal has been taken away. It has been done in several cases. I forget the date of the last Act by which this was done, but I believe it was in 1883. By Act of Parliament the right of appeal to the Privy Council from the Supreme Court of Canada has been forbidden, and that Act was confirmed in the very case which the honorable and learned member mentioned last—the case of *Prince v. Gagnon* (Appeal Cases)—as taking away the right of appeal. In that case, Lord Fitzgerald, I think it was, in delivering the decision of

the Judicial Committee, said that the right of appeal was taken away by the Canadian Act, and that they were now to consider whether they should grant the appeal as an act of grace.

MR. GLYNN.—They are granted in that way.

MR. ISAACS.—That is another matter. I am speaking of the power to take away the right of appeal to the Privy Council; when we get beyond that the observation made by my honorable and learned friend might apply.

MR. GLYNN.—Most of the appeals to the Privy Council are matters of grace. They are not always exercised as matters of right.

MR. ISAACS.—It is quite the other way, if my honorable and learned friend will allow me to say so. It was recognised by the Privy Council in the case of *Prince v. Gagnon*, and recognised by Lord Davey in the speech which he delivered in the House of Lords, on our own Constitution Bill, that the Canadian Parliament had taken away the right of appeal. What position do we get to then? The Privy Council when asked to grant an appeal as of grace, says—"No, we shall not do so if there is a higher court in the Dominion to go to." For the Dominion I may substitute the Federation.

MR. GLYNN.—Surely the honorable and learned member will not say that the Privy Council refuses in all cases to hear an appeal.

MR. ISAACS.—I do not say so. I say that the rule of the Privy Council is that, if there is a right of appeal to a higher Court, you must exhaust that right by appealing to them. Even when they do not act upon that rule they are bound to ask themselves—"Is this such an anomalous case, or a case of such magnitude—not because of the amount of money involved, but in its bearings, in its results, and in its relations—as will justify us in entertaining the appeal as of grace?" When you have whittled the thing down to that small point it becomes minute indeed. Therefore it is beyond my comprehension how it can be said that we are debarred under the Constitution from limiting the Federal jurisdiction of the State Courts upon which we think it right to confer the power of exercising it. If the contention had not been raised by so able a lawyer as my honorable and learned friend the member for

Northern Melbourne, I should have thought it incapable of argument.

Mr. DEAKIN.—No other legal critic of the Bill has taken or supported the point.

Mr. GLYNN.—It is acknowledged to be doubtful.

Mr. ISAACS.—I do not say that a doubt is not entertained, but I have not heard it expressed before. Treating the matter as I have, I think I have led honorable members along the train of reasoning by which I arrived at my conclusion, so that they may judge for themselves of its reasonableness. We cannot do more than express our views, matured so far as we can mature them. We have power to confer jurisdiction, and there is no word saying that we shall give everything or nothing. The Canadian Parliament has obliterated the right of appeal, and that has been recognised by the Privy Council, who have laid down very stringent rules as to the cases when they will grant an appeal as of grace. When they find that there is a higher appeal court in the territory, they want to know why the right of appeal to that court has not been exhausted. The Supreme Court of Victoria, in a case reported in volume 23 of the *Victorian Law Reports*, has laid down the rule that no appeal to the Privy Council from the decision of a single Judge of the Supreme Court is to be granted, because there is an appeal from the decision of a single Judge to the Full Court here. That judgment seems analogous to the practice of the Privy Council. Therefore, from every stand-point the position taken up by my honorable and learned friend last night does not seem tenable. I will draw the attention of honorable members to some words in the Constitution which strengthen the contention which I have just put before them. They will see that the provisions of section 77 with respect to matters of original jurisdiction, so far as the High Court is concerned, may or may not extend to appellate jurisdiction so far as the other courts are concerned; I offer no opinion about that. But with regard to those matters, Parliament may make laws defining the jurisdiction of any Federal Court other than the High Court. Clearly it is possible to define the jurisdiction of inferior Federal Courts. We can limit as much as we please. There is a very important subsection defining the extent to which the jurisdiction of any Federal Court shall be exclusive of that which belongs

to or is vested in the courts of the States. That proves to me beyond possibility of doubt that we cannot give the jurisdiction of the State Courts to the Federal Courts. We can say that the jurisdiction we confer on the inferior Federal Courts shall be exclusive of any jurisdiction we give to the State Courts, and it seems to follow as an absolute corollary that the jurisdiction given to the State Courts need not be unlimited. Would the opposite contention lead to the result that we had to give unlimited federal jurisdiction to every State Court to which we give jurisdiction it would cause an absurdity. If we give the federal jurisdiction of the High Court to the State Courts, it is to hear appeals from the Supreme Courts of the States. But are we compelled to give the Supreme Court of Victoria jurisdiction to hear appeals from the State Courts of New South Wales or Tasmania? Are we to give jurisdiction to an inferior court in one State to hear appeals from the Supreme Court of another State? We do not entertain such a notion for a moment. And yet it seems to me that that position flows from the contention that if we give any Federal jurisdiction we must give it all.

Sir JOHN QUICK.—Whose contention is that?

Mr. ISAACS.—I understood that my honorable and learned member for Northern Melbourne to say that if we give Federal jurisdiction to a Supreme Court we could not give it subject to an appeal to the High Court, and I say that that is the position that we cannot limit the jurisdiction we give.

Sir EDMUND BARTON.—That we must give everything or nothing.

Mr. ISAACS.—That is the conclusion.

Mr. CONROY.—What is the meaning of the words "shall invest such other jurisdiction with Federal jurisdiction"?

Mr. ISAACS.—The section does not say that we shall invest the State courts with the Federal jurisdiction possible.

Sir JOHN QUICK.—Does not "Federal jurisdiction" cover the whole of the jurisdiction of the power of the Federation?

Mr. ISAACS.—It may, but it does not necessarily do so. Does the honorable and learned member mean to say that if we give Federal jurisdiction to a police court we must give it a Federal jurisdiction covered by the Constitution? Surely not. I cannot entertain such a notion. There is another contention which has been put forward, and that

supposing the Federal High Court proper court to appoint under the provisions of the Constitution Bill as originally framed, changes have been made in England which have so altered its character that the mandate of the Convention ought not to be attended to. I have thought that a considerable amount of apprehension has existed in the public as to the extent of the alterations in the Constitution Bill in England. It was not in Australia at the time, but the impression I formed from cablegrams and accounts which appeared in the public press was that it was imagined by the public in Australia that under the Bill as it stood appeals in mercantile causes from State courts exercising State jurisdiction had been taken away. That was not so, and it is not so now. Regarding that class of cases, I am right in saying that no alteration whatever has been made by the Imperial Parliament. All questions of mercantile import, all cases of daily occurrence, and all contests in respect of libels, or bills of exchange, or charter parties, or trespass, or contract, were, when the Convention framed the Constitution Bill, matters which were appealable as of right, within the limits of the jurisdiction of the Privy Council orders, from State courts exercising their State jurisdiction, just as they were before the Convention met, and they are now. But there was in clause 75 as it was sent home, a provision that there should be no appeal at all—I take it to mean from the High Court or from the State courts—to the Privy Council on matters which were called constitutional matters, that is, matters relating to the interpretation of the Federal Constitution or of any part of the Constitution, except decisions affecting the public interests of any part of the British dominions. I thought that the main objection to that provision advanced by the home authorities was this—“You claim in Australia that this provision should stand as it is because you say that it is not applicable to Australia. But it is not so. There will be a constitutional decision affecting the interests of the litigants immediately concerned, and, not, it is true, of any other part of the Crown dominions, but of foreign countries, because of some treaty obligation of the Empire. Therefore the contention that there should be no appeal to an Imperial Tribunal in matters that may affect the Empire in its foreign relations is not

right.” That was an understandable objection. The Imperial authorities told the delegates—I am not saying whether it was right or wrong, I am merely stating the contention as I understood it—“We are prepared to give you absolute finality—subject only to the right of your High Court to grant an appeal to the Privy Council—in all matters that are purely Australian and of constitutional importance, that is, contests of a constitutional nature between the Commonwealth and the States, or between the States, as to their mutual powers and limitations.” That was the position. Of course, only appeals from the High Court were affected. This is the change that has been made: That whereas before questions of constitutional interpretation, whether of the Federal or of the State Constitutions, going from the State courts were not appealable either as of right or of grace, they are now appealable as of right in the proper amounts from State courts in their State jurisdiction, and, it may be, unless we limit it, in their Federal jurisdiction. I think, as I have explained, that we have power to limit it.

Mr. CONROY.—It would be very unfortunate if we have not, because we should then have to appoint 50 Judges.

Mr. ISAACS.—We can limit the Federal jurisdiction but not the State jurisdiction. We can, if the views I have stated are correct, limit the Federal jurisdiction we confer upon any State court. The Federal Parliament, under the Bill as it went home, had power to limit the cases in which an appeal as of grace might be allowed. They still have that power, subject only to the reservation of any Bill for the Royal assent.

Mr. GLYNN.—The honorable and learned member is now referring to appeals from the High Court.

Mr. ISAACS.—Yes. I do not think that we need bother about the cases involving the Constitution of a State. The number of such cases that will arise in the Supreme Courts of the States in their State jurisdiction will be comparatively small. The constitutional cases which will arise will come mostly, I think, under the Federal jurisdiction, and we can limit them on the same principle that Canada limited the right of appeal to the Privy Council, except in matters of prerogative.

Mr. WATSON.—Is it the opinion of the honorable and learned member that the Privy Council have no power as an act of

grace to allow an appeal from the High Court without the consent of the Court in matters affecting the Constitution?

Mr. ISAACS.—These are the words of the Constitution—

No appeal shall be permitted to the Queen in Council from a decision of the High Court upon any question howsoever arising as to the limits *inter se* of the Constitutional powers of the Commonwealth and those of any State or States, unless the High Court shall certify that the question is one which ought to be determined by Her Majesty in Council.

Mr. WATSON.—No act of grace can override that.

Mr. ISAACS.—No. These words are contained in an Act of the Imperial Parliament, to which the Crown is a party. Appeals can be made from the High Court to the Privy Council as an act of grace, but that act of grace must be performed by the High Court. The section reads further—

The High Court may so certify if satisfied that for any special reason the certificate should be granted, and thereupon an appeal shall lie to Her Majesty in Council on the question without further leave.

Except as provided in this section, this Constitution shall not impair any right which the Queen may be pleased to exercise by virtue of Her Royal prerogative to grant special leave of appeal from the High Court to Her Majesty in Council. The Parliament may make laws limiting the matters in which such leave may be asked, but proposed laws containing any such limitation shall be reserved by the Governor-General for Her Majesty's pleasure.

So that practically we have the matter in our own hands. I should like to point out that section 73 confers the appellate jurisdiction in regard to decisions of any Judge or Judges of the High Court, short of the Full Court, or of any other federal court, or of any court exercising federal jurisdiction, or of the Supreme Court of any State, or of any other court of any State, from which at the establishment of the Commonwealth an appeal lies to the Queen in Council, or of the Inter-State Commission. In all this appellate jurisdiction it is provided that the judgment of the High Court shall be final and conclusive, and therefore all appeal as of right from the decision of the High Court is entirely shut out. That is recognised in many cases, notably in the case of *Cushing v. Dupuy*, 5 Appeal Cases—a decision of the Privy Council—and in the case of *Prince v. Gagnon*, 8 Appeal Cases. This provision shuts out appeal as of right, and this Parliament may

shut out all appeals as of grace subject to the Bill being reserved for His Majesty's assent.

Mr. GLYNN.—Still, in Canada, there are 10 appeals of grace as against 23 appeals of right.

Mr. ISAACS.—That would be from provincial courts.

Mr. GLYNN.—No; from the Supreme Court of Canada.

Mr. ISAACS.—No appeal as of right exists there, for the reason that the Canadian Parliament shut it out.

Mr. GLYNN.—But the appeals are of right.

Mr. ISAACS.—Our position is even much better than that of Canada, because in Canada they have not the power to shut out appeals as of grace. They have purported to do it, and they cannot do it.

Mr. CONROY.—The words in the Bill are final and conclusive.

Mr. ISAACS.—But they relate only to appeals as of right.

Mr. CONROY.—Yes; but appeals of grace.

Mr. ISAACS.—My honorable and learned friend has forgotten the concluding words of section 74, which are as follows:—

The Parliament may make laws limiting the matters in which such leave may be asked, but proposed laws containing any such limitation shall be reserved by the Governor-General for His Majesty's pleasure.

Sir JOHN QUICK.—But the Parliament has not done that.

Mr. ISAACS.—I am not discussing whether we have done, but what we have the power to do.

Mr. CONROY.—I thought that was the subject of the discussion.

Mr. ISAACS.—Yes, but in relation to the provisions of the Constitution. I thought from the turn of the discussion that we were interested in ascertaining the meaning of the Constitution, and the powers of Parliament. We are not limited to the mere words of the Bill or any other Bill, but we are free to determine whether we shall lay the foundation of a judicial system upon one line, or upon another line, or upon no line whatever.

Mr. CONROY.—The words of the Canadian Bill are even stronger than those of the Australian Constitution.

Mr. ISAACS.—I think not. I do not pretend to have noted all the verbal objections that have been taken by honorable members. I have endeavoured to keep out of occupying too much time, to deal

question broadly. There are many provisions in the Bill which I am sure would offer matter for amendment. I agree with the honorable and learned member for Bendigo that some of the provisions regarding removal of causes may with advantage be considerably altered; but these are not vital matters, and may very properly form the subject for discussion in Committee. I quite agree with one observation made by the honorable and learned member for South Australia, Mr. Glynn, that we should be careful not to encroach upon the existing jurisdiction of the State Courts. I do not think we need take away from the State Courts one atom of the jurisdiction they possess. Their maritime jurisdiction may be exercised by them, and if they did not possess it, I should be inclined to confer it upon them. Perhaps it may hardly be the case with one who is every day practising before the Courts—although, perhaps, I may speak out any fear of being misunderstood—namely, that there is no occasion for any want of confidence in our State courts. I am not making my arguments in favour of the High Court upon any distrust of the State courts, but I have sought to confine attention to the requirements of the Constitution, and that is best for the Federation.

MR. CROUCH.—What about distrust of the Privy Council?

MR. ISAACS.—I cannot feel the same confidence in the Privy Council that I should have in an Australian court, in relation to Australian matters. Up to the present time I have endeavoured to deal with this proposal as if it were a mere question of moral obligation, arising out of settled terms of our charter of Government. I have endeavoured to express myself as to what that instrument compels the honour to do; but I am not afraid to take the position from the stand-point of expediency. I am not afraid to offer my opinion as to what we should do if we were absolutely free from any ties, and were at liberty to choose our own lines of action in the Judiciary question. I have no objection in saying that it would be an act of high and wise statesmanship, both from the stand-point of expediency and economy, to establish a High Court at the present time upon the lines demanded of us by the Constitution. We heard a good deal of criticism of the time that the federal delegates were in England, bravely fighting the battle of this Bill, about the institution of an

Imperial Court of Appeal, and if I remember rightly, one of the strong arguments used by the Imperial authorities against the delegates' view regarding Privy Council appeals was that it was most inopportune to discuss any such question because they had in contemplation the establishment of an Imperial Court of Appeal which would dispense justice uniformly and evenly for the whole Empire. This was a grand and noble conception, and one that in time would have had a great influence, but that proposition is dead. It is relegated to the shelf of obscurity. It has died from suffocation under the load of tradition and interests, from which we in Australia are happily free, and it is now labelled as one of the failures of history. I feel proud that our representative, Mr. Justice Hodges, at the Conference which was afterwards held, took the stand he did with regard to Australia. We should have reaped the benefit of his action if the scheme for the Imperial Court of Appeal had been brought to a head. At present, however, we are left with the Privy Council as the apex of our appellate system. Now, I desire to speak of that body as I ought to, with all respect. It is a venerable body, and it sits in a somewhat dingy den in Downing-street; but, none the less, its decisions are authoritative, and binding upon this Federation.

SIR EDWARD BRADDON.—The dingy den does not affect its decisions?

MR. ISAACS.—Of course not; though the surroundings sometimes do. But the Privy Council itself, apart from its surroundings, is a body consisting of men of varied eminence and attainments. There are upon it men of whom any nation might be justly proud. There are also retired Judges from India, from the West Indies, and from other parts of the British dominions, who have served their time faithfully and well, and who are now—at all events, members of the Privy Council. You can get a very strong court, undoubtedly, if the Lord Chancellor chooses to come down with some of his brethren from the House of Lords, and you can get a very weak court indeed, one much weaker than, I think, the majority of our State courts in Australia. There are men on the Privy Council, who, for some reason or other, have not been elevated to the House of Lords, and who, while they

are not allowed by law to become members of the ultimate Court of Appeal for the inhabitants of the British Isles, are considered quite good enough to give final judgments upon matters affecting the subjects in British dominions abroad. I protest against that condition of affairs, which would have been swept away by the adoption of the project for the establishment of an Imperial Court of Appeal. Now, that that scheme has been abandoned, I do not hesitate to say that the Privy Council is not a court in which we can place the fullest reliance in regard to the interpretation of our laws. There would be no more advantage in our asking an Indian Judge to interpret an Australian Act than there would be in the Indian Government seeking the assistance of an Australian Judge in interpreting one of their acts. To my mind there is something anomalous about it. I wish to say that if we get a strong Privy Council Court—a tribunal as strong as can be obtained in the House of Lords—and put before it a question of general mercantile import, we shall obtain from it a decision of great weight. There are guides to these decisions in other than Australian cases. But if we put before that Court a matter of local concern, and one arising out of Australian conditions—such, for example, as our mining, our land, or our labour laws—does any one mean to suggest that it can, as the Attorney-General put it, “translate itself to an Australian atmosphere,” and tell us what we intended in framing our laws?

MR. CONROY.—It can tell us how to construe those laws.

MR. ISAACS.—It can tell us how to construe them, but surely if we are capable of making those laws we are also capable of interpreting them. If our Judges do not put the interpretation that we prefer to put upon them, we are here to alter them. Seeing that we have an Australian Executive and an Australian Legislature, I cannot understand why we should not have our own Judiciary. At all events, whether there be an appeal to the Privy Council or not, why should we not have the option? Why are Australians to be necessarily driven 12,000 miles away to get a decision which, as far as local matters are concerned, is generally a mere guess? It may be a guess which is right, but it may be one that is wrong. In any case, if we give the option to the Australian people to obtain decisions

which are practically final, because I have already pointed out that a judgment of the High Court will be to all intents and purposes final, and that we can make it absolutely so—we shall have the means of deciding upon the spot, the meaning of our Constitution, and of the laws for which we, as an Australian people, will be responsible. Those decisions are much more likely to be correct than would be the case if they were given by gentlemen unacquainted with our conditions, and in most cases, therefore, as unable to interpret the meaning of our statutes as if they were living in the planet Mars. In considering the question of whether there is a necessity for erecting this court now, or whether its creation should be deferred for some considerable time—I think one honorable member mentioned ten years—when interpretations have been put upon our Constitution and our legislation, and the trend of our life has been fixed by hands other than our own, we ought to recollect that we stand here upon the threshold of our united life. We should remember that the direction which the rivulet obtains determines the ultimate course of the stream for all time. Here and now, if we are true to our duty, we shall erect a Court to which all Australians, rich and poor alike, may resort for guidance as to the laws under which they live—not a Court such as was suggested by my honorable friend the other night, a tribunal that will be swayed or controlled by sympathy—but one that is composed of our fellow citizens, cognizant of our conditions, consciously or unconsciously alive to the impulses of our daily life, and not likely to be misled by the crude and uninformed arguments of lawyers 12,000 miles away. Such a court as that is one to which all Australians ought to have access, and, I believe, not only on the ground of expediency, but upon that of economy, such a tribunal is eminently desirable. I quite agree with the Attorney-General that whilst we need not take away one iota of jurisdiction from the State courts, the erection of this High Court with its power of appellate jurisdiction from the State courts in their State as well as their Federal jurisdiction, will relieve the State Judges to a very large extent. It will enable them to traverse country districts which they cannot traverse now, and to devote more attention to them, and will relieve them of some of the heaviest appeals which

are called upon to hear, whilst litigants are not only too glad to avoid first an appeal to the State Supreme Court and then an appeal to the High Court or the Privy Council. Frequently they will avail themselves in many instances of an appeal direct to the High Court. Not only from the stand-point of expediency, but for all the economical reasons that have been so lucidly stated by the Attorney-General, I hold that we should rather than lose in monetary expenditure the establishment of the High Court. We cannot obtain an Imperial Court for the whole Empire, why should we not have an Australian Court from which we can draw a definite, decided, and uniform system of judicial expositions for the whole of Australia? This Australian Court would pay its way. It would do more than

It would form, as it was designed to be, the great bulwark of our Constitution. It would be an easily accessible tribunal, practically a final one for the elucidation of our Constitution and laws. It would be far above political interference as to be above the faintest breath of suspicion, yet so close to the common life of our people as to feel the pulse-beat of their life. No doubt it would be keenly alive to the verbiage of the enactments; it might be called upon to construe; it would also be able to interpret them according to the inner purpose and meaning which they were enacted. The Judges would be proud indeed to be members of the glorious Empire, but none the less, and as first, they would be citizens of this Commonwealth, whose rights and liberties it would be their special charge and privilege to cherish and preserve.

EDWARD BRADDON (Tasmania). I thought for one moment that, as the honorable and learned member for Indi has said, I should be false to the trust reposed in me by the people if I opposed this. Nothing would induce me to adopt that line. But far from that being the case I should be false to my trust if I did not do it. I should be false to my trust in giving my sanction to a measure which would impose on the people a heavy charge for the creation and maintenance of an institution which, I believe, is not absolutely necessary at the present time. If I fight with the Attorney-General that in doing as I propose to do, I should be guilty of any violation of the Constitution I should not dream of adopting the attitude

which I take up. But no straining of words can make it absolutely positive that there is a direct mandate in the Constitution to appoint a Federal High Court at any particular time. There is a mandate doubtless that a High Court shall be appointed, but there is no hint whatever as to the period within which that should be done. As one who regards it as necessary to the completion of the Commonwealth edifice that we should have a High Court at some time or other, I adhere to the view that the present time is eminently inopportune. The Attorney-General describes the High Court as "the keystone of the federal arch." I should prefer to call it the cope-stone of the edifice—a cope-stone which is not absolutely essential to a building which has its foundations soundly laid. The honorable and learned member for Bendigo has pointed out a fact of some little importance, namely, that since the delegates to Downing-street permitted an amendment of the Constitution by which Australian appeals may go direct to the Privy Council the description of the High Court as "the keystone of the federal arch" is just as applicable to the Privy Council as it is to the Commonwealth Judiciary. The honorable and learned member for South Australia, Mr. Glynn, has shown that by this amendment of the Constitution the Privy Council actually becomes the final arbiter in all cases of constitutional difference. I hold that at the present moment there is no pressing necessity to impose this fresh charge upon the people of the Commonwealth. In some of the States they are already overburdened with taxation. Let us examine the duties of the High Court under the Constitution and consider how far they can be effectively performed without the establishment of that tribunal. The first of its duties has reference to matters of original jurisdiction arising under any treaties. It cannot be urged that in this connexion there is any urgency for its creation. The Commonwealth has no power to enter into treaties, except through the medium of the British Government. Then it has power to exercise jurisdiction in matters affecting consuls or other representatives of other countries. I understood the Prime Minister to say that these matters are not likely to create any very great amount of business. The third duty of the High Court would be to deal with matters in which the Commonwealth,

or a person suing, or being sued on its behalf was a party. The honorable and learned member for Bendigo has pointed out how effectively, and without bias, the State courts have conducted all the cases arising under this particular heading to the eminent satisfaction of the people generally. The fourth sub-section relates to matters of the greatest possible importance—that is, cases arising between States, or between the residents of different States, or between a State and the residents of another State. In this connexion I would point out that when the Post and Telegraph Act was passed through this Parliament, the Premier of Tasmania raised the question that in regard to one particular section operating against “Tattersalls,” the Commonwealth Government ought to stay their hands until the matter could be decided by the High Court. That was, obviously, peculiarly a case as between the conflicting laws of States, and concerning which it was desirable that there should be such an appeal. We had in Tasmania a law which said that application for tickets in that particular institution should be sent only through the post, and by no other channel. The Federal law said that the post should be absolutely closed to those applications. Without entering upon any consideration of how far the action as to “Tattersalls” is to be justified or not, there was this conflict of laws, to which the Premier of Tasmania naturally, and very properly, asked that consideration should be given by the High Court before any action was taken by the Commonwealth. That request was refused, because it was pointed out that there is vested in the States courts sufficient power to deal with the matter.

Mr. JOSEPH COOK.—Did the Commonwealth Government say that?

Sir EDWARD BRADDON.—They said that Tasmania could seek her relief in the courts already existing. The fifth matter concerns cases in which a writ of *mandamus* or an injunction is sought against an officer of the Commonwealth. As to this there can be no doubt that the power exists in our courts to-day to grant all that is required. My great objection to this Bill is on the score of expense. When we have embarked upon this matter we do not know where we shall be landed. We are told that the cost of the establishment of the Judges and their officials will be about £30,000.

But we have not had mentioned a full of the officials, and no account what has been taken of the very heavy cost, bably, of the buildings that will have erected for the sittings of the High Court. Are we to believe that this, the highest court in Australia, will be a peripatetic court, finding its place of sitting here, there, and wherever it can borrow or temporarily rent some suitable or unsuitable house to sit in? There will inevitably be a very considerable charge upon the people for building for the High Court, in addition to the expenditure in other directions; and in of £30,000, in all probability the expenditure will be very much greater. I point out that while the Commonwealth is in a position to be lavish with the people's money; while it is free from the obligation which binds the people of the States to the interest on their debt; while that greatest charge is a burden upon the States, they find it very difficult to bear; because of that they have to exercise economy in every possible direction, to cut down expenditure even to the curtailing of charitable grants, and raising taxation, it has never been raised before in some of the States—while all this is so, and more so as long as the States are wholly and solely responsible for the whole of their interest, we have a Federal Government free from any obligation of the kind, free from that responsibility, and only restrained to its expenditure by the Braddon clause, which prevents it from spending more than one-fourth of the net Customs and Excise revenue collected. While that is so, in a season such as this—a season of depression and difficulty for the great majority of the people—we should hesitate before we put into any expenditure whatever that is so thoroughly and amply justified by its necessity. It is for that reason—although in principle, a supporter of the idea of a High Court, and have no sort of objection that a substitute can be found for it in the appointment of Judges as occasional Courts or anything of the sort—although I believe that in the fulness of time, we can afford it, and when occasion demands it, we must have a court such as contemplated here, that I shall have willingly, but still in conformity with the views I entertain and the sense of responsibility to my constituents that I feel rests upon me, to oppose the second reading of this Bill.

RONALD (Southern Melbourne).—Remarks which I shall have to make the subject of the creation of a High Court of Australia will be few. It seems to me that the object of such an institution is to be to limit and restrain litigation; apparently, from the character of the Bill before us, that tendency of attention have been kept in mind. On the other hand, it may be argued that litigation will be reduced very considerably by the event of our leaving the appeal to the Council as a final court of appeal in connexion with all legal disputes occurring in the Commonwealth, because the Council is such a far-off and expensive institution that men will pause and hesitate before resorting to it. It seems to me that these two extremes have to be kept in mind. On the one hand, there is our desire not to increase facilities for litigation by creating here a High Court and other courts, which lead one to the other in order to arrive at something like finality in vexatious litigations; and, on the other hand, there is our desire, in the case of men having differences against other men, or against a Government, or an institution, not to put any insuperable barriers to proceeding to a final court, where the parties may find a verdict which will commend itself to their conscience and conscience as being in accordance with the facts of the case. It is a difficult and an ideal thing to keep these two before us in reference to the establishment of a final court of appeal. But it costs money unfortunately; and it is when we translate them into cash that it becomes apparent that there are some things which may be too expensive. This is not such an ideal. As an ideal it may be a true one. It may be the ideal upon which we should act in trying to find a way in connexion with vexed legal questions, whether between man and man, and State, or State and Federation. It is a matter for argument whether now is the accepted time for realizing this ideal, and that is where I confess to some scepticism. There are times and conditions which limit all things, and it is quite likely that we shall never have a perfect Constitution—a Constitution which begins with an appeal to the people, then they express their voice in Parliament, and finally realized upon the statute-book administered by a final court of appeal in Australia. That may exist as an

ideal, but yet may be an apocryphal ideal; and it is quite likely that it may be one of those things for which we can afford to wait. I would remind the House of one thing. I was one of those who took upon themselves the odium of opposing the Commonwealth Bill. We were spoken of in anything but complimentary terms for so doing. We opposed it largely because of the presence in it of this chapter dealing with the judicature. We were told then that we were traitors to the highest and best interests of Australia. But to-day those same people who clamoured for federation in the loudest terms possible are preaching that now that we have accepted federation we ought to stumble at this most essential part of it. It ill becomes those people who, a few years ago, when they were forcing federation upon the people—rightly or wrongly; I now believe rightly—told us that the judicature was an essential thing, and that we must have it, to tell us that those who support this legislation, giving effect to the programme they forced upon the people, are traitors to the cause and not they. I say that if this is a matter of completing a programme and carrying out an ideal, by all means at whatever cost let us carry out that ideal at the earliest possible moment. I think the Government, whatever may be said about the time and wisdom of their action, are to be complimented upon this—that they have tried to complete the skeleton work of our Constitution, which never will be completed without a final court of appeal, composed of Australian Judges.

Mr. HENRY WILLIS (Robertson).—We are indebted to a number of legal members of this House for giving us the benefit of their experience as to what this High Court is likely to be, if it is established on lines laid down by the Government. The Attorney-General, in his speech last year, mentioned that he was indebted to Sir Samuel Griffith, Sir Josiah Symon, and Mr. Justice Clark, of Tasmania, for very valuable suggestions and recommendations in framing or drafting this measure.

Mr. DEAKIN.—For criticising the drafting.

Mr. HENRY WILLIS.—For criticising the drafting. But the Attorney-General went on to say that while those gentlemen made certain recommendations, he was of

opinion that they would not approve of the Bill as introduced by the Government.

Mr. DEAKIN.—No; I said I would not say they did approve.

Mr. HENRY WILLIS.—The Attorney-General had good reason for making that admission. I take it, that while those gentlemen made certain recommendations and suggestions, they did not necessarily approve of a Bill of this character, but, if the Government made the introduction of the measure a part of their policy, they were willing, to the best of their ability, to assist in making it as perfect as possible. The Attorney-General on that occasion further said that any defects in the Bill were his; indeed, I think he was more emphatic, because he said—

Every weakness in it no doubt is due to some of the alterations I myself have made. I am anxious without undue delay to recommend it to lay members of the House.

Was that admission made because of the imperfections in the Bill, or was it because of the fact that if we investigated pretty fully the opinions held by the gentlemen to whom he referred, we should find that, when they had the opportunity of speaking for the States they represented in the early Convention, they did not approve of the establishment of a High Court such as is outlined by the Government? Sir Josiah Symon favoured, I think, the proposals that were made by Sir Henry Parkes, that we should have a Court of Appeal that would give a final decision in Australia—that there should be no appeal to the Privy Council. That opinion was held by every member of that Convention, because the resolutions to that effect were carried unanimously. But Sir Samuel Griffith, in his report to the Legislature of Queensland, presented after he became a Judge, made special reference to the Constitution Bill, which was practically the Constitution as we have it to-day. To-night the honorable and learned member for Indi laboured very hard to show that it was mandatory in the Constitution that this Federal High Court should be established because without it the Constitution is not complete—that a High Court is the complement of the Constitution. Sir Samuel Griffith in his notes, as he termed them, which he made on the draft Federal Constitution framed by the Adelaide Convention of 1897, and which he presented to the Queensland Government, stated that the Constitution is practically

the same as that introduced in the Adelaide Convention. Sir Samuel Griffith said—

The most important formal change consists in substituting the formula of the United States Constitution, which declares that the judicial power of the State shall be vested in a Supreme Court, for the provision of the draft of 1891 that the Federal Parliament might establish such a court. The change is, however, of no practical importance, for until Parliament provides salaries for the Judges, and the necessary machinery for the exercise of their jurisdiction, the judicial power will necessarily remain in abeyance.

That is the opinion of Sir Samuel Griffith as to the reading of the words "may" or "shall." He proceeded—

There are certain recognised rules which may be called rules of courtesy, usually followed in the language of Statutes relating to the Sovereign and the prerogative. Thus it is not usual to enact that the Sovereign or her representative "shall" or "shall not" do an act. In the first case the word used is "may," and in the latter, the act itself is declared unlawful. In the draft of 1891 it was declared that the judgment of the Federal Court of Appeal should be "final and conclusive," with a proviso that the Queen might give leave to appeal in certain specified cases. The legal effect was the same, but the expression was not open to the charge of discourtesy or disregard of established usage.

Thus we have it on the authority of the Chief Justice of Queensland that the establishment of a High Court is not mandatory, for until provision for salaries is made, no Judges can be appointed. The Attorney-General quoted Chief Justice Marshall as saying that a Federal High Court is the "keystone of the federal arch"; but in that quotation the Chief Justice was referring to the Supreme Court of the United States, a country which has no court of appeal outside its own territory. In the case of Australia, the High Court is not the final court of appeal, because we may, if we choose, go to the Privy Council, either from the High Court or from the Supreme Court of the States. The Attorney-General put the matter very tersely, I think, when he said—

The fundamental issue is whether this Parliament is called on at this time to establish a High Court, and, if so called on, whether the means proposed are adequate and not excessive.

That is the real crux—whether Parliament is called upon at this time to establish a High Court. I am of opinion that we are not, at this juncture, called on to take that step. In Canada, where there is no High Court in the same sense as in the United States, the people are able to perform all their legal work with satisfaction, and for

years past have successfully carried on making appeals to the Privy Council, withstanding the disparagement passed that body by the Attorney-General, by the honorable and learned member Indi, I find that the former, in other parts of his speech, commends the decisions made by the Privy Council in cases submitted from the Dominion. Therefore, I think it that if we adopt what is called a "catch court" by the Attorney-General, we shall be adopting a system that was recommended by Sir Samuel Griffith in the reports which I quoted a few minutes ago. That report he also said—

Before leaving this branch of the subject I take pleasure to submit, as a question deserving of serious consideration, whether the work that would fall on the Federal Supreme Court is likely for some time to be sufficient to warrant the immediate creation of a complete separate judicial establishment. The arguments in favour of an independent Federal Judiciary are obvious, and are, no doubt, very cogent. It might, indeed, be necessary to have one or two exclusively Federal Judges to reserve the continuity of the tribunal, and to organize and supervise its machinery, but it is, I think, worthy of consideration—

As to this I specially direct the attention of the Attorney-General—

Whether it might not be wise to empower the Federal Parliament, if they think fit, to make laws authorizing the provisional constitution of the High Court, in whole or part, by Judges of the States Courts.

There is an opinion expressed by the Chief Justice of Queensland, that the Judges of the States Courts might perform all the functions of the High Court, so that the States might appeal to them for decisions on matters on which there was conflict in the several States, and that there would still be the final court of appeal provided for in the Constitution. The honorable and learned member for Indi referred to the visit to England of Mr. Justice Hodges, of Victoria, who made it very clear that the establishment of an Imperial Court of Appeal would be of immense advantage to the Empire. Should there be an amalgamation of the Committee of the House of Lords with the Judicial Committee of the Privy Council take place, it would, as at present, be an appeal direct from the Supreme Courts of the Colonies. Such a court would, I think, be of more influence, and their decisions would be of even more value, than would those of a court established in Australia. While we have the pick of the best amongst 4,000,000, in Great Britain

there is a choice amongst 40,000,000 of people. Great Britain is the commercial centre of the world, and has had wider scope of experience; and we may safely conclude that a court of that character would carry much more weight than would a court such as is proposed under this Bill. We must take into consideration what this magnificent measure will cost. The Attorney-General has modified his views upon this subject, as he finds that the Bill is not meeting with commendation. In the speech which the honorable and learned gentleman delivered last year upon the subject, he referred very fully to what the cost of the High Court would probably be. As he made but one quotation from that speech yesterday, I shall make one with a view of correcting the quotation which the honorable and learned gentleman then made. In the speech which he delivered last year, the honorable and learned gentleman said—

Honorable members will notice that we put down only the sum of £6,000 per year to provide for all these officers, say £7,000, including the salary of the Crown Solicitor. That added to the £15,000 paid as salaries to the Judges, after allowing for their travelling expenses, associates, &c., will bring the amount up to about £30,000 as a maximum.

Then I find that in another place he said—

In all these matters it is intended to commence in a tentative fashion. I do not think it will be necessary to have men wholly devoted to the duties of marshal the first few years. Probably, for a small honorarium we shall be able to obtain officers in the different States who will undertake those duties for some years to come.

And he also said—

On the Estimates we have provided £3,000 to cover the salaries of marshals, registrars, and other court officers, and contingencies for six months, or at the rate of £6,000 per annum. If we set down the sum at £7,000, that will cover the salary of the Crown Solicitor as well.

If honorable members will consider these figures they will find that there is proposed an expenditure of £15,500 for the Judges, £7,000 for court attendants, marshals, deputy-marshals, registrars, bailiffs, and so on, and a further sum of £7,500 for travelling expenses. Adding the £7,500 for travelling expenses to the £15,500 we find that £23,000 will be the sum actually paid to the Judges. It is not to be supposed that the Judges will be able to travel from one part of Australia to another without incurring heavy expenditure, and on the figures given it is clear that the amount of £4,600 per Judge is provided for in this

estimate. The Attorney-General, however, says that these arrangements are merely tentative, that the £6,000 provided for court attendants will merely cover an honorarium to each of these officials, and will not cover the salaries they will be paid when they are more fully employed. Notwithstanding the Attorney-General's contention yesterday, that we could establish the court for not more than £20,000, we have it upon his own showing that the expenditure upon the Judges alone will be not less than £23,000, or £4,600 per Judge. That is an expenditure which is certainly not warranted, when it is not necessary to establish such a court. The citizens of the Commonwealth have at the present time every opportunity they need of securing justice by being able to appeal to the Privy Council without the establishment of this Australian High Court. We must, in addition to the £30,000 spoken of by the Attorney-General, take into consideration the fact that a large expense will be involved in securing court-houses, Federal police, and possibly Federal gaols as has been pointed out by the honorable and learned member for Northern Melbourne. The Attorney-General has certainly not shown to the satisfaction of lay members of the House, who are business men, that this High Court can be established and maintained for £30,000.

Mr. DEAKIN.—If the honorable member will look at section 120 of the Constitution, he will find that provision is already made for the custody of offenders against the Commonwealth.

Mr. HENRY WILLIS.—The honorable and learned member for Northern Melbourne, who is a lawyer of large experience, devoted himself very fully to this question, and made statements which the Attorney-General was quite unable to refute. The honorable and learned gentleman made no interjection to dispute the statements being made by the honorable and learned member for Northern Melbourne. The chief opposition to the Federal Constitution, when it was before the people in the form of the Commonwealth Bill, was founded upon the expense likely to be involved in the establishment of the Commonwealth.

Mr. V. L. SOLOMON.—The honorable member surely believes that the States will give the use of courts and gaols, and the service of police, when they know that they will

have to meet the expenditure proportionately afterwards if they do not?

Mr. HENRY WILLIS.—This expenditure will be borne proportionately. But it is contended by the Attorney-General that in certain States—where the Judicial Bench is weak—the Federal Judges on circuit will have the most work to perform. This court therefore will be a heavy tax upon the State of New South Wales—where the Bench is strong—as one-third of the cost of this Judiciary will fall upon the people of that State. We have found so far that everything wanted by the Commonwealth has had to be paid for. With the exception of this building, and the Government houses, the Commonwealth has had to pay rent for all the buildings occupied. Though we do not pay rent for this building, we pay for the upkeep of the gardens, and we pay a considerable amount in honorariums to officials attached to this building.

Mr. DEAKIN.—We have our own officers here.

Mr. HENRY WILLIS.—I know that on the Estimates passed last year there were large sums of money provided for officers about this House. I was saying that the principal opposition to the Commonwealth Bill when it was before the people was founded upon the heavy expenditure which the Federation was likely to entail. It was certainly hoped that the expense of the Federation might be curtailed below the Convention estimates. It was shown by an estimate submitted by our Speaker at the Adelaide Convention that the cost of the Federation would not be more than £300,000 a year. But it was afterwards contended in the press and upon public platforms that the establishment of the High Court and other Federal institutions would render the expenditure of the Federation too heavy for the people of the Commonwealth to bear. The opposition to the Commonwealth Bill on that ground was so keen in New South Wales that I feel it to be my duty, as a representative of that State, to do what I can to prevent the Government entering upon excessive expenditure. So that the fears entertained by the people with respect to the cost of Federation may not be verified, I shall be found voting deliberately against the second reading of this Bill.

Mr. A. McLEAN (Gippsland).—I did not intend to say anything upon this question because my views are well

unnecessary expenditure, which, in my opinion, cannot be justified. I would again ask honorable members to consider the rate at which we are travelling in the matter of expenditure. The Pacific Island Labourers Act, when it is in full operation, will involve an annual expenditure of £340,000. Taking the yield of sugar at the figures which were supplied by the Minister for Trade and Customs, a bonus of £2 a ton on 170,000 tons, which is a moderate estimate, will amount to £340,000 a year. The minimum wage provision in the Public Service Act will, according to the Treasurer, involve an expenditure of from £40,000 to £45,000 a year.

Mr. DEAKIN.—He has reduced that estimate to £26,000, I think.

Mr. A. McLEAN.—For the first nine months of this year the expenditure has been £21,000 odd, and a large number of persons have yet to come in who have not been paid anything. If we put that expenditure down at £40,000, it is a very low computation. Our ordinary annual expenditure for last year was £275,000. The total expenditure provided for up to the present time has been at the rate of £655,000 a year, although the people of the Commonwealth were told that the additional expenditure in consequence of the establishment of the Commonwealth would not exceed £300,000 a year. It is £55,000 more than double that sum, and that is without the High Court, the Inter-State Commission, the capital, and the two transcontinental railways, with which the Government are coquetting. What will it amount to if we go on with these additional works? We were told by the Attorney-General last night that probably the High Court will not cost more than £23,000 a year. I am surprised that my honorable and learned friend is so much under the influence of his own seductive eloquence, I am perfectly sure that if he were not he would not for a moment believe that it would be within anything like these limits. The salaries of the Judges alone will be £15,500 a year. Then the salaries of five associates have to be paid. What will the travelling expenses of five Judges and five associates, passing continuously from one State to the other, amount to? They will amount to a sum very nearly as large as their salaries. When my honorable and learned friend tells us that

they could utilize the State buildings and State officials, does any honorable member believe that that would continue to be done? Would he not be the first to come down in the session after the Court was established and tell us that it was derogatory to the dignity of the Commonwealth Government that they should go cap in hand to the States to ask for shelter for their Judges? We know perfectly well that the very same thing would occur in that session as occurred last session, with regard to our Public Works Department. We were told at first that we could use the State Departments of Public Works; but we were not in session very many months when the Minister for Home Affairs came down and told us that he would not rely on the State officers, that he must have his own Department of Public Works. What is the consequence of this policy? If repairs need to be effected to any building in an up-country township, we have the spectacle of a State officer going up to see if two or three palings require to be replaced on a State school, and of the Commonwealth inspector travelling up in the same train to see if a shingle or two or a sheet of iron require to be fixed on the local post-office. So we go on, duplicating work in every Department. The Commonwealth, as well as the State, must have its own complete set of Departments. I am not prepared to follow in that direction. I am prepared to give the Government a consistent support, so long as they show a reasonable regard for the material interests of the people. But I shall not follow any Government into, what I consider, reckless and extravagant expenditure. A High Court was, very properly, provided for in the Constitution, and when the time comes—and I have no doubt that it will come—it will be necessary for us to establish such a tribunal. But I hold that to do so before that time arrives would be an unnecessary piece of extravagance, and that every person having the interests of the people of the Commonwealth at heart should consider very seriously before committing himself to it. I regret to say that I cannot support this Bill, and therefore I have paired against its second reading.

Mr. FOWLER (Perth).—After having this subject debated so ably by the legal luminaries of the House, it may appear presumptuous for ordinary laymen to speak, but at the same time there are one or two phases of this very important question

appeal particularly to laymen, and require a little consideration as well as legal aspects. I have listened carefully indeed to the arguments of the gentlemen, and of course it is necessary to do more than intimate for the purpose of the few remarks I have to make at there appear to be three courses open to us. We can leave things as they are, or we can patch up an arrangement with the States for utilizing their services, or we can adopt the measure proposed, with such alterations of course as may be thought necessary. I do not intend to discuss the second course, which is open to us. The proposal to leave the States for utilizing their services to the Judges of the High Court has been shown to be so absurd and impracticable by the honorable and learned member for India, that there is no necessity for dealing with that part of the question. I shall, therefore, confine my remarks more particularly to the question of whether we should leave things as they are. The famous plan of Mr. Melbourne, when he was confronted with the proposal in the way of progress, was asked impatiently, in language which I cannot exactly reproduce—"Why can't we leave it alone?" This seems to be the opinion of many honorable members of the House, and I apprehend that this proposal was called into existence for the purpose of pushing forward things which could not be obtained for the people of Australia by the States Legislatures, and that the formation of a Federal Government was emphatically one of those things. We are asked, however, to stay the course for a more or less indefinite period, because one or two of the States are in a feverish condition in regard to retrenchment. I am surprised that honorable members who ought to know better than to sympathize with such false cries as have been raised in this Parliament, in the direction of retrenchment, should charge with extravagance, should make an effect such charges here, when time has shown that the Federal Government has far from increasing the burden on the people of Australia, has in some respects reduced it. At any rate it cannot be shown that the total taxation of Australia in any way has been increased by the formation of the Federation. We are reminded that the people of Victoria are intensely anxious for retrenchment and reform. We

are told that they have been indulging in an extravagant policy for some years, which it is necessary for this Parliament to put right, by leaving undone work which it was called into existence to perform. Sympathizing as I do to some extent with the people of this State, I cannot accept that position. If they look the situation fairly and squarely in the face, they will see a clear way out of their State difficulties. Instead of retrenching and injuring civil servants and railway employés—

Mr. SPEAKER. — I do not think that the honorable member can discuss the methods of retrenchment adopted in the Victorian Parliament.

Mr. FOWLER. — I was only wishing to show, sir, that this cry for economy on the part of Victorian representatives in this House is a false, and, to some extent, a hypocritical one, and I believe that in a very few words I can make my position perfectly clear.

Mr. SPEAKER. — The honorable member will only be in order if his remarks can be connected with the measure before the House.

Mr. FOWLER. — We are told, for instance, by honorable members that a serious loss has been going on in Victoria for some years in connexion with its railways. If the people of the State care to go thoroughly into that question they will probably find that that loss is to be traced rather to the centralizing policy of Melbourne than to any overmanning or overpaying of their employés.

Mr. SPEAKER. — I cannot see how the honorable member can connect these remarks with the Bill.

Mr. FOWLER. — I shall proceed to another phase which I think has a still closer bearing on the subject before the House. We are told again by the representatives of Victoria in the House that it is necessary to retrench—and that we should remember that State particularly in connexion with the proposal before the House—because there is no other alternative available. What do I find with regard to its taxable position? Turning to *Coghlan*, I find that in 1901-2 its indirect taxation amounted to £2,392,000, while its direct taxation was only £700,000. I have to say to its representatives here that it is their duty to tell the people of Victoria, and if necessary the State Government, that what is wanted is not a parsimonious attitude to the

Federal Government, but rather a placing of the local taxation upon a proper basis. The taxation in Great Britain is, roughly speaking, one-half direct and one-half indirect. In Victoria we have less than one-third of direct taxation, and if the authorities will only place its taxation on a proper basis it will be able to overcome all its financial difficulties without any trouble. I listened very carefully to the excellent speech delivered last night by the honorable and learned member for Northern Melbourne. At one stage of his address he almost succeeded in convincing me that it would be wrong to support this measure. I refer to the point at which he particularly emphasized his opinion in regard to paragraph (b), sub-clause 2 of clause 41. He even went so far as to say that, if the construction which he placed upon it were put before an impartial authority, and decided against him, he would probably have to confess that a good deal of his opposition to the Bill was unfounded. To put it in a rough-and-ready way, as a layman must necessarily do, his contention was that it would be possible for appellants to pass the door of the Federal High Court, and go direct to the Privy Council. If that were the situation I should hesitate very much before committing myself to support this Bill. The honorable and learned member's contention was put with much earnestness, and coming as it did from a man of such recognised ability, it rather staggered me for the time being. But upon looking into this question a little further, what do I find? I find that the opinions of possibly a dozen men, including probably some of the best authorities in Australia, can be quoted in direct opposition to the view taken by him. That being so, I must say, with all respect for the honorable and learned member's opinion, that I feel impelled to recognise the views of such men as Sir Samuel Griffith, Senator Symon, and several other equally reputable authorities in Australia, as carrying considerable weight.

Mr. CONROY.—Those opinions were given before any alteration was made in the Bill.

Mr. DEAKIN.—No. Those opinions were given after these provisions were made.

Mr. CONROY.—I admit my mistake. I should have said that they asserted at the time of the Convention that it would not be necessary to appoint a High Court if an appeal from it were allowed.

Mr. Fowler.

Mr. FOWLER.—Apart from that interjection, I may remark that apparently one of the reasons for the hostile attitude taken up in regard to this Bill by the honorable and learned member for Northern Melbourne arises from the process which he has called a "tampering" with the Constitution, on the part of the Imperial authorities, before it was finally passed. With all deference to the honorable and learned member, I question whether that is a correct expression to use in regard to a perfectly legitimate and above-board action on the part of the Imperial authorities. As I understand the expression, no tampering whatever took place, and when I hear an honorable member indulging in language of that kind with regard to this measure, it very much vitiates the value of his argument. More than once in this House I have heard charges insinuated against statesmen in Great Britain, which I should hesitate to direct against even the most disreputable denizen of Pentridge. I am surprised to find the honorable and learned member for Northern Melbourne indulging in such language relative to a matter which gives no justification whatever for its use. One point which I have been particularly anxious to keep in view is the question of whether the High Court of Australia will have the interpretation of our Constitution. I am fairly familiar with the conditions which exist in Great Britain, so far as the superior courts there are concerned, and I indorse the attitude taken up by some honorable members who say that the Imperial authorities at Home are unlikely to be the best interpreters of our Australian conditions and our Constitution. There is no doubt that their environment must be altogether different from that of the High Court of Australia.

Mr. CONROY.—Both have merely to construe the law. Neither can attempt to make it.

Mr. FOWLER.—Influences that have much to do with the shaping of their decisions are frequently operating quite unconsciously in the minds of some of the most impartial Judges who have ever held office when they are construing the law. I do not think I am libelling the higher courts of Great Britain when I say that their unconscious bias—if I may use the term which has been used in this debate by honorable members who belong to the legal profession—is more frequently of a conservative than of a democratic kind.

CONROY.—The honorable member not say so if he saw some of the legislation. It is much more and democratic than ours.

FOWLER.—In some respects it

But I say that we can hardly our Constitution to be interpreted the courts with a due regard to all conditions, and in that atmosphere of policy which must surround the High Court of Australia. For that reason, and for reason alone, I consider it is highly necessary to constitute the High Court at the earliest opportunity. I view with a good deal of alarm the possibility of interpreting given, and of precedents being set at the outset of our national history which may hamper us in the future, and seriously interfere with the true progress of Australia. The advantages to be derived from this High Court put the question of expense wholly in the shade, and in regard to the people as a whole, I think that the expense involved will be insignificant compared with the advantages which will be derived from the creation of the Court.

CONROY.—Does the honorable member to the estimate of £30,000 as to what the actual cost will be?

FOWLER.—I am not going to put any sum, although I shall certainly do my best to see that the expenditure is kept within the limits indicated in the Bill. But, whatever the expense, we endeavour to see that this Judiciary of ours secures the highest possible degree of efficiency. I have to compliment the Attorney-General upon the courageous manner in which he has faced the cry for a new court now raging throughout his own State. He accepts the responsibility, and I, for one, am willing to accept the responsibility of giving, at the earliest possible moment, to the people of Australia, a High Court which, I think, will be the stronghold of their law, and the interpreter in the worthiest and noblest sense of our Constitution.

CONROY (Werriwa).—The honorable member late for me to commence my speech, and perhaps it would be a convenient time to adjourn.

DEAKIN.—The honorable and learned member should allow the second reading to be carried. He will not lose his right to speak. Practically the first clause refers

to the power to appoint five Judges, and raises the whole question again.

Mr. CONROY.—I think I should speak on the second-reading stage.

Mr. SPEAKER.—The honorable and learned member must either proceed with his speech or resume his seat.

Mr. CONROY.—I was asking for the adjournment of the House, and I think time would be saved by consenting to my request.

Mr. DEAKIN.—Some honorable members have come back to-night in order to vote on the second reading.

Mr. CONROY.—It would be a considerable advantage to the Government if my request for an adjournment were allowed.

Mr. SPEAKER.—Order. This procedure is quite disorderly. The honorable and learned member must either proceed with his speech or some other step must be taken.

Mr. CONROY.—I think, that in a matter of this kind, it is unnecessary that the debate should be closed with any undue haste. In similar circumstances an adjournment has been granted to many other honorable members, but that privilege is denied to me. We are asked to give power under this Bill to establish a High Court, and we have the statement of the honorable and learned member for India on the one side, that that court is the natural corollary of the Constitution. I am one of those who assert that, at the present time at all events, it is not necessary for us to establish a High Court, and, if it were, the manner in which it is proposed under this Bill to establish it is open to serious criticism. I think that we are undertaking an unnecessary expense in proceeding in the way proposed. If a Bill had been brought in to establish a court of three Judges, with appellate jurisdiction, one might have been disposed to listen to the arguments advanced in favour of the proposal. If the immediate establishment of the High Court is absolutely required by the Constitution, and that were clearly proved, no doubt honorable members would accept the situation, and, regardless of the present financial position of the States, would say—"We must establish this court because the Constitution requires us to do so." But the position is very different. We have been told that the provision in our Constitution is similar to that in the Constitution of the United States, and the

honorable and learned member for Indi very clearly and forcibly laid before the House his reasons for that assertion. But it seemed to me that he entirely overlooked an essential difference between the two Constitutions. Although he quoted the opinion of Mr. Justice Story, he did not quote the statement of that excellent Judge in which are given the reasons why it was absolutely necessary to establish a Federal Supreme Court in America. Mr. Justice Story points out that Congress could not vest any portion of the judicial power of the United States in any courts but those ordained and established by itself. We are in a very different position because we have power, not only to constitute a Federal High Court, and such other Federal Courts as we may think fit, but to invest State courts with Federal jurisdiction. As a proof of that statement I need only refer to clause 71 of the Bill, under which certain powers are given to the States courts. Mr. Justice Story points out that if in any of the cases enumerated in the Constitution, the States courts did not possess jurisdiction, the appellate jurisdiction of the Supreme Court could not reach them, and consequently the injunction of the Constitution that the judicial power should be vested would be disobeyed. There, again, is a marked difference between the position of the two countries. Here we have an absolute appellate jurisdiction over all the States courts, and can invest any one of them with Federal jurisdiction. The attitude of the honorable and learned member for Indi in regard to this matter was not that of a legally trained mind trying to consider it judicially, since, while he quoted one part of Mr. Justice Story's opinion, he did not quote another part which told against his argument. Mr. Justice Story goes on to show that Congress was bound to establish inferior courts in which to vest jurisdiction which, under the Constitution, was exclusively vested in the United States, and of which the Supreme Courts of the States could not take cognisance. It is true that the Government are quite within their rights in proposing to establish a Federal High Court consisting of five Judges. Section 71 of the Constitution says that the High Court shall consist of a Chief Justice and not less than two other Justices, so that they could propose the appointment of as many other Judges, in addition to the Chief Justice, as they might think fit. One of the objections I have to

the Bill is that the number of Judges it is sought to appoint cannot be sufficient for both appellate and original jurisdiction. If it were proposed merely to set up an appellate court, no doubt five Judges would be sufficient; indeed, I should have been prepared to reduce the number to three. That would have brought about a saving of £6,000 per annum in the first instance, and a further saving of the salaries of two associates. We know that every Judge must travel around, not only with his associate, but with his tipstaff, and that there will be attendants with all the officials. Therefore, it will be incumbent upon us to limit the number to the lowest that will be consistent with the requirements of justice. Unless the Government can clearly show that the larger number of Judges is necessary in the case of appellate jurisdiction, we can take the opportunity of expressing our disapproval when the clause is before us. Then the honorable and learned member for Indi did not think we could appoint Judges from the Supreme Courts of the States to be Justices of the High Court—that they would not be qualified to sit. I do not know under what section of the Constitution he attempted to fortify himself in making that assertion, because he did not mention it. But the idea of the framers of this Bill was very different from that. We find in clauses 4 and 7 of the Bill that the qualifications of the Judges of the High Court are to be as follows:—Either a Judge of the Supreme Court of a State or a practising barrister or solicitor of a State Supreme Court of not less than five years' standing. The Government recognise in clause 4 that a Judge of the High Court could be appointed from the Supreme Court of a State. But when we come to clause 7 we find them stating that a Justice of the High Court shall not be capable of accepting or holding any other office or place of profit within the Commonwealth except such as may be granted to him under the King's sign-manual. If that clause is to be carried out in its entirety, what does it mean? In clause 4 the Government recognise that any Judge of a Supreme Court may be appointed a Justice of the High Court, and therefore the contention of the honorable and learned member for Indi was not recognised by the Attorney-General in the framing of this Bill. If a Justice of the High Court is not capable of holding any other place of profit within

Commonwealth, it would prevent any amendment whatever being made to the Court of any Judge of a Supreme Court even temporarily. I do not think the words following—"except such as referred to him under the King's sign"—would get over the difficulty, because the Judges of the various Supreme Courts are not appointed in that way. Section 72 of the Constitution it is said that Justices of the High Court, and other courts established by the Parliament—

cannot be removed, except by the Governor-in-Council, on an address from both Houses of Parliament in the same session, praying for removal on the ground of proved misbehaviour or incapacity.

We remember that the Judges are to be elected in that way, and that they are so elected, I trust that we have heard the Attorney-General on behalf of the Ministry of the Crown that we are to place upon the Court Bench a body of men who will amplify or extend the law. Because, the assertions of the Attorney-General that anything at all, they meant that in interpreting the law which they were called upon to interpret the Judges would absorb and make law. There can have been no such meaning, when it was asserted that the Judges appointed would be more in sympathy with the Federal spirit than State—that is to say that the Government would appoint only such men in the first instance would amplify the law. I consider that what we want is not a body of Judges who are willing to do that, because it is not their place. We are here to say that it is the function of the Executive to carry out the legislation, and it is the function of the Judiciary to construe the law only. The Attorney-General says that these Judges are to be a body of men whom we should have reverence and esteem. A nice thing to say if we are to be called upon to do such a high body of men to do the law say what it really does not.

A pretty thing if we are to have a body of that sort! The Government has a fine idea of the duty of Judges, if they consider that it is their duty to stretch the law and to stretch it. No meaning can be assigned to the statement of the Attorney-General except that the Judges are to expand the law to suit the desires of the Federal authorities. What about the authorities? Where do they come in?

Have they no rights? In many respects their rights are entirely sovereign. Yet we are to have a court constituted which, in the opinion of the Attorney-General in charge of this Bill—and consequently in the opinion of the Cabinet itself, which will have the making of these appointments—will act in such a Federal spirit that they will be able, perhaps, to take away from the States rights which they at present enjoy. Can any man look at that position with calmness? Is that the way in which we are called upon to legislate? Is that the reason why the Federal Parliament was called into being? Nothing of the sort. I say distinctly that the mere statement on behalf of the Ministry that there would be found in this Commonwealth a body of men who would be likely to act in such a fashion, is in itself sufficient to show that there will not be that wise and just discretion exercised in choosing the occupants of these high positions, should this Bill pass, that we should like to see.

Sir EDWARD BRADDON.—I ask the Attorney-General to allow the debate to be adjourned until to-morrow, with a view to allowing the honorable and learned member for Werriwa to continue his speech. We have reached a late hour, and honorable members desire to catch their trains.

Mr. DEAKIN.—This being only the second night of the debate on an important Bill, I should have felt it a matter of course to grant the request preferred by the right honorable member for Tasmania, Sir Edward Braddon. But the honorable and learned member for Werriwa is perfectly well aware that, under the impression that there was to be no further speaking before the vote was taken, an impression arrived at in consultation with that honorable member, a number of honorable members have been detained or brought back to the House. If there had been shown any indication of a desire to prolong the debate to-morrow, so reasonable a request could not have been refused for one instant. It is unfortunate that a number of honorable members have been greatly inconvenienced by this request, at the last moment, for an adjournment; but now that the request has been made by the acting leader of the Opposition, as well as by the honorable and learned member for Werriwa, I have no objection.

Mr. SPEAKER.—I wish to point out that interpositions to debate, such as those

just made by the right honorable member for Tasmania, Sir Edward Braddon, and the Attorney-General, are not provided for in any way by the standing orders. I perceive it is the desire of the House that if possible the sitting should not be prolonged, and so I did not prohibit the remarks; but it must be understood that no interpositions of the kind can be permitted under the standing orders except by leave.

Debate (on motion by Mr. CONROY) adjourned.

ADJOURNMENT.

ORDER OF BUSINESS.—POST-OFFICE EMPLOYEES.

Sir EDMUND BARTON (Hunter—Minister for External Affairs).—I move—

That the House do now adjourn.

In submitting this motion I desire to point out that the two Bills relating to the sugar rebate will be taken first to-morrow, in order that the Treasurer may explain them, and that the House will then proceed with the Judiciary Bill.

Mr. BATCHELOR (South Australia).—Honorable members will remember that during the passage of the Public Service Bill promises were made by the Minister in charge of the measure—sometimes the Attorney-General, and at other times the Minister for Home Affairs—that all persons employed in the State Departments taken over should, though technically on the *pro tem.* status, be classified as permanent employes. These men were practically permanently employed, and the promise given by Ministers had a great deal to do with inducing honorable members not to place any provision in the Bill dealing expressly with their case. I informed the Minister for Home Affairs that I intended to draw attention to this matter, and, in his absence, I desire to point out to the Prime Minister that in the line-repairing branch of the Post and Telegraph Department there is a very considerable body of men with services ranging from 20 to 30 years, but none of whom have been brought under the Act. That, of course, is a disadvantage to these men, and is apparently not carrying out the promises made to the House. There may be some circumstances which have caused a suspension of their right to be brought under the Act; but so far the only reason I have heard is that it is ridiculous to have a court of appeal

which would be required to traverse the continent of Australia in order to inquire whether a cook in a line repairer's camp should be dismissed. That may be an argument against the provision made in the Act for a court of appeal, but it is no reason why a section of the temporary employes in the Post-office should be excluded from the benefits conferred by the Act. If the Government think that the law, as it stands, is ridiculous, they should take steps to amend it. I hope the Prime Minister will take a note of what I have said, so that the Minister for Home Affairs may adopt the measure necessary to bring all the men who are now under suspension within the operation of the Act at the expiration of the six months term, on 30th inst.

Mr. TUDOR (Yarra).—I might remind the Prime Minister that a deputation waited upon him just before the Act was gazetted.

Sir EDMUND BARTON.—There had been a notification of the exemption of these men from the operation of the Act.

Mr. TUDOR.—Yes, and the object of the deputation was to protest against the exemption. It was then represented that some time must elapse before the Public Service Commissioner could bring the men who were in temporary employment under the provisions of the Act, and the deputation did not then press their protest. Now, however, that the term of exemption has almost expired, I hope that no further extension will be granted. At present the men are not only prevented from sharing in the benefits of the court of appeal, but they are also deprived of the advantages of the provision regarding the minimum wage. I understand that many of the temporary hands employed in the Post and Telegraph Department have been served with notices that their services will be dispensed with at the end of June, and I hope that the whole question will be inquired into by the Minister for Home Affairs, and that the men will not any longer be treated as temporary hands.

Mr. SPENCE (Darling).—I desire, on behalf of those public servants in New South Wales who are concerned in this matter, to support the request made by the honorable member for South Australia, Mr. Batchelor. At the time exemption was granted, the Public Service Commissioner considered that he would not have

me difficulty in dealing with temporary employes in New South Wales than those in some other States. Months, I think, is ample time in which to fulfil the promise which was given that the men should be placed upon the permanent staff. I press the matter upon the attention of the Prime Minister, because I think that some of the officers who may report upon it are averse to conferring upon the men thus employed the standing which they themselves enjoy.

EDMUND BARTON (Hunter—Member for External Affairs).—I have a recollection of the deputation which came upon me several months ago in connection with this matter, although I shall need to refresh my memory upon it. I will put the points which have been advanced by the honorable members before the Minister for External Affairs, in whose Department the matter rests. To what extent the Commissioner has a free hand in questions of this kind I am not at the present moment able to recall, but no doubt that question has been satisfactorily settled. So far as any action appears to have been worked, I have sufficient faith in the Commissioner to believe that he will do his best to remedy it. My action resolved in the affirmative.

House adjourned at 11.2 p.m.

Senate.

Thursday, 11 June, 1903.

PRESIDENT took the chair at 2.30 and read prayers.

ELECTORAL ACT: REGULATIONS.

Senator PEARCE asked the Postmaster-General, *upon notice*—

When the regulations under the Electoral Act specially those mentioned in sub-section 139, will be issued?

Will such regulations be framed before the close of the present session, in order to give members an opportunity of discussing them before being used in the next elections?

Senator DRAKE.—The answer to the honorable senator's question is as follows:—I intended to prepare regulations under the Electoral Act to provide facilities for enabling members to vote at elections for the Senate and for the use of Representatives in accordance with section 139, and to lay the regulations before the Houses of the existing Parliament.

MAIL SERVICES.

Senator WALKER asked the Postmaster-General, *upon notice*—

1. What quantities of mail matter, letters, packages, and newspapers were despatched and received in 1902 by the Vancouver and the San Francisco routes respectively?

2. What was the expenditure and the financial result to the Commonwealth of each mail service?

Senator DRAKE.—The following is the answer to the honorable senator's questions:—

The necessary inquiries are being made, and a reply will be given in due course.

ECCLESIASTICAL PRECEDENCE.

Senator HIGGS asked the Postmaster-General, *upon notice*—

1. Does the question of ecclesiastical precedence at Commonwealth functions affect the peace, order, and good government of the Commonwealth?

2. If so, will the Government submit the matter for the consideration of the Parliament of the Commonwealth?

3. Is it true that the question of ecclesiastical precedence is the subject of correspondence between the Government and the Colonial Office?

4. If so, does the Prime Minister think that the officers in the Colonial Office know more about the question as it affects Australia than the members of the Federal Parliament?

Senator DRAKE.—The answers to the honorable senator's questions are as follows:—

1. It may affect its peace.

2. No occasion has yet arisen for doing so.

3. The whole question of precedence has been the subject of correspondence.

4. I am unable to say whether the Prime Minister has instituted any comparison.

TRADE PREFERENCE.

Senator HIGGS asked the Postmaster-General, *upon notice*—

1. Has the Government observed that Mr. H. A. Grainger, the Agent-General of South Australia, is reported to have written a letter to the London *Standard*, stating that the colonies ask Great Britain to make a beginning, however small, in the direction of trade preference?

2. Have the States of Australia made any request of the kind. If so, through what channel?

3. What Australian products is it proposed to allow into Great Britain at a lower duty than is charged other nations?

4. What British manufactures is it proposed to allow into Australia at a lower duty than is charged other nations?

5. If Mr. Chamberlain proposes that Australia shall allow British manufactures into Australia at a low duty, will the Prime Minister ask for a

guarantee that the British manufacturer shall pay his employés the Australian rates of wages for the Australian number of working hours?

6. Can the Prime Minister give the Parliament any details of the proposals for preferential trade?

7. Would it not be likely to save a lot of misunderstanding, heartburning, and disappointment to get down to details at once?

Senator DRAKE.—The following are the answers to the honorable senator's questions:—

1. Such a statement has been observed in the press.

2. No official or collective request has been made. I cannot answer as to any other.

3. The Government has no official information on the question.

4. No proposal has yet been formulated.

5. I think not, but the question is somewhat premature.

6. Not at present.

7. That is a matter for argument.

LETTER CARRIERS: QUEENSLAND.

Senator GLASSEY asked the Postmaster-General, *upon notice*—

1. Is he aware that the letter-carriers and others employed in the Postal service of Queensland, who have previously been paid overtime allowance and mail money which is part of their earnings, have been deprived of this portion of their earnings since the beginning of the present year?

2. Will he take such action in this matter as will enable these men to draw this portion of their earnings without further delay?

Senator DRAKE.—The answer to the honorable senator's questions is as follows:—

1 and 2. The numerous payments made by way of special allowances to officers required a careful investigation of the circumstances before they could be continued under the altered conditions of the service. This inquiry necessarily took some time, but it is now so far completed that a decision in each case will be arrived at in a few days, and it is expected the amounts due will be ready for payment next week.

I may add that just before entering the Chamber I ascertained that the amounts due to the men under the old arrangement will be paid at once up to the end of this month, and whatever may be due to them under the new circumstances will be ascertained.

LEAVE OF ABSENCE.

Resolved (on motion by Senator CLEMONS)—

That leave of absence for fourteen days be granted to Senator Matheson on account of urgent private business.

STANDING ORDERS.

In Committee. (Consideration resumed from 10th June, *vide* page 685.)

Standing Orders 177 and 178 agreed to.

Standing Order 179—

The title shall agree with the order of leave, and no clause shall be inserted in any such draft not relevant to the subject-matter of the Bill.

Sensor Sir JOSIAH SYMON (South Australia).—I am afraid that the marginal note—"compare South Australia 275"—is a little misleading, because that standing order refers solely to the title of the Bill, and has no relation to its subject-matter. It is a very excellent rule, which reads as follows:—

No clause shall be inserted in any such draft foreign to the title of the Bill.

Its object is to prevent the insertion of clauses that are irrelevant to the title which is on the draft Bill. Our proposed standing order is more restrictive than that one. There is no reason why we should restrict the opportunities which honorable senators may have so long as they keep the provisions of their Bills within the titles given by the orders of leave. We are introducing into our standing orders something which has no relation to the titles of Bills. Our present rule says that when a Bill is introduced it shall contain no clause which is foreign to the title, which is specified in the order of leave, and if subsequently we insert provisions which are not within the title, power is given by a subsequent standing order to the Committee to alter the title accordingly, and to make a special report to the Senate. The only object of the proposed standing order is to prevent a clause being inserted in a draft Bill which is foreign to the title, and the use of the words "or not relevant to the subject-matter of the Bill" very much enlarges the scope. As it is supposed to be founded on the South Australian Rule No. 275, we ought to adhere to that rule.

Sensor DOBSON.—Which is the more restrictive rule?

Sensor Sir JOSIAH SYMON.—The one which is before the Committee. All we require to provide at this stage, as is done in our present rule, is that no clause in a draft Bill shall be foreign to its title. The only restriction which ought to be placed on an honorable senator is that the provision of a Bill which he presents pursuant to the order of leave shall be within

title therein contained. The subject-matter of the Bill we deal with at a later stage. But it will be very unfair to an honorable senator when he brings up a Bill, or at the first reading of it, to have a ruling given that some particular clause is irrelevant to the subject-matter, when the Senate in committee may decide that that particular clause is perfectly relevant. It is to protect honorable senators and to see that they are free from all restrictions in introducing Bills. If a clause of a Bill differs from the title that is a matter for immediate ruling, and can be dealt with; but the question whether some clause is relevant to the subject-matter ought not to be left to an immediate ruling. The President of the Senate ought not to be placed in the position of ruling that a clause in a Bill is out of order because it is not relevant to the subject-matter. That is not his function at this stage. All we have to do is to give a senator leave to introduce a Bill and to give him the title, and then to see that no clause in the Bill differs from the title or goes beyond it. We can all decide that. We give power to the President to say whether any clause in a Bill is relevant to the subject-matter; we give a power which is easily controlled by the Senate than in any other case if the question simply is whether a particular clause differs from the title. Any member of the Senate can say at once whether a clause differs from the title of a Bill, but it is a different thing to say whether a clause is relevant to the subject-matter. It would be a pity to make a change in our existing standing orders in this respect. The practice in South Australia has been limited to compelling a member who brings in a Bill to see that his clauses do not go beyond the title. An injustice may possibly be done to a senator in having a ruling given which may be no possibility of checking. The title of a Bill is like the writing on the wall. Every one can understand the titles of Bills nowadays are made much more elastic than they used to be. The Minister for Trade and Customs, whose position as a draftsman is well known, has in recent years in South Australia, indeed, the practice of giving Bills such a title as—"A Bill relating to such-and-such, for other purposes."

Senator DRAKE.—What does "other purposes" mean?

Senator Sir JOSIAH SYMON.—If it is intended by this standing order to defeat that convenient practice, let us understand it. That is a good reason it may be for departing from the old standing order, the object of which was to get rid of technicalities. If the committee puts in the words "not relevant to the subject-matter," it transfers a subject which has to be decided by the President from the title to the words of the Bill, and that may raise some difficulties. I move—

That the words "not relative to the subject-matter of the Bill" be omitted, with a view to insert in lieu thereof the words "foreign to its title." I think that honorable senators will find that that is the form adopted by the other branch of the Legislature.

Senator Sir RICHARD BAKER (South Australia).—Senator Symon is asking us to take a very retrograde step. He is asking us to go back to a practice which was found wanting a long time ago. The original practice of the House of Commons was that a Bill, as introduced, should contain no clauses not within the title of the Bill. That was also the practice in most of our State Parliaments for a very considerable time. But it was found to be too restrictive. It was found that it prevented a great many clauses being introduced in a Bill which the mover and originator of the Bill thought ought to be introduced. Honorable senators will, no doubt, be aware that of late years the tendency has been to reduce the preamble of a Bill, and to diminish the title to a very short wording. In fact, the preamble has almost entirely disappeared, and the titles of Bills have become very short. In consequence of that tendency, the various Legislatures have found it necessary to alter their standing orders, and to give more scope to the introducers of Bills to put into them all they want. Instead of this standing order being, as Senator Symon has argued, a restriction, it is the reverse. The senator who introduces a Bill introduces what he likes, and what he introduces is the subject-matter of his Bill. He may include in that subject-matter almost anything he wishes relevant to the Bill. As a matter of fact, if this amendment is carried, honorable senators will be very much restricted indeed. It may be that the marginal note of the standing order is not quite clear, but that is of small importance. The amendment is inconsistent with the present

practice of the British House of Commons, and of almost all legislative bodies. We want to give as free as possible scope to senators to introduce Bills, and to put into those Bills every clause that they think fit. Take an illustration. Suppose an honorable senator moves that he have leave to introduce a Bill to do so and so. He can introduce into that Bill almost anything he likes that is in any way relevant or has any connexion with the title. But there may be clauses introduced into that Bill when it is first presented, which are foreign to the title. The standing orders say that if that happens the title must be altered before the measure passes; and that is all. I hope we shall not adopt such a restrictive provision, and go back so many years in, I will not say the history, but the practice of legislation.

Senator Sir JOSIAH SYMON (South Australia).—I am quite confident that this question is not to be settled by describing an amendment intended to conform with our existing standing orders as restrictive. It is very much better if we can to avoid the use of any epithet of that description when we are dealing with what best gives effect, not only to parliamentary practice, but to the rights of honorable senators. No consideration seems to have been given to this subject, or to the South Australian standing order when our draft standing orders were framed. When I originally read the marginal note to this standing order, and saw the words "clauses to come within the title," I passed it. Then I read it again, and found that instead of the standing order providing that clauses were to come within the title, it said that no clause was to be inserted that was not relative to the subject-matter of the Bill. What Senator Baker, no doubt, intended to give us was a standing order providing that the clauses of a Bill should come within the title, but what the Standing Orders Committee have done is to give us a provision that no clause shall be inserted that is not relevant to the subject-matter. That is a very different thing. Who is to decide it? What does Senator Baker ask the Senate to accept? That anything an honorable senator who introduces a Bill puts into it is the subject-matter of the Bill. If that be admitted we do not want the standing order at all. We are prescribing the course to be adopted in the initiation of a Bill. What we require is that the title shall

be specified in the order of leave. If the title is specified the clauses of the Bill must come within the title. That is the initiatory stage provided for in these standing orders—that no clause shall be in a Bill that is not relevant to the subject-matter. But who is to decide that? The question to consider is, what is the object of initiation? Is it to deal with the subject-matter or what is specified in Standing Order 177? If an honorable Senator conforms to that, he has a right to bring in his Bill, and not to be questioned as to the subject-matter of his Bill when he gives his title. A Senator introducing a Bill, says in effect: "In the form of this leave I bring in my Bill, every clause of which conforms to the title." There is the landmark—the title—and by that is the right to introduce a Bill tested, and not by the *ipse dixit* of the occupant of the Chair for the time being, influenced, it may be, by his political views. It is the Senate, and not the occupant of the Chair, who should judge the subject-matter of a Bill. Why should we depart from the existing standing order, which has been suggested for adoption also in another place? I am sure that none of us has the slightest wish to interfere with the privileges of honorable senators, and they will be seriously interfered with by the proposed standing order. I should like to hear some precedent given for a standing order allowing a ruling to be given as to the subject-matter of a Bill at the time of its introduction. If such a precedent can be submitted, I shall be the first to bow to it.

Senator DRAKE (Queensland — Postmaster-General). — The honorable and learned senator should remember that these South Australian standing orders were adopted with very little consideration indeed. He will remember that he moved a motion by which a sub-committee was appointed to consider the standing orders of the various States and bring up a report within 24 hours, a task which I pronounced at the time to be quite impossible. In order to overcome the difficulty the sub-committee recommended as a temporary expedient, and without consideration of the standing orders of the other States, that we should adopt the standing orders of the House of Assembly of South Australia. That is no good reason why we should not now depart from them if we think it advisable to do so. I have not the advantage of being well

acquainted with the practice of South Australia, but I know that in Queensland and in New South Wales the rule is that at all stages of a Bill the whole of the matter contained in it must conform to the order of leave. I know that Senator Symon raises his objection particularly on the point that the standing order proposes action to be taken at the introduction of a Bill. But the question is whether all clauses, whether originally in the Bill or subsequently inserted, should conform to the subject-matter or the title of the Bill. In Queensland and New South Wales, the title of a Bill may be altered at any time. Under the practice there, any amendment which is relevant and conforms to the subject-matter of a Bill, may be agreed to, and if the title of the Bill does not fit the new matter introduced the title has to be altered. The very last thing done with a Bill may be to alter the title in order to make it fit the subject-matter. But the whole of the subject-matter of a Bill must be homogeneous. In my opinion, the standing order, as now proposed, is a better safeguard than that previously adopted, because the titles of Bills are now often very short. A Bill is introduced, for instance, to amend a certain law, and the words "and for other purposes" which are very often inserted have been held to have very little meaning, because, in carrying out the standing orders, the President or the Chairman of Committees will look past them to see whether an amendment proposed is relevant to the subject-matter of the Bill; otherwise a clause might be put in in the last stages of a Bill which would come within the title, but which would be foreign to the subject-matter of the Bill.

Senator Sir JOSIAH SYMON.—Is there a standing order like this in New South Wales?

Senator DRAKE.—I do not say there is, but I am arguing as to what can be done with an amendment. According to the practice to which I have been accustomed, any amendment may be introduced which is relevant to the subject-matter of a Bill, and if the title does not fit it the title must be altered. If that is so, and a ruling to that effect may be given at any time, why should not it be given at an early rather than at a late stage of the Bill?

Senator Sir JOSIAH SYMON (South Australia).—I ask the indulgence of honorable senators to refer to *May's Parliamentary Practice*, which sets forth the practice of the

House of Commons as being exactly what I have endeavoured to explain, and what is embodied in the South Australian standing orders at present adopted by the Senate. At the initiation of a Bill the only thing we have to look at is the title, and whether the Bill conforms to the title, which is the essential part of the order of leave. An honorable senator moves that he have leave to introduce a Bill entitled so and so. That is all the Senate knows, or can know at the time, of the subject-matter of the Bill; and if the order of leave is conformed to in that way, then the honorable senator's privilege is clear to carry his Bill through its first and second reading. This is what *May* says at page 440 of the 10th edition, as to the practice of the House of Commons—

In preparing Bills great care must be taken that they do not contain provisions which are not authorized by the order of leave; that the prefatory paragraph prefixed to a Bill which defines the object thereof, known as the title of the Bill, corresponds with the order of leave; and that the Bill itself is prepared pursuant to the order of leave and in proper form.

The South Australian standing order under which we work at present is exactly in conformity with the practice of the House of Commons. The standing order we are here asked to pass departs from the practice laid down by the existing standing order, and it is also a departure from the House of Commons practice as laid down by *May*. We may very well adhere to the practice of the House of Commons and to our present practice, and leave the standing order in a shape which merely enables the Chair to rule whether a particular Bill conforms to the title in the order of leave. Senator Drake quite unconsciously rather confused the object of the standing order, which has nothing to do with amendments extending beyond the title. These can be introduced in Committee. We may make a Bill intended for one purpose cover half-a-dozen different purposes; but if that be done we must at the close of the proceedings in Committee move that the title be enlarged to embrace those purposes. If we adopt the standing order now proposed we shall be doing violence to the practice of the House of Commons, which has existed for centuries, and we shall be giving a power to the Chair to prevent an honorable senator introducing a Bill and having its subject matter considered in Committee, not because it does not conform to the order of

leave, the test of which is the title, but because in the estimation of the Chair it contains some provisions which are not relevant to the subject-matter.

Senator CLEMONS.—Where do we find the subject-matter?

Senator Sir JOSIAH SYMON.—We cannot find the subject-matter anywhere until the Bill has been introduced. The standing order proposed is really an absurdity. It is very important that we should not restrict the privileges of honorable senators in introducing Bills, and in one aspect this standing order is worse than a restriction, because it puts an autocratic power in the hands of the President of the Senate to give a ruling upon the subject-matter of a Bill, which we have not before us at all.

Senator Sir RICHARD BAKER (South Australia).—The argument just used by Senator Symon is untenable. The honorable and learned senator says that we propose to give an autocratic power to the occupant of the Chair to rule a Bill out of order, if any of its provisions are contrary to the subject-matter. But the honorable and learned senator is willing to give the Chair power to rule a Bill out of order, if any of its provisions are not in accordance with the order of leave. Where is the difference? There will be just as much difficulty in arriving at a conclusion, and just as much room for argument upon any conclusion arrived at by the Chair in the one case as there will be in the other. In all my experience I have never known a Bill ruled out of order for any reason when first introduced. We are really fighting a shadow, because I do not suppose for one moment that a Bill introduced by a senator would so far transgress the order of leave, or so far wander from the subject-matter as to be ruled out of order. Senator Symon has referred to the practice of the House of Commons, and I shall now read from *May*, 9th edition, page 566—

In the Commons, all amendments were formerly required to be within the scope and title of the Bill: but by standing order, 19th July, 1854—

Any amendment may be made to a clause provided the same be relevant to the subject-matter of the Bill, or pursuant to any instruction, and be otherwise in conformity with the rules and orders of the House: but if any amendment shall not be within the title of the Bill, the Committee are to amend the title accordingly and report the same specially to the House.

Since then the test always has been relevancy to the subject-matter of the Bill. As I said before, the House of Commons and various other Legislatures have found wanting the test as to the title of the Bill. In order to give more freedom to members, and to enable matters to be brought under consideration, the rule was enlarged and the subject-matter was made the test. If, of course, honorable senators wish to restrict themselves it does not matter to me; I am quite prepared to administer any standing order the Senate may make.

Senator Sir JOSIAH SYMON.—It is your duty to do so.

Senator Sir RICHARD BAKER.—I am now speaking personally; and I am only anxious to give to senators the greatest freedom and the greatest power.

Senator CLEMONS (Tasmania).—This seems to be a somewhat praiseworthy effort at complication which arises from a confused train of thought. The standing order, as we found it, like every other standing order, was extremely simple. For instance, in the corresponding standing order adopted by the House of Representatives is—

The title shall agree with the order of leave, and no clause shall be inserted in any Bill foreign to its title.

That is perfectly simple, and can be clearly understood.

Senator DRAKE.—It was probably copied from the South Australian standing order.

Senator CLEMONS.—I do not deny that; I am simply saying that that is the standing order adopted by the House of Representatives.

Senator DRAKE.—It is only a temporary standing order; the House of Representatives has not yet passed standing orders.

Senator CLEMONS.—I am well aware of that. In the standing order now before us there is a confusion between the subject-matter and the title. In the original standing order there is the clear connexion between the title and the order of leave, and we have the fact that every clause must be cognate, and in harmony with the title. The standing order before us requires that the title shall agree with the order of leave; and that is all right. But then it proceeds—and no clause shall be inserted in any such draft not relevant to the subject-matter of the Bill.

Where is the connexion between the subject-matter and the title? These may be as far asunder as the poles. The subject-matter

be decided to be one thing, and the title be taken to cover something totally different.

Senator Sir JOSIAH SYMON.—The Bill is now in print at that stage.

Senator CLEMONS.—Of course it is, and who is to say what the subject-matter is? No one, not even our present President, could say what the subject-matter is on the initiation of a Bill. All we can know is the title. Under this standing order it would be competent for the occupant of the Chair for the time being to rule that some clause was not relevant to the title. But at that stage we are to decide on so vague a question as to the subject-matter? We have heard from Senator Baker that the proposed standing order is quite in conformity with other standing orders. No doubt in conformity with the other standing orders which provides for amendments; and Senator Baker's arguments had been put before us in discussing Standing Order 195, which would have been applicable and of which Standing Order 195 is as follows:—

An amendment may be made to any part of a Bill provided the same be relevant to the subject-matter of the Bill and be otherwise in conformity with the rules and orders of the Senate.

An amendment is very different from a verbal amendment, and the standing order I read is most excellent at the stage to which it applies. Between an amendment and a subsequent stage of a Bill and a subsequent stage in the Bill as laid on the table, there is a vast difference. This standing order has been complicated without any benefit, and it would be far better to go back to the simple condition in which we found it, and every other standing order, and remove all doubt and difficulty. I would suggest that all the words in the standing order after the word "such" be struck out. The word "draft" is used. It ought to be "proposed."

Senator PEARCE (Western Australia).—The honorable senators may be of opinion that "Bill" is a better word than "proposed," and yet not be prepared to vote for the other words be struck out.

Senator Sir JOSIAH SYMON (South Australia).—To remove any doubt, I am prepared to withdraw the amendment, and as a preliminary, that the word "Bill" be substituted for the word "draft."

The amendment, by leave, withdrawn.

Amendment (by Senator Sir JOSIAH SYMON) agreed to—

That the word "draft," line 2, be omitted, with a view to insert in lieu thereof the word "Bill."

Amendment (by Senator Sir JOSIAH SYMON) proposed—

That all the words after the word "Bill," be omitted, with a view to insert in lieu thereof the words "foreign to its title."

Question put. The Committee divided.

Ayes	12
Noes	11

Majority	1
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AYES.

Barrett, J. G.	Smith, M. S. C.
Best, R. W.	Styles, J.
Dawson, A.	Symon, Sir J. H.
Higgs, W. G.	Walker, J. T.
Playford, T.	
Reid, R.	<i>Teller.</i>
Saunders, H. J.	Clemons, J. S.

NOES.

Baker, Sir R. C.	Macfarlane, J.
Charleston, D. M.	McGregor, G.
De Lurgie, H.	O'Keefe, D. J.
Drake, J. G.	Pearce, G. F.
Ferguson, J.	<i>Teller.</i>
Glassey, T.	Dobson, H.

Question so resolved in the affirmative.

Amendment agreed to.

Standing Order, as amended, agreed to.

Standing Order 180 agreed to.

Standing Order 181—

Except as to Bills which the Senate may not amend, the question "That this Bill be now read a first time," shall be put by the President immediately after the same has been received, and shall be determined without amendment or debate.

Senator Sir JOSIAH SYMON (South Australia).—I wish to direct attention to a word which I think ought to be changed. The only Bills which we receive are those which come from the other House, and which are dealt with under another standing order. The word "received" may be applicable to such Bills, but it is not applicable to the Bills which are presented to the Senate under Standing Order 178. I suggest that we should use the word "presented," which is to be found in our present standing order. It is only fair that we should hear the view of Senator Dobson, who is a member of the Standing Orders Committee.

Senator DOBSON.—I think that the word "presented" ought to go in.

The CHAIRMAN. — The word "received" is a technical one which, I think, should be allowed to remain. A senator presents and the Senate receives a Bill. The proceeding is thus described in *May*—

The Speaker thereupon calls upon him by name: he answers "a Bill, sir," and the Speaker desires him to "bring it up," upon which he carries the Bill to the table, and delivers it to the Clerk of the House, who reads the short title aloud; when the Bill is said to have been "received by the House."

Senator Sir JOSIAH SYMON (South Australia).—I am exceedingly obliged to you, sir, for your explanation. I am only pointing out that in each instance the word "presented" is used in our existing Standing Orders 277 and 278. With Senator Dobson, I think it is the right word to use, because it would cover both cases.

Senator Sir RICHARD BAKER (South Australia).—It seems to me altogether a misuse of words to say that a Bill is presented by the House of Representatives. A Bill is sent up here, where it is received. A senator presents a Bill, and the Senate receives it. The standing order is quite right as it is.

Senator Sir JOSIAH SYMON.—After the view which has just been expressed with so much vigour, I shall not press my objection.

Standing Order agreed to.

Standing Order 182—

In Bills which the Senate may not amend the question, "That this Bill be now read a first time," may be debated, and the debate need not be relevant to the subject-matter of such Bill.

Senator Sir JOSIAH SYMON (South Australia). — This standing order deals with a matter of a very grave nature. It relates to Money Bills, which are dealt with in a separate chapter, beginning at Standing Order 225. It deals with Bills affected by the financial sections of the Constitution. Having regard to the great power which the Senate has in connexion with Money Bills, it should have some corresponding opportunity to that which is possessed by the other House of dealing with grievances. I suggest that we should delay the consideration of this standing order until we come to deal with the whole question of Money Bills in another chapter. It is out of place in a chapter which has no relation to Money Bills in particular, but which deals generally with Bills which come before the Senate for consideration. I should like to have the

standing order considered in connexion with the provisions dealing with Money Bills, so that we may have all the rules relating to such Bills set out in one part of our code.

Senator DOBSON.—This standing order does not affect our relations with another place.

Senator Sir JOSIAH SYMON.—We have two sets of standing orders dealing with Money Bills, which can only come to us from another place; and why should we not insert this particular rule, which relates to Money Bills, in its proper place in our code? It is very desirable that we should have a clear arrangement of our standing orders.

Senator Sir RICHARD BAKER (South Australia).—It seems to me that the standing order is in its right place. We are now dealing with first readings, and the first reading of a Bill which we may not amend comes under that heading. In the first place, we say generally that the first reading of a Bill shall not be debated, and then we say that the first readings of particular Bills may be debated. I admit that it is not a matter of very much importance; but I submit that the standing order is in its right place.

Senator Sir JOSIAH SYMON (South Australia).—I move—

That the consideration of Standing Order 182 be postponed until after the consideration of Standing Order 225.

My desire is to make the standing order as large as possible in terms, and if it is shown to be large enough as it stands, I shall have no objection to its being inserted immediately after No. 225.

Motion agreed to.

Standing Order 183—

No Bill shall be read a first time unless the same be in print.

Senator Sir JOSIAH SYMON (South Australia).—I would ask Senator Drake to consent to the elimination of this standing order. Our practice is that after leave is obtained by an honorable senator the Bill is presented and read a first time without debate, and the next motion is that the Bill be printed, and the second reading be made an order of the day for a certain day. This standing order will compel an honorable senator who, perhaps, may not desire to proceed with his Bill after it has been read a first time to get it printed before it is introduced. Why should he be put to the expense of printing his Bill when between

of the first reading and the day on for the second reading he might have in his mind?

MR. DRAKE.—Why does he bring in a Bill? A senator does not bring in a Bill for fun.

MR. SIR JOSIAH SYMON.—Why do we have difficulties by requiring a Bill to be read before it is read a first time? A senator usually reads a Bill a first time while it is in the Bill-book. The Government Printing-office and the Government are always anxious to facilitate the printing of Bills by private senators, but why go to the expense of printing Bills before the first reading and before it is known whether the senator desires to give leave to print? The Government may say—"We will not allow you to print your Bill, and to print it," and the Government repudiate the motion for the first reading. The present standing order is—

"On the first reading the question shall be put whether this Bill be printed, and the second reading be made an order of the day for such-and-such a day."

Is it better than that?

MR. DRAKE.—There are very strong arguments in favour of this standing order. It is not to have Bills printed as soon as they are read a first time, as it is desirable that Bills should be circulated before they are read. If the expense of printing has to be considered, what harm is there in requiring that Bills should be printed before the first reading? The Senate should not be seized of the contents of Bills until it is possible. A small check like this is reasonable. We do not want to have Bills coming along with piles of manuscripts which they never intend to have printed, flinging them down, and asking that they should be read a first time. Government Bills have always been printed before the first reading.

MR. CLEMONS.—What about Senator Symon's Divorce Bill?

MR. DRAKE.—That could have been read before the first reading. The only objection of money could be where a Bill was read a first time, and not carried any further. We do not want to encourage that. How many cases are there of Bills having Bills read a first time and then being rejected?

Standing Order negatived.

Standing Order 184 agreed to.

Standing Order 185 (Day fixed for second

Senator Sir JOSIAH SYMON (South Australia).—This standing order does not provide for the reading of a Bill the second time. It ought to read—"after the first reading the question shall be put." There must be an order of the Senate for the second reading. A Bill cannot be merely set down without an order. How does a Bill become an order of the day under this standing order? Our present standing order provides that the question shall be put, "That this Bill be printed, and the second reading be made an order of the day" for such-and-such a day.

Standing Order agreed to.

Standing Orders 186 and 187 agreed to.

Standing Order 188 (Amendments to be relevant).

Senator Sir JOSIAH SYMON (South Australia).—I should like to have some explanation from Senator Dobson on behalf of the Standing Orders Committee, as to why this standing order has been put in? Is it not a fact that any amendment that is inconsistent with the second reading of a Bill defeats the Bill?

Senator DRAKE.—I do not see why Senator Symon should insist that on every occasion we should follow the South Australian orders, never deviating from them by a hair's breadth. This standing order is taken from the standing orders of the Victorian Legislative Assembly. I also find that the standing orders of the Queensland Legislative Assembly provide—

No other amendment may be moved to such question unless the same be strictly relevant to the Bill.

Standing Order agreed to.

Standing Orders 189 to 192 agreed to.

Standing Order 193—

The following order shall be observed in considering a Bill and its title:—

1. Clauses as printed, and proposed new clauses.
2. Postponed clauses (not having been specially postponed to certain clauses).
3. Schedules as printed.
4. Proposed new schedules.
5. Preamble (if any).
6. Title.

And in reconsidering the Bill, which can only be done upon recommittal, the same principle shall be followed.

Senator Sir JOSIAH SYMON (South Australia).—This standing order makes, in a very indirect way, a change which honorable senators ought to be made aware of. At present we have three opportunities of reconsidering the clauses of Bills which

have been dealt with in Committee. One is at the close of proceedings in Committee when the motion is made that the report be brought up. Any honorable senator may then move for the reconsideration of any clauses which may have been previously dealt with. That is a most convenient process. It is done before the Bill goes out of Committee, and when everything is fresh in the minds of those who have been dealing with it. It saves the Chairman leaving the Chair. I do not know how far that practice has been followed in connexion with parliamentary institutions elsewhere, but in South Australia it has been pursued ever since parliamentary Government has existed. It has also been adopted in the Senate with great advantage. The second way of getting clauses reconsidered, is when the motion is made for the adoption of the report in the Senate. Then any honorable senator can move for a recommitment. The one process is reconsideration; the other is recommitment strictly so called. The third process is when the motion is made that the Bill be read a third time. Then any honorable senator may move to have any clause recommitted. But if we pass this standing order in its present shape, it provides that a Bill can only be reconsidered upon recommitment, and we shall be abolishing and depriving ourselves of the power we have at present of securing the reconsideration of clauses before a Bill gets out of Committee. I wish to preserve every possible power for dealing with Bills, and I think that this is an ill-considered amendment, in the sense that it has not been sufficiently thought out, and that it curtails the power and rights of senators. I therefore move—

That the words "which can only be done upon recommitment," lines 11 and 12, be omitted.

If that amendment be adopted I shall, a little later on, move to the effect that when the motion is made that the report be brought up, any honorable senator may move for the reconsideration of any clause or clauses.

Senator Sir RICHARD BAKER (South Australia).—No doubt this is altogether a matter of convenience, and the practice of reconsidering a Bill without taking it out of Committee is peculiarly a South Australian practice. When the Senate first met the majority of honorable senators were against this practice. They had never had any experience of it and did not like it. As will

be seen from the memorandum accompanying the Standing Orders Committee's report, one of the objects of the Committee was to frame standing orders which they believed would be approved of by the majority of honorable senators. Senator Symon is slightly in error when he says that there will, under the proposed standing order, be only three opportunities of reconsidering clauses, because a Bill may be recommitted over and over again. Therefore, the amendment will not give the Senate any greater opportunity of reconsidering clauses than we shall have under the standing order as proposed. The only difference will be in the mode in which the reconsideration takes place. There is one objection to the South Australian practice of reconsideration without taking a Bill out of Committee, and that is that we cannot get a fair copy of the Bill, and if a Bill is reconsidered in that way two or three times, it sometimes gets into such confusion that it is difficult to follow. Whether it is better to formally report a Bill to the Senate, have a fair copy supplied, and then reconsider it; or whether it is more convenient to reconsider it in Committee, is a question upon which I am not prepared to give a strong opinion either way. I think it does not matter much which course we follow, but there is undoubtedly an advantage in having a fair copy of a Bill when it is being reconsidered.

Senator PLAYFORD (South Australia).

—It is a very great convenience to be able to reconsider a Bill in the same Committee without having it reported, because if that is not done, and the matter is postponed for consideration at a later date, and until a fair copy of the Bill has been printed, the subject-matter and details of the Bill pass out of honorable senator's minds, and it is possible that some honorable senators, who have taken a great deal of interest in the measure, may not be present when it comes on for reconsideration. I am sure it will be admitted that during last session we reconsidered Bills in Committee under the existing South Australian practice with great advantage to us all. I remind honorable senators that if a very great number of amendments have been made in a Bill, and a clean copy of it is desired, there is nothing to prevent us refusing to give leave for reconsideration in such circumstances. I am sure that the practice we have so far

tends to expedite business, and is convenient to honorable senators. Amendment agreed to.

Mr HIGGS (Queensland).—All the clauses which apply to reconsidering a Committee apply, in my opinion, to discussion of new clauses, and I propose to move an amendment dealing with the matter.

CHAIRMAN.—It is too late for an honorable senator to move the amendment. I suggest.

(by Senator Sir JOSIAH SYMON)

The word "principle," line 12, be omitted, and to insert in lieu thereof the word

Mr Sir RICHARD BAKER (South Australia).—Perhaps the word "principle" is the very best word to use, but I do not think the word "order" is as good, because the reconsideration of one clause is proposed, and how can we then say the same "order" is to be adopted.

Mr Sir WILLIAM ZEAL.—The same.

Mr Sir JOSIAH SYMON (South Australia).—I think we could not do better than to use the word "order," which the Standing Orders Committee have used previously in this standing order, and to overcome the objection taken by Senator Baker that "followed" might subsequently be taken with a view to insert in lieu thereof the word "observed as far as possible."

Mr MCGREGOR (South Australia).—I do not think that the word "order" brings out the idea Senator Symon has in mind. I think the word "practice" would be a proper word to use.

Amendment agreed to.

Amendment (by Senator Sir JOSIAH SYMON) agreed to—

The word "followed," line 13, be omitted, and to insert in lieu thereof the words "observed as far as possible."

Standing Order, as amended, agreed to.
Standing Order 194 (Manner of reading)

Mr Sir WILLIAM ZEAL (Victoria).—The standing order provides that in the case of the clauses of a Bill it shall be sufficient to read the numbers and the notes only. I move—

The words "unless otherwise ordered" be inserted at the end of the standing order.

An honorable senator may desire to have a clause read, in order that it may be properly understood.

Amendment agreed to.

Standing Order, as amended, agreed to.

Standing Order 195 agreed to.

Standing Order 196—

No new clause or amendment shall be at any time proposed which is substantially the same as one already negatived by the Committee, or which is inconsistent with one that has been already agreed to by the Committee, unless a re-committal of the Bill shall have intervened.

Senator CLEMONS (Tasmania).—A slight confusion arises under this standing order, because it overlooks the fact that we can have a reconsideration of a Bill without having it reported. I suggest that the standing order might be amended by leaving out all the words after the word "Committee" where it last occurs, with a view to insert in lieu thereof the words "but on re-committal decisions of the former Committee may be reversed."

Senator Sir RICHARD BAKER (South Australia).—If we are to adopt the practice just agreed to of reconsidering Bills in the same Committee, we shall have inconsistent conclusions come to in the same Committee. This standing order requires reconsideration, in consequence of the amendment which has been agreed to in Standing Order 193. Personally I think that it might be struck out.

Senator Sir JOSIAH SYMON (South Australia).—This standing order is not necessary and it might as well be struck out as appear here with a reference to the South Australian Standing Order 291. Really I wish the printer had omitted all these references because they are absolutely misleading. This standing order has no relevance to the South Australian Standing Order 291. I agree with Senator Baker at present that this standing order should be struck out.

Standing Order postponed.

Standing Orders 197 to 200 agreed to.

Senator Sir JOSIAH SYMON (South Australia).—It is at this stage that a consequential amendment should be made introducing a standing order to preserve to us the power we now have of reconsideration before a Bill leaves committee. I shall indicate what I propose and then, perhaps, the Chairman will rule whether I am in order. I move—

That the following be inserted as a new standing order:—"Whenever it is moved that the

report be brought up the reconsideration of any clause or clauses may be moved as an amendment."

The CHAIRMAN.—That cannot be considered at this stage, unless the honorable and learned senator introduces it as an amendment to a standing order before the Chair. It might be submitted as an amendment to Standing Order 203.

Standing Orders 201 and 202 agreed to.

Standing Order 203 (Bill ordered to be reported).

Amendment (by Senator Sir JOSIAH SYMON) agreed to—

That the following words be added:—"and upon such motion 'That this Bill be reported,' the reconsideration of any clause or clauses may be moved as an amendment."

Standing Order, as amended, agreed to.

Standing Orders 204 to 217 agreed to.

Standing Order 218—

No amendment shall be proposed to an amendment of the House of Representatives that is not strictly relevant.

Senator Sir JOSIAH SYMON (South Australia).—This is said, in the marginal note, to be the universal practice, and if that be so, it is a pity to lay the procedure down within the limits of a hard-and-fast standing order. So far, my objection to the standing order is the introduction of the word "strictly" before the word "relevant." An amendment is either relevant or not relevant; there can be no question of degree. As worded, the standing order simply introduces another question which will have to be decided and another element of discussion. I move—

That the word "strictly," line 3, be omitted.

Senator Sir RICHARD BAKER (South Australia).—The words "strictly relevant" are to be found in this connexion in the standing orders of every Parliament. They are in the standing orders of the House of Assembly of South Australia, and they have been interpreted over and over again in the House of Commons and in the Legislatures of all the Australian States. It would be inadvisable to alter the wording, especially in this standing order, because this deals with an amendment on an amendment of the House of Representatives. The question of relevancy is always difficult to decide, and each case must be settled on its merits. No hard-and-fast rule can be laid down; a question of strict relevancy is one which must be left to the presiding officer. In the

standing orders of the House of Assembly of South Australia, which are much admired and properly so, the words "strictly relevant" are to be found several times.

Senator Sir JOSIAH SYMON (South Australia).—I should like to see some of these instances pointed out. The fact is that the word "strictly" has been scattered much as is pepper from a pepper-box, and it is absurd to have these strong arguments in favour of the word "strictly" being retained when, in the very next line of the same standing order, we have the word "relevant" standing alone.

Senator DOBSON.—That shows that in the one case the rule is to be more strictly applied.

Senator Sir JOSIAH SYMON.—Has there to be a difference made as to the relevancy?

Senator DOBSON.—A difference in degree.

Senator Sir JOSIAH SYMON.—Will the honorable senator tell us what that difference is—why in the one case an amendment has to be strictly relevant, and in the other case simply relevant?

Senator DOBSON.—In the case of an amendment on an amendment from another place, the rule must be strictly construed.

Question.—That the word "strictly" proposed to be omitted stand part of the standing order — put. The Committee divided.

Ayes	...	...	...	6
Noes	...	...	...	17
Majority				11

AYES.

Baker, Sir R. C.	Macfarlane, J.
Drake, J. G.	
Ferguson, J.	Teller.
Glassey, T.	Dobson, H.

NOES.

Barrett, J. G.	Playford, T.
Best, R. W.	Reid, R.
Charleston, D. M.	Saunders, H. J.
Dawson, A.	Styles, J.
De Largie, H.	Symon, Sir J. H.
Fraser, S.	Walker, J. T.
Higgs, W. G.	Zeal, Sir W. A.
McGregor, G.	Teller.
Pearce, G. F.	Smith, M. S. C.

Question so resolved in the negative.

Amendment agreed to.

Standing Order, as amended, agreed to.

Standing Orders 219 to 225 agreed to.

poned Standing Order 182 (Debate on the first reading of Bill, which Senate may postpone).

Senator Sir JOSIAH SYMON (South Australia).—As I said before, I think this standing order fairly meets the case. To proceed on going into Committee of the whole and to the substance of the standing order I have no objection to offer. I think Standing Order 182 should stand as amended. Standing Order 225A.

Senator Sir RICHARD BAKER (South Australia).—I thought that this standing order was to be inserted under the head of Bills. It certainly will not be in that place if it is put in here. It deals with the first reading of Bills which the Senate may not amend, and it ought to be inserted under the standing orders which apply to the first reading of Bills or under standing orders which relate to Bills which the Senate may not amend.

Senator Sir JOSIAH SYMON (South Australia).—The standing order deals with Bills which have received the first time from the House of Representatives. These Bills are in three classes—those which we may amend, those which we may not amend, and those which we may not amend. A Bill in either class has to be read a first time. Standing Order 225 sets out the procedure to be adopted; and then we make an amendment in regard to a particular set of Bills in which we desire to take to ourselves the right of discussing grievances. I think that the standing order will be in its proper place, with this exception—that it ought to begin with these words: “in the case of Bills.” I move—

“the words ‘‘case of’’ be inserted after the word ‘‘in,’’ line 1.

Senator PEARCE (Western Australia).—The standing order is inserted in this Bill, and it will not be inconsistent with Standing Order 226, which reads—

“In any such Bill shall have been passed by the Senate with or without amendment.

Standing Order 182 deals with Bills which the Senate may not amend, and if it is inserted after No. 225, we shall have to make an amendment in No. 226. I suggest that it should be inserted under the head of provisions on Bills which the Senate may not amend.

Senator Sir JOSIAH SYMON (South Australia).—It is a matter of perfect indifference to me where it is inserted, so long as it is connected with Bills which are brought from the other House. I ask leave to

withdraw my amendment with a view to the further postponement of the standing order.

Amendment, by leave, withdrawn.

Standing Order further postponed.

Standing Orders 226 to 232 agreed to.

Standing Order 233—

No amendment can be proposed in any words of the Bill, which, having received the concurrence of the House of Representatives, have not been the subject of, or immediately affected by, some previous amendment, unless such proposed amendment be consequent upon an amendment already agreed to, or made by the Senate.

Senator Sir JOSIAH SYMON (South Australia).—I should like Senator Dobson to explain this standing order, which apparently is without any precedent.

Senator DOBSON.—It is the universal practice.

Senator Sir JOSIAH SYMON.—If it is the universal practice it should not be embodied in a standing order. There is a great difference between what is called “universal practice” and its formulation into a rigid standing order. This standing order is very difficult of construction. I appeal to any man to say what it means. I cannot make out what it is intended to prevent. It is far better to rely upon what is called “universal practice” than to confine ourselves within the iron-bound limits of a standing order.

Senator DRAKE.—In the Queensland standing orders the general practice is shown in italic letters for the guidance of the members, and the rules defining such practice are interspersed with the standing orders. It allows honorable members to know what is the practice, without having a rigid standing order. That plan has not been adopted in the case of these standing orders. We have no option but either to have no standing order on the subject, and to rely on universal practice, or to make a standing order. It will be an advantage to have the universal practice stated in a standing order, in order that our actions may be uniform.

Senator Sir RICHARD BAKER (South Australia).—It is the universal practice that there must be some finality about Bills. One House passes a Bill, and the other House amends the Bill and passes its third reading, so that it has been passed by both Houses except as to certain matters which are in dispute, and on which further proceedings take place. Amendments on the amendments are made, and so on, until at last a point is reached

when there ought to be finality, and that point is met by the standing order. It gives a certain amount of latitude in making amendments on amendments, and in making amendments which are relevant to those of the other House. I admit that when a Bill has passed three or four times between the Houses and amendments have been made, and these are followed by consequential amendments, it is very difficult to arrive at a conclusion as to what is open. But there must come a time when only certain matters are open, and when those matters must be agreed to by both Houses or the Bill must be lost. This standing order, which was drawn by the Clerk, formulates the practice of all the States and the House of Commons.

Senator Sir JOSIAH SYMON (South Australia).—I regard as of great value the practice which is adopted in Queensland. The volume which Senator Drake has been kind enough to hand to me is practically an annotated volume of standing orders, comprising references to the practice of the House of Commons, and so on. I wish that something of the same kind could be done for the Senate. I am not prepared to say that this standing order does or does not accurately define the universal practice. I do not understand it. I do not know what it is driving at. I have the greatest possible jealousy of having too many standing orders. We have here over 400 standing orders, and it is quite enough to master those which are plain, without having new ones piled one on top of the other, expressive of what is described as the universal practice. I give the utmost credit to the Standing Orders Committee for making an effort to embody in a standing order what is described as the universal practice, but we are all subject to human frailties. I defy any man to embody adequately in six or seven lines the universal practice on a debatable question, which must be the subject of either a ruling by the Chair or a deliberate conclusion by the Senate on the occasion when it crops up. Why is it necessary that we should have another standing order upon this subject? We have just had a division on Standing Order 218, which defines the kind of amendments which can be made upon amendments of the House of Representatives. Is not that enough? We cannot propose an amendment on an amendment of the House of Representatives that is not relevant, nor can an amendment be moved to a

Bill unless that amendment be relevant to or consequent upon the acceptance or rejection of an amendment of the House of Representatives. What is this standing order wanted for? It is a repetition in obscure and metaphysical language of another standing order. I ask that the Senate should not be hampered by an attempt—a laudable attempt—to embody something which is described as universal practice in a rigid, cast-iron standing order. Let us have some degree of latitude. If we are to be bound hand and foot in the discussion of matters, we may as well give up a portion of our freedom. I appeal to Senator Zeal, as one who has had considerable experience, as to the difficulty of interpreting unnecessary standing orders. Why should we pile 233 upon 218, which is clear and expressive, for no earthly object except to attempt to reduce to a standing order what is universal practice? If it is universal practice we can deal with cases as they come up; but in reducing it to language we may be doing more than universal practice warrants.

Senator DOBSON.—It only gathers up a principle.

Senator Sir JOSIAH SYMON.—There is, as Senator Dobson knows, great difficulty in using precise language. The principle is a good one; the effort may be a good one. But it is a dangerous thing to adopt a standing order if you have a universal practice, because in framing your standing order you may, through the infirmity of human language, express something different from the universal practice. The whole object is to have all the freedom we can have in debate in the Senate, and in proposing amendments. We have already passed 218, which limits the kind of amendments which may be moved on amendments coming from another Chamber. The standing order under discussion practically does the same thing, but does it in a much less precise way.

Senator DOBSON.—But in maintaining freedom of discussion we should not violate the principle of this standing order.

Senator Sir JOSIAH SYMON.—We have done enough in Standing Order 218, and I shall, for these reasons, vote against this standing order.

The CHAIRMAN.—It is most desirable that our practice in regard to our own Bills, and messages thereon, should be the same, as far as possible, as

h regard to Bills coming from the
ace. As to Bills originated in the
we have distinctly and definitely
n in Standing Order 218 what our
shall be. It is undesirable that we
adopt any different practice as re-
ills coming to us from the House of
ntatives. The situation may be met
onsidering Standing Order 225, which
t—

Bills coming to the Senate for the
e from the House of Representatives,
proceeded with in all respects as similar
sented in pursuance of orders of the

reconsideration of 225, we struck
e words "the first time," Stand-
rder 233 would be altogether
sary. An uniform practice would
by established. I therefore suggest
might make a note of the desira-
reconsidering 225.

or Sir RICHARD BAKER (South
ia.—I do not think that this matter
n properly understood. The ques-
what we shall do with a Bill when
s to us a first time, after amendment,
ne House of Representatives, is
ng. The Bill may come back a
time, and may be dealt with. It
en come back a third time. We
et those cases. Standing Order
o meet final cases, when a Bill has
ck a third time, and when it is pro-
e have arrived at the stage of finality
o a free conference. It is no argument
hat by previous standing orders we
for the amendments we may make on
ndments of the House of Represen-

That is all very well. But this
ditional standing order to provide
all be done when the Bill finally
back and we have arrived at the
age. The argument of Senator
that we must not bind ourselves will
o every one of these standing orders.
re to have the freest possible discus-
d are not to be bound by standing
we do not need any at all. Every
these standing orders bind us. All
es that we have been considering
amendments bind us. There is no
whatever that I can see why we
not have some kind of standing
elating to the final stage of amend-
between the two Houses, such as
e with regard to the first, second,
ird stages. The history of this

standing order is this. Some time ago it
was decided in South Australia—I think
by the House of Assembly—to adopt new
standing orders. The Clerks of the two
Houses—Mr. Blackmore and the Clerk of
the House of Assembly—formulated this
standing order, after careful consideration.
The Standing Orders Committee do not take
credit for it, because it was in the standing
orders drafted by Mr. Blackmore.

Senator WALKER (New South Wales).
—I have been studying this standing order
as a layman, and I can see, after reading
it without certain parenthetical sentences,
the meaning of it very clearly. I will read
it without those sentences, and the Senate
will see the force of it—

No amendment can be proposed in any words
of the Bill which . . . have not been the subject
of . . . some previous amendment, unless
such proposed amendment be consequent upon
an amendment . . . made by the Senate.

It practically means that no new matter is
to be put in a Bill after a certain time. I
support the standing order.

Senator MCGREGOR (South Australia).
—I think it would be safer to accept this
standing order. It is one that would be
seldom exercised, but it is just as well to
have it. As I understand the position, a
Bill comes from another place and is
amended here. It is then sent back to the
House of Representatives, and the amend-
ments which we have made are either
amended or agreed to. So the process goes
on till the last stage; and then it is pro-
vided that after another place has agreed to
words to which we have already agreed, no
further amendment on that amendment can
be made. A finality standing order like this
provides a safeguard against confusion when
that last stage arrives. I hope it will be
carried.

Senator Sir JOSIAH SYMON (South Aus-
tralia).—I think that more confusion than
even the standing order itself contains has
been thrown around it in the course of the dis-
cussion. Senator Walker solved the difficulty
by eliminating about one-third of the stand-
ing order. That is one way of solving a ques-
tion. I admire that method, and wish to
carry Senator Walker's process a little
further by eliminating the whole of the
standing order. The serious contention
which has been put forward in favour of it is
that the standing order contemplates the
last stage of amendments. All I can say is
that if so, the last stage will be very much

worse than the first. Senator McGregor was rather carried away by the contention that the standing order is intended to meet the last stage, which is, however, absolutely met by Standing Order 218. That standing order also embodies the universal practice, and is fairly intelligible. Our desire is to provide that our powers in relation to amendments coming from the House of Representatives shall be, in some shape or other, properly under our control—that we shall not do more than deal with the amendments, and shall not re-open the whole Bill, which would be a monstrous thing to do. But how is that prevented? It is prevented by Standing Order 218—

No amendment shall be proposed to an amendment of the House of Representatives that is not relevant thereto.

That is a pretty high barrier to erect. It means that we cannot introduce anything which was forgotten when the Bill was in Committee in the Senate. Amendments made must be relevant to amendments of the House of Representatives, and must not seek to embody matters thought of afterwards. But that is not all. The standing order goes on—

nor can an amendment be moved to the Bill.

That is, not to an amendment of the House of Representatives, but to the Bill or any part of it.

... unless the same be relevant to or consequent upon either the acceptance or rejection of a House of Representatives' amendment.

It is absolutely final. It exhausts the whole subject.

Senator Higgs.—What about our own amendments?

Senator Sir JOSIAH SYMON.—I think the suggestion of the Chairman was an excellent one, emanating from a mind experienced in parliamentary affairs. That suggestion would make it clear that the general practice is applicable not only to Bills coming back to us from the House of Representatives, but to amendments to Bills coming from the House of Representatives and amended by us. If we like to substitute for 233 a repetition of 218 we shall be using less ambiguous language and doing precisely the same thing. The whole essence of it is the concurrence of the House of Representatives in what we have done. We cannot alter that. If the Chairman's suggestion is adopted, the matter will be put beyond doubt. Standing Order 218 is exhaustive and intelligible,

and that this standing order is difficult of apprehension is shown by the fact that the powerful mind which Senator Walker possesses, though trained, by the way, on the Judiciary Committee of the Convention, has been unable to comprehend it. We should not hamper ourselves with standing orders which require the elimination of an essential part before they can be understood.

Senator HIGGS (Queensland).—The difference between Standing Orders 218 and 233 is, that under Standing Order 218 consequential amendments upon amendments made by the House of Representatives may be moved, and under Standing Order 233 consequential amendments may be moved in connexion with Senate amendments. That is what is intended by the standing order, and it is the universal practice. But as there is shown to be so much difference of opinion upon the matter, perhaps the safest plan to adopt will be that suggested by Senator Symon of leaving this standing order out, and then, when difficulties crop up, the President can rule as to what the universal practice is as questions arise.

The CHAIRMAN.—I apprehend that it will be desirable to have as far as we can a universal practice laid down. There are two ways of overcoming the difficulty. The first is that suggested in connexion with the reconsideration of Standing Order 225, and the other the introduction in this standing order after the word "unless" of the words which follow the word "unless" in Standing Order 218—"the same be relevant to or consequent upon, either the acceptance, amendment, or rejection of a House of Representatives amendment."

Senator DOBSON (Tasmania).—On looking into the matter I find that Standing Order 218 really applies to Bills which originated in the Senate, because it deals with amendments upon amendments made by the House of Representatives in Bills which have originated in the Senate. Standing Order 233 refers to Bills received from the House of Representatives. I am not prepared to say that Standing Order 218 applies to a Bill in all its stages, but at all events Standing Order 233, as Senator Baker has pointed out, is expressly placed under the heading of "Amendments after disagreement." It appears to me, therefore, that it would be wise to leave this standing order in. With reference to the remark that this is the universal practice,

it appears to me that it embodies a principle which we should be doing a gross wrong to violate in any way. When we are dealing with amendments made by another place, we are bound to adhere to the constitutional practice whether we provide for it in the standing order or not.

Senator Sir JOSIAH SYMON (South Australia).—I point out to Senator Dobson that Standing Order 233 does not exclusively relate to Bills received from the House of Representatives. It is under a heading of its own "Amendments after disagreement," but it refers to all Bills. That being so, the honorable and learned senator's argument falls to the ground. Then Standing Order 233 does not refer to the condition of things to which my honorable and learned friend would limit it. It refers to identically the same set of Bills as are referred to by Standing Order 218. In the meantime, I think we should strike this standing order out, and at the conclusion of the consideration of the standing orders we should reconsider either Standing Order 218 or Standing Order 225. If we decide to amend Standing Order 218, we can make it apply to Bills going both ways by an additional word or two.

Senator Dawson.—The cost of leaving this as it is will not be nearly so great as the cost of the argument.

Senator Sir JOSIAH SYMON.—If that is the attitude to be adopted in considering these standing orders, I have no objection, but I remind Senator Dawson that we should not agree to standing orders which will cast any reflection upon the Senate, and I remind him also that we shall have to submit to rulings upon these standing orders.

Senator Dobson.—But this does not conflict with Standing Order 218.

Senator Sir JOSIAH SYMON.—It does absolutely. My honorable and learned friend admits that it applies to the same Bills as Standing Order 218, and it introduces a lot of words which will receive an additional interpretation every time a Bill comes up to us from the House of Representatives.

Senator Sir RICHARD BAKER (South Australia).—I desire to point out that the words of this standing order are, with the exception of the use of the word "Senate" for the word "House," identical with the words of the House of Representatives' Standing Order 249.

There is a marginal note to Standing Order 249 of the House of Representatives giving a reference to Standing Order 207. That is a reference to a standing order of some other House. So that we have in support of this standing order not only the recommendation of our own Standing Orders Committee, but that of the Standing Orders Committee of the House of Representatives, and a reference to a standing order of some other House. In these circumstances I think we ought to pass this standing order. It is all very well to speak of the universal practice, and to say that we shall get a ruling upon the universal practice, but how is the President to rule upon the universal practice? We have no standing order to say that he shall do anything of the sort, or to give him power to do it, and it is a moot question whether or not we should adopt the usual course of providing that where we have not otherwise provided by our standing orders the practice laid down by the House of Commons is to prevail. Even if we agree to such a provision, we shall still have uncertainty instead of certainty, and I ask honorable senators to pay some attention to the recommendation of their own Standing Orders Committee.

Senator Sir JOSIAH SYMON (South Australia).—Undoubtedly there has been temporarily adopted by the House of Representatives a corresponding standing order. But we have no assurance that this standing order will be finally accepted by the House of Representatives, and there is no authoritative standing order to this effect at present existing in any legislative assembly in the world. We are now engaged upon the task of adopting permanent standing orders for our guidance, and our object ought to be to endeavour, as far as possible, to have only such standing orders as can be thoroughly understood. When we come to deal with a standing order of this description it is not enough to say that it is at present in existence in a draft which has yet to come up for consideration in another place. We have to settle for ourselves whether this is a standing order which we ought to adopt. I agree that if we have no standing order applicable to a particular state of things, it is infinitely better that the Senate should have the practice of the House of Commons to go to, and to have a ruling sought, as a ruling must be sought upon all

these questions, upon which each member of the Senate will be able to formulate his views of the universal practice relevant to the particular question that crops up. What I object to is the attempt to embody unnecessarily what may be described as the universal practice in a hard-and-fast standing order, when that universal practice is covered so far as it can be by the earlier Standing Order 218. Here we are at the beginning of the Federal Parliament endeavouring to lay down a hard-and-fast rule defining universal practice. It is from this point of view that, in the interests of the Senate, I think we should refuse to be bound by more fetters than are absolutely essential. For us to off-hand formulate in these standing orders a sort of political axiom of political practice is a task we ought not to undertake except under the most serious pressure. It is a task which we still less ought to attempt if there is already a standing order which, with the amendment as suggested by the Chairman, would exactly meet the case.

Senator PEARCE (Western Australia).—The difficulty was met last session in another way, when, although we knew that consequential amendments must be made, a Bill was passed, and the amendments left to be inserted on the suggestion of the Governor-General after the final stages had been passed in both Houses. It seems to me that that is the practice that should be followed.

Senator DRAKE.—Is it not better to have the practice embodied in a standing order than to have long discussions and repeated references to *May*?

Senator PEARCE.—The practice of allowing the Governor-General to suggest consequential amendments is embodied in the standing order. It has been pointed out that, if the standing order be passed as proposed, there might be a tendency to abuse it. It would rest with the President to practically determine whether an amendment was consequential, and should he determine that it was, the other House might take the view that, so far from being consequential, it embodied a principle.

Senator DRAKE.—The President would still have to determine the point if we were relying on the unwritten practice.

Senator PEARCE.—At any rate I think the standing order might have a tendency to create friction.

Senator Sir RICHARD BAKER (South Australia).—The object is not to create friction, but to definitely lay down rules which will so guide the two Houses that neither may have cause for offence. If the question be left open or vague, friction may arise, and it must be remembered that every standing order binds or “fetters” us in some degree. The object of standing orders is to facilitate business, and save time by preventing discussions at every stage as to what the procedure shall be, and the bonds are not very heavy, seeing that the standing order may, at any time, be suspended.

Standing Order postponed.

Standing Order 234 agreed to.

Standing Order 235—

If in any session the proceedings on any Bill shall have been interrupted by the prorogation of Parliament, the Senate may in the next succeeding session, by resolution, order such proceedings to be resumed; provided a periodical election for the Senate has not taken place between such two sessions.

Senator DRAKE.—The other day we were discussing the interesting question whether this is one continuous Parliament, or whether there is a new Parliament after each periodical or general election. Supposing it should be held that the Parliaments are separate, is it intended to take power to resume the consideration of Bills which have lapsed from a session of the preceding Parliament?

The CHAIRMAN.—I think that after the word “periodical” there should be inserted “or general.”

Senator Sir RICHARD BAKER.—This standing order was made in pursuance of a resolution of the Senate.

Amendment (by Senator DRAKE) agreed to—

That after the word “periodical,” line 5, the words “or general” be inserted.

Senator Sir JOSIAH SYMON (South Australia).—So far as I understand the standing order, it is only effective from session to session. At the end of the present session there will be a general election—that is, a periodical election for the Senate, which is a continuous body, and a general election for the House of Representatives, though the latter election is also periodical in a sense. If what Senator Drake has in his mind is a penal dissolution, I think that is covered by the word “general.” I understand that when the new Parliament meets next year—that is, new in one sense, though not new as to the Senate in another sense—a

Bill partly completed this year could not then be taken up at the stage it had reached. A Bill partly completed last session, however, could under such a standing order have been taken up this session.

Standing Order, as amended, agreed to.

Standing Order 236—

Any such Bill may be sent to the House of Representatives as if it had been introduced and passed by the Senate in the second session.

Senator Sir RICHARD BAKER (South Australia).—I think a verbal alteration is necessary in order to make this standing order clear. The words "second session" ought to be omitted, and "next succeeding session" substituted, thus following the wording of a previous standing order.

Senator Sir JOSIAH SYMON (South Australia).—If the words suggested were substituted they might be interpreted to mean the session after the session in which the Bill was being dealt with. I move—

That the word "second," line 3, be omitted, with a view to add after the word "session" the words "in which such proceedings have been resumed."

Senator PLAYFORD.—Is there any necessity for the standing order?

Senator Sir JOSIAH SYMON.—I do not think there is, and the simplest way would be to strike the standing order out.

Amendment agreed to.

Senator Sir JOSIAH SYMON (South Australia).—I think the standing order ought to be struck out as unnecessary. The House of Representatives have nothing to do with us in this matter, and the preceding standing order enables us to do all that we want to do. Why pass a standing order which assumes that we are committing some gross irregularity?

Senator Sir RICHARD BAKER.—I do not think it matters much whether or not this standing order is retained.

The CHAIRMAN.—I have discussed this matter with the Clerk, and it is only right to say that in his opinion it is desirable that the Senate should have a general authority in their standing orders to transmit a Bill.

Standing Order, as amended, agreed to.

Standing Order 237 agreed to.

Standing Order 238—

Whenever the Governor-General shall return any Bill presented to him, and transmit therewith any amendment which he may recommend, such amendment shall be considered and dealt with in the same manner as amendments proposed by the House of Representatives.

Senator Sir JOSIAH SYMON (South Australia).—As the standing order reads, it will be competent for the Governor-General to transmit with a Bill an amendment of any description which he may recommend. I decline to be a party to allowing a Government under cover of the Governor-General to have an amendment of principle or substance made in a Bill after it has been passed by both Houses. Therefore, I move—

That after the word "amendment," line 3, the words "not affecting the principle or substance of the Bill" be inserted.

Senator PLAYFORD (South Australia).—If a principle of a Bill were interfered with by an amendment, and the Senate disagreed with the recommendation, it would be rejected at once. There is no necessity to introduce any words into the standing order, because the right of decision will always rest with the Senate. If we tie our hands we shall have long and tedious debates on the question whether an amendment does or does not interfere with the principle or substance of a Bill. The more we leave our hands free, the better it will be for ourselves. We can deal with each case on its merits.

Senator Sir JOSIAH SYMON (South Australia).—I hope, with Senator Playford, that if the Governor-General recommended any amendment that infringed the constitutional principle which he laid down, the Senate would instantly reject it.

Senator PLAYFORD.—But if it were approved of by the Senate, it might not be rejected.

Senator Sir JOSIAH SYMON.—I object to any amendment coming down from the Governor-General which infringes that constitutional principle. Otherwise a strong Government, with a strong backing, might force through the Houses an amendment which altered the principle or substance of a Bill, and which ought to be the subject of fresh legislation. The standing order is intended to cover formal amendments, and not amendments affecting the principle or substance of a Bill. If that view is expressed in the standing order it will avoid the necessity for the heated discussions which Senator Playford deprecated, and possibly greater care will be exercised in sending down amendments.

Senator DOBSON.—Have we the power to limit the scope of the Governor-General's amendments?

Senator Sir JOSIAH SYMON.—In this standing order we are erecting a sign-post so that the Governor-General may know that the amendments which he is to recommend are to be formal or verbal. I admit that this view has not been embodied in a standing order in South Australia, but I think we have now reached a stage when the constitutional practice ought to be embodied in a standing order.

The CHAIRMAN.—The Constitution of nearly every State contains a provision to enable the Governor to recommend amendments in a Bill; but most jealously every Parliament has dealt with only amendments of a formal or verbal character. In this connexion perhaps I may be permitted to read section 58 of our Constitution—

When a proposed law, passed by both Houses of the Parliament, is presented to the Governor-General for the Queen's assent, he shall declare, according to his discretion, but subject to this Constitution, that he assents in the Queen's name, or that he withholds assent, or that he reserves the law for the Queen's pleasure.

The Governor-General may return to the House in which it originated any proposed law so presented to him, and may transmit therewith any amendments which he may recommend, and the Houses may deal with the recommendations.

I do not think that any Government would fare well which attempted in this way to introduce any amendments which affected the principle or substance of a Bill. I hardly think it is necessary to limit our powers in this respect.

Senator PEARCE (Western Australia).—I think we should erect this sign-post, but I exceedingly regret that Senator Symon did not undertake the work in the Convention.

Senator Sir JOSIAH SYMON (South Australia).—I think that the section in the Constitution could not have been better expressed than it is.

Senator PLAYFORD.—Under the Constitution the Governor-General has a perfect right to send down any amendment, affecting a principle or otherwise.

Senator Sir JOSIAH SYMON.—What does section 58 of the Constitution say? It says that the Houses "may" deal with the recommendations of the Governor-General. My honorable friend said that if a recommendation were in violation of the well-understood practice, it would be rejected at once.

Senator MCGREGOR.—We shall be overruling the Constitution if we embody that view in a standing order.

Senator Sir JOSIAH SYMON.—Not at all. What we say is that if the Governor-General should send down substantial amendments we shall not consider them. I am seeking to preserve the privileges of the Senate and to give notice by our standing orders that certain recommendations are not to come down because they will be rejected.

Senator MCGREGOR.—This limitation should have been stated in the Constitution.

Senator Sir JOSIAH SYMON.—I do not think so, because the Senate has full power to regulate its own procedure. All I ask the Committee to say in this standing order is that the Governor-General may not remit any amendment which affects the principle or substance of a Bill. I desire the recommendations of His Excellency to apply to only formal amendments as was understood by the Convention, and not to amendments which might be the means of overruling a minority in either one House or the other.

Senator PLAYFORD (South Australia).—It will be the height of discourtesy on our part, and, I think, contrary to the Constitution, if we frame a standing order to the effect that if the Governor-General sends down any amendments affecting the principle or substance of a Bill the Senate will not consider them. Any amendment which involved a principle of the Bill could not be put by the President to the Senate if we had such a standing order. The Constitution Act says that the Senate shall consider any amendments which are transmitted by His Excellency. An occasion may arise when it may be eminently desirable that a very important alteration should be made. As a general rule, the amendments recommended by a Governor are accepted without discussion, because they are merely of a verbal nature. But it may happen that by some means or other a very important provision has, by the omission of a few words, been left out. Our clerks are especially careful, but a printer's error may be made. To tie our hands, and say that because we have made some mistake which affects the principle of a measure, we shall not be allowed to consider an amendment in order to put ourselves right, seems to me to be absurd.

We should treat every amendment suggested by the Governor-General on its merits, whether it refers to a matter of principle or of detail. The Constitution is clear on the point. I ask Senator Symon not to press his amendment.

Senator Sir JOSIAH SYMON (South Australia).—When my honorable friend, Senator Playford, gives me advice with so much solemnity my immediate impulse is to accept it. I totally dissent to his argument and his view of the Constitution. I would point out to him that his argument is self-destructive. I will put a point which he can weigh between now and when we shall have this matter again under consideration—because I intend to have it dealt with again, for the reason that it involves an important constitutional question. Senator Playford says that we should not tie our hands so as to prevent ourselves from dealing with any amendment recommended by the Governor-General on its merits. I decline to deal on its merits with any such amendment affecting the principle of any Bill passed by the Senate. This provision is simply for the purpose of enabling clerical and formal amendments to be made, such as Senator Playford himself has illustrated. They may be errors of a typographical nature, or errors made by the Clerk at the table, or possibly there may be an omission in a clause dealing with the principle of a Bill, which may be amended by message from the Governor-General. It is not within the functions of the Governor-General to recommend an amendment which touches the principle of a Bill, and we should refuse to entertain any such amendment.

Senator PLAYFORD.—We often make amendments in Committee which conflict with other parts of a Bill, and the conflict is not noticed at the time.

Senator Sir JOSIAH SYMON.—Those are formal, consequential, or verbal amendments, and would not change the mind of the Senate one iota. But the more wrong my honorable friend is in his arguments, and the more unacceptable his views may be, the more ready I am to follow his advice when he proffers it with so much earnestness. In this case I ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Standing Order agreed to.

Standing Orders 239 to 241 agreed to.

Senator DRAKE.—We now come to those standing orders which regulate our practice in a way which will affect the House of Representatives, and I understand that there is a desire not to proceed with the discussion of them just now. If that be so, I am quite willing that they shall be postponed. It is very desirable that they should receive the fullest possible consideration. I have already expressed my opinion with regard to them, and need not repeat it now. I move—

That Standing Orders 242 to 250 be postponed.

Senator PEARCE (Western Australia).—I suggest that the numbering of these standing orders be entirely altered. Their wording is not so bad, but they are a complete jumble in their present order. For instance, 242 refers a Bill to the Committee. Then 245 should be 243; 244 should follow, and next should come 243. No. 243 deals with the position after a Bill has been returned from the House of Representatives. Standing Order 248 should be numbered 246, because it deals with the proceedings in Committee; 249 should be numbered 247; 246 should be numbered 248, and 247 should be numbered 249. By altering the numbers in that way we shall have some sequence, and the standing orders will follow in their natural order. In the present jumble there is not the slightest sign of order.

Senator Sir RICHARD BAKER (South Australia).—The standing orders as here printed follow the same system as is followed in the ordinary standing orders. Instead of being a complete jumble, Senator Pearce will, on further examination, see that the first part deals with proceedings in the Senate. Then follow the standing orders affecting the powers of the Committee and defining them; then those relating to proceedings in Committee are set out. There is no jumble at all. They follow in logical order. The mode in which they are arranged is first of all that they set out what the practice in the House shall be; then they set out what are the powers of the Committee, then the practice of the Committee. If Senator Pearce will look at the standing orders we have just gone through, he will see that we have adopted the same sequence as to ordinary Bills. First of all, we have set out as to ordinary Bills what may be done in the way of

practice in the Senate itself; then the powers of the Committee; then the practice of the Committee. The sequence is perfectly logical, and consistent with our ordinary standing orders. I am aware that another arrangement is possible. If Senator Pearce looks at the first report of the Committee, he will see that another sequence was there adopted. But, on consideration, it was thought that the present arrangement was better. I think that it is more logical, at all events.

Senator PLAYFORD (South Australia).—My own idea was that the arrangement of these standing orders was a little bit confusing. But, after hearing Senator Baker, I think that perhaps there is a good deal to be advanced on the other side. What I rose particularly to say was that I am not going to be a party, unless compelled by action on the part of the House of Representatives, to the passing of standing orders affecting the two Houses without having exhausted every power we have to come to an amicable arrangement avoiding trouble in the future. I know what it will very likely mean if we pass these standing orders as we have them drafted. We shall have a conflict with the other House, and that pretty quickly. It is better for us not to have such a conflict if we can possibly avoid it. We have no printed precedents to guide us. In South Australia the two Houses have been working from day to day, and the practice has not been reduced to writing. They have a compact which can be broken by either House at any time, and which is no part of the Constitution. They have no standing orders dealing with the matter. Their position is different from ours. We ought to exhaust every means within our power to arrive at an agreement between the two Houses as to our standing orders upon this exceedingly important point. If we do not, the chances are that we shall be led into a dead-lock, which will be greatly to our injury, and much to be deplored. Therefore, I am not prepared under present circumstances to consider this part of the subject until, at all events, I can be sure that every effort has been made to arrive at a practical arrangement, or unless the other House shows a determination to adopt a course which I, as a senator, could not consistently agree to follow. I think that these particular standing orders ought to be postponed indefinitely. We can pass the others, and come back to this question again.

Senator Sir RICHARD BAKER (South Australia).—I am quite as anxious as Senator Playford is, and as every honorable senator must be, that there shall be an amicable arrangement between the two Houses. But it seems to me to be absolutely impossible that we can have any joint standing orders on this question. What are our standing orders for? To regulate our own practice. Our own practice is to make requests to the House of Representatives. Their practice is to grant or refuse those requests. So that our standing orders must be absolutely different. Let honorable senators look down these draft standing orders, and see if it is possible for the House of Representatives to adopt any one of them. It cannot be done. They only regulate our own procedure. Then look at the draft standing orders of the House of Representatives, which their own Standing Orders Committee have presented to them for adoption. I refer to their Standing Order 258, which has a number of sub-sections, but there is not one there that we can possibly adopt, because they cover their practice concerning a different state of affairs. We make the requests, and they grant or refuse them. How can we have joint standing orders to regulate such matters?

Senator PLAYFORD.—We could have an understanding.

Senator Sir RICHARD BAKER.—I do not know how we can arrive at that except through the Senate. A joint Standing Orders Committee certainly would have no power to come to such an understanding. In the earlier part of last session, the Standing Orders Committees of the two Houses, I shall not say conferred together, but exchanged their drafts. I gave Mr. Speaker the draft of the standing orders the Senate's Committee then proposed in reference to Bills which the Senate may not amend, but I said to him—"You cannot possibly adopt any of those; they are not suited to your position." We obtained from them the draft standing orders they proposed, but we could not adopt any of them. The only point upon which we can come to any understanding—and it must be done by the two Houses—is as to how many requests we may send to another place before a difference of opinion is finally settled. The standing order dealing with that matter is the only one which is at all open for discussion between the two Houses. All the others refer to our own practice in the Senate and in Committee. I

cannot myself see how it is possible, except by resolution of the Senate communicated by message to the House of Representatives, or *vice versa*, that we can arrive at any arrangement in this matter. I do not know whether it is probable that we should arrive at any arrangement, nor do I know whether it is more probable that we should then arrive at an arrangement upon the abstract principle involved, than when the question arises in respect of a particular Bill as it did last session. In any case it is not a matter for settlement by the Standing Orders Committee, but by the Senate itself.

Senator PLAYFORD (South Australia).—Perhaps I used an inaccurate phrase in referring to “joint” standing orders; but Senator Baker has hit the point to which I intended to refer. My object is that we should come to some agreement upon the particular matter involved in the proposal to send three messages. That is the matter upon which trouble may arise between the two Houses, and we should, I think, arrive at a decision in regard to it. We should, I think, embody the arrangement come to with the House of Representatives on that point in our standing orders, and they should embody it in their standing order. We may arrive at a decision to send so many messages down. After they have considered our suggestions we may then reconsider the message they send back, and we may send suggestions back to them again a second and a third time. We should have some mutual understanding as to what the practice upon that point is to be. The practice which the House of Representatives will desire to follow will unmistakably be that followed in South Australia, where only one message is ever sent from one House to the other upon such questions. No doubt the House of Representatives will fight for the adoption of that practice as hard as they can, and we naturally will fight for the adoption of a practice which will give us what will practically amount to the power to make amendments. There will be differences of opinion between the two Houses upon this point, and we ought to agree to some compromise in connexion with it. I think that before any Money Bill is sent up to us upon which we may make suggestions that point should be settled between the two Houses. The House of Representatives gave way on the Tariff Bill last year, but they did so under

protest, and we, therefore, do not know how they will treat similar messages from the Senate on the next occasion. We may find that they will be the cause of trouble between the two Houses. I desire that we should avoid that if we can. We know what the results of a dead-lock between the two Houses may be. We had an experience of them in South Australia which was certainly a sad one. A dead-lock in that State caused an immense amount of trouble, and was settled eventually only by a compromise between the two Houses. Here, in Victoria, the State was placed in a worse position as the result of the dead-lock occurring between the two Houses of Parliament in connexion with the Darling grant. They had then the “Berry Blight,” “the Stone Wall,” “the Iron Hand,” and I do not know what not.

Senator DOBSON.—Our Constitution provides for a dead-lock, and the way out of it.

Senator PLAYFORD.—The trouble and loss resulting from the dead-lock in Victoria were very great, and we can imagine what trouble would result from a dead-lock between the two Houses of the Federal Parliament. Its evil effects would extend over the whole Commonwealth, and would not be confined to one State. If we once begin to discuss a Money Bill and carry what we consider to be important suggestions, and send them on to the House of Representatives, and if that House refuses to give them any consideration at all a dead-lock will ensue, and the chances of arriving at a compromise when our passions are heated and excited, will be very much less than if we were now quietly to sit around a table and discuss the matter calmly and amicably in order that we might arrive at a conclusion upon this very important point. I think that we should try to come to some understanding with the House of Representatives upon this proposal for three messages, with a conference at the close, before we deal with the other standing orders referring to these matters, and affecting only the conduct of affairs in the Senate.

Senator Sir JOSIAH SYMON (South Australia).—There can be no doubt that the point involved in this particular standing order is one of vital consequence to the smooth and effective working of our system of parliamentary government. At the same time, I do not think that Senator

Playford's picture of the evils of the dead-lock which occurred in Victoria in connexion with the Darling grant, or those of less momentous political importance, which occurred in South Australia when a difficulty of the kind arose there, at all resembles what would happen if a dead-lock arose under our Constitution. A dead-lock under our Commonwealth Constitution would be, I think I may say, quite a different sort of event or occurrence from those to which Senator Playford has referred. It might be none the less disastrous—perhaps I ought not to say disastrous—and it may be none the less a result to be avoided by every possible means. But under our Constitution, as Senator Playford will remember, we have provided for the very contingency of a difference between the Senate and the House of Representatives in relation to vital matters of this kind. We have machinery of great power to meet the case of a disagreement continuing for a certain period and under certain conditions between the two Houses. That machinery, although large and in some senses severe in its working—

Senator PLAYFORD.—It is very drastic.

Senator Sir JOSIAH SYMON.—It may be drastic, but my honorable friend knows that for a great purpose such as is to be served in solving a dead-lock of that kind the machinery must be considerable, and it must operate over the whole Commonwealth of Australia. That is to say that it simply means that after we have exhausted our efforts to agree, and have failed in agreeing—and, of course, there will be no disagreement unless upon a point which is vital and fundamental—the whole matter is then to be remitted, by means of a penal dissolution, not of one, but of both Houses of the Federal Parliament, to the arbitration of the people of the Commonwealth.

Senator O'KEEFE.—Is not Senator Playford's point, how far we can go before exhausting our efforts to agree.

Senator Sir JOSIAH SYMON.—My honorable friend, Senator O'Keefe, is mistaken. I am not dealing with that now. I desire to point out, in dealing with the picture which Senator Playford has presented of what has been called a dead-lock in the States, that if we assert our constitutional position as a Senate, although the assertion of that position may result in what is termed a dead-lock, under our Constitution that dead-lock is absolutely and

constitutionally provided for, and its solution is equally provided for by provisions which form a part of the system of our constitutional machinery. Whilst I agree very largely with what has been said in relation to these proposed standing orders, I do not wish it to be supposed, for a moment, that I shall be averse to giving full effect to the constitutional powers of the Senate, and to bringing these constitutional powers, if they come into conflict with the powers of the other branch of the Federal Legislature, to the arbitrament prescribed by the Constitution, the votes of the electors of the Commonwealth.

Senator PLAYFORD.—Neither shall I.

Senator DRAKE.—At the right time.

Senator Sir JOSIAH SYMON.—I am afraid Senator Drake misapprehends the point raised by Senator Playford. I have been dealing with a larger matter than that with which Senator Playford has dealt in order to appeal to our sympathy—the matter, if I may use the expression, of peace and order in parliamentary government, in relation to the assertion of our rights under the Constitution. I am not influenced by what Senator Playford has said, but I am influenced by the belief that everything ought to be done now to prevent a conflict, and everything ought to be done when a conflict does arrive, to avoid it if possible, and to minimize its effects if it is unavoidable. These standing orders are really divisible into two parts, and it is there that any difference lies between what has been said by Senators Playford and Baker. We have in these proposed standing orders some which are entirely our own affair. As Senator Baker has said, our object is to regulate our own procedure. There are some of these standing orders which affect ourselves, and ourselves only, but even those should not, I think, be couched in language which, when read by members of the other branch of the Legislature may irritate them a little. I dare say that members of the House of Representatives give some attention to our proceedings and to our language, and I think that if we can conserve and assert our rights by the use of diplomatic and careful language, which will not wound the susceptibilities of members in another place, we should do so. From that point of view I think that the particular set of standing orders which are our own, which we have a right to frame and

alter as we please, might very well bear revision. But, as I have said, there are two sets of standing orders here—those which deal exclusively with our own affairs, and those, or one, at any rate, which directly challenges the other branch of the Legislature, and which would precipitate a conflict with the other Chamber at an early stage. That honorable senators may give the matter consideration before these proposed standing orders are again considered, I would point out that there is a very grave hiatus. In the first place, Standing Order 242 is unnecessary. Bills which the Senate cannot amend are precisely in the same position, until after the second reading, as any other Bills which come from the House of Representatives. Then we are taken right to the stage at which messages come from the House of Representatives dealing with our requests. What I suggest for consideration is that between the two events there is a considerable interval. A good deal has to be done, and I think we should prescribe, to begin with, at what stage the requests we make are to go to the House of Representatives.

Senator DRAKE.—The Constitution says “at any stage.”

Senator Sir JOSIAH SYMON.—Yes, but we are prescribing our procedure, and it cannot mean on the second reading.

Senator PLAYFORD.—We might go half through the committee stage and then send on a request, as has been done in the Legislative Council of South Australia.

Senator Sir JOSIAH SYMON.—I was not aware of that. “At any stage” means at any stage of the Bill, and last session discussion was provoked as to whether one set of requests exhausted the powers of the Constitution. That was the rock on which there was a possibility of splitting, but more amicable considerations came into play, and brought about a result, so far as procedure went, that at all events answered our purpose. But that has nothing to do with the point with which I am now dealing. In relation to procedure, we ought to have a standing order providing when our requests should go back—whether on the first clause of a Bill, or in the middle, or at the end. It would be rather absurd, I presume, to send messages at any particular stage in Committee, and, therefore, we want a standing order; and I am throwing out this suggestion in no critical mood.

We want the standing orders to be exhaustive, and I shall endeavour to frame amendments which will assist the Committee. My suggestion now is that we ought to have clearly prescribed what is to take place between the second reading and the time when the messages come back from the other branch of the Legislature, accepting, rejecting, modifying, or, to speak generally, dealing with our requests. The standing orders, as now submitted, are very crude to lay before the Senate, the members of which are not in the position of a Standing Orders Committee, and cannot sit round a table and discuss them. These standing orders are of vital consequence, and I know it is very difficult to frame them; but I am allowing for all that in the remarks which I make. Standing Order 244 provides that if a message is returned completely complying with the requests of the Senate, the Bill, as altered, may be read a third time and passed. What is to intervene? The Bill cannot be read in the interval; and the meaning is that the Bill must be read when the intervening process has been gone through. That should be prescribed by the standing orders; and all we have to do is in half-a-dozen lines to lay down the different steps to be taken, and make the matter as clear as midday. There are other standing orders to which similar consideration could be given with advantage, and instead of having, I will not say a jumble, but a crude set of standing orders, dealing with so vital a matter, we should have them in better form. The great difference, however, is in connexion with the second set of standing orders which directly affects the other House. Strong as I am in support of the widest constitutional powers of the Senate in relation to Money Bills, and adhering, as I do, to the position which I took up in the Convention, and out of it, as to the amplification of that power if possible, I shall never assent to such a standing order as that embodied in No. 246 without trying in some way or other to secure—though it may be impossible to secure—the adhesion of the House of Representatives. For instance, if such a standing order were embodied in our code, I think the members of the House of Representatives would be perfectly justified in scouting it and saying—“If you, by your standing order, declare that a Bill must be sent down three times, and returned by the House of Representatives three times, and you can carry such a

provision into effect, you are a much finer set of fellows than we took you to be." Such a standing order would be provocative in the highest degree. If the House of Representatives did not return a Bill three times, what then? There are conditions on which we are to do—what? We are to demand, not politely request—though I think a little politeness might be engrafted on our standing orders—a free conference. But what would happen if the House of Representatives did not send back the Bill three times? We, like Mahomet's coffin, would be hung up between heaven and earth, and I do not know where the Bill would be.

Senator PLAYFORD.—The Bill would be in the other House.

Senator Sir JOSIAH SYMON.—To meet such circumstances, we ought to provide that the Bill should then be considered as laid aside in the other House. Let us provide something which will get us out of the *impasse* into which we shall be put by a standing order that assumes a condition of things to which the House of Representatives may never assent.

Senator DOBSON.—Standing Order 247 enables us to send a Bill back.

Senator Sir JOSIAH SYMON.—We may send a Bill back, but what will happen? I am merely suggesting that the standing orders want the very greatest consideration. I do not like approaching the House of Representatives on this subject, but this is a matter on which both Houses must agree somehow; and if it is to be the occasion of a dead-lock, the sooner we bring it about the better.

Senator DRAKE.—If we are in the right?

Senator Sir JOSIAH SYMON.—Suppose the House of Representatives think they are in the right?

Senator DOBSON.—Will not the High Court have to say what is the meaning of the words "at any stage"?

Senator Sir JOSIAH SYMON.—But Senator Dobson does not want a High Court.

Senator DOBSON.—I do want a High Court.

Senator Sir JOSIAH SYMON.—I thought the honorable senator did not; but at any rate a High Court, while it would solve many difficulties, would not solve this difficulty.

Senator DOBSON.—The High Court would have to solve it.

Senator Sir JOSIAH SYMON.—The High Court would not solve the question of the desirability of our endeavouring at this stage, like it or not as we may, to arrive at a *modus vivendi* with the other House.

Senator HIGGS.—In such a case the High Court is the people.

Senator Sir JOSIAH SYMON.—Yes; and in the other instance it is a High Court constituted by the people. With Senator Playford, I feel that we ought to attempt to arrive at some agreement with the other House as to the number of times requests may be transmitted. In my opinion the House of Representatives are under the Constitution bound to receive requests, even seventy times seven, in matters of disagreement; but the question is—shall we approach this matter from the point of view of trying to arrive at some definite agreement on the subject? If so, let us try, and if we cannot succeed we shall be just where we were. From all these points of view I think a postponement is exceedingly desirable. Do not let us be overpowered with timidity, because of the pictures of other dead-locks which have no relation to our parliamentary condition. At the same time let us take care that our own standing orders are absolutely complete and clear, so that he who runs may read, as to the different stages the Bill must pass through. As to the standing orders which impinge more or less on the functions of the House of Representatives, or on what the House of Representatives may consider to be their rights, or regard as their constitutional duty, let us do everything we can to come to some arrangement. If we cannot we must make our own standing orders and abide by them, and fight for them until the last jump.

Senator DRAKE.—I do not know that I have anything to add to the remarks that I made in the Senate, except to say that I think that the counsel given by Senator Symon to the Committee is extremely wise. I believe that we shall do well to carefully consider the proposal which he has made. There is no particular reason for hurrying on the consideration of this part of the standing orders. I am still of the opinion that there is no necessity for passing these particular standing orders. Seeing that we dealt with some difficulties of this character last session, and in a manner which enabled us to get the legislation

put through, it might be well for us to wait until another occasion arose, and then to deal with it according to the circumstances.

Senator PEARCE.—When we are involved in a quarrel.

Senator DRAKE.—That is the way in which standing orders have been evolved. A certain practice has gradually grown up in a deliberative Assembly, and, after a time, the record of the debates has been looked up, and the procedure crystallized into standing orders. Is not that the best way in which to proceed in a matter of this kind?

Senator DAWSON.—But the Senate stands in a different relation from an ordinary Upper House to the other House.

Senator DRAKE.—I admit that; but the same necessity arises for standing orders, and these are evolved in the same way. There is, of course, a novelty, because the relation between the Houses does not correspond with the relations that exist between the Houses of any other Parliament of which we have any knowledge. But still, I think the same argument is good—that seeing that we cannot be perfectly sure of a correct interpretation of the Constitution, we should proceed slowly, and not, before the necessity arises, put into print standing orders which would force us afterwards into an attitude which we might not be disposed to take up.

Senator DAWSON.—A joint committee might arrive at some conclusion.

Senator DRAKE.—I do not know whether a joint committee could do it, but, certainly, it would pave the way to a better understanding if the Standing Orders Committees were to meet and confer, and, by discussion, we could no doubt arrive, to a certain extent, at an agreement as to what the practice should be. In any case, I think that most honorable senators will agree that there is room for improvement in all the standing orders which we have been discussing. Seeing that we have postponed some standing orders, including the first chapter, which probably will require the attention of the Standing Orders Committee, I propose to go on to-night with the consideration of the remaining standing orders, and then to adjourn the further consideration of the code, including all the postponed standing orders, for, say, a fortnight. That will give an opportunity to the Standing Orders Committee to meet and to carefully deliberate, and to bring up

the postponed standing orders with such amendments as may appear advisable to them in the light of this discussion. Judging from the tone of the debate, and the excellent speeches from Senators Playford and Symon, I believe it will see the advisability of bringing up the postponed standing orders in such a form that they can be adopted without any long discussion.

Senator FRASER (Victoria).—I also think that we can get along very well without this chapter. If we agree to these standing orders, we may commit ourselves to a course of which we cannot approve later on. We may be going in one direction; the House of Representatives may be going in another direction; and thus we may be getting further asunder than if we had no standing orders on the subject. It is far better not to have any standing orders than to force ourselves to go in a direction which may be contrary to common sense at a particular time. I hope that the consideration of this chapter will be postponed; in fact, I hope that it will not be brought forward again. Even if the Standing Orders Committees did meet, they would not be likely to agree on this subject.

Senator HIGGS (Queensland).—I think it will be a wise thing to postpone the consideration of this chapter, on the understanding that the Standing Orders Committee shall approach the corresponding committee of the other House and ascertain what it is prepared to do. I have my own opinion about what it will do, and about what the members of the other House will do, and it is derived from the proceedings on the Tariff Bill. A number of honorable members in another place think that we have the right to send down a Money Bill only once. I take the view that under the Constitution Act we can send down a Money Bill 100 times if necessary. If there is an idea abroad that the Senate could send down a Money Bill an unlimited number of times, it will not lead to the rapid transaction of business. There should be an understanding on the part of the two Houses as to when finality is likely to occur. If it is known that a Bill will pass between the Houses only three times, honorable members will make up their minds on any question before the last opportunity of arriving at an agreement is availed of. We have advanced a stage, and when the Standing Orders Committee report the result of their efforts, we can decide whether it will be

wise to have any standing orders on the subject, or to rely upon the provisions in the Constitution Act.

Senator Sir RICHARD BAKER (South Australia).—This discussion divides itself into two parts. First of all, as to the relationship between the two Houses, I quite agree that we should exhaust every effort to come to an amicable arrangement. I am not at all sanguine about an arrangement being arrived at; but still, if we can do so, well and good, and perhaps it is a waste of time to discuss that question now. There is another aspect to be considered, and that is the standing orders which absolutely relate to our own procedure, and which will come on for discussion again. I wish to answer some of the rather hypercritical suggestions made by Senator Symon. He has said that we ought, in the language of these standing orders, to be as conciliatory as possible. I agree with that. He objects to the words "demand a conference" as being language which ought not to be adopted. But I would point out to him that it is the language which has always been adopted in reference to conferences. At page 412, *May* says—

Either House may demand a conference.

Senator Sir JOSIAH SYMON.—That is not the language of a standing order.

Senator Sir RICHARD BAKER.—The objection of the honorable and learned senator was to the use of the word "demand."

Senator Sir JOSIAH SYMON.—In a standing order.

Senator Sir RICHARD BAKER.—So far as my experience goes, that word has always been used in asking for a conference. *May* says—

Either House may demand a conference upon matters which, by the usage of Parliament, are allowed to be proper occasions for such a proceeding.

May goes on to say—"in demanding a conference," and so on. It is a matter of no very great importance whether we use the word "demand" or the word "request," but the former word was used because its use was sanctioned by the practice of the British Parliament and the State Parliaments. Again, Senator Symon objects to this standing order—

If a message is returned from the House of Representatives completely complying with the request of the Senate as originally made or modified, the Bill, as altered, may be read a third time and passed.

That was our practice last session. I will ask honorable senators to note the fundamental difference between the practice on Bills which we may amend and on those which we may not amend. In regard to an ordinary Bill, we go into committee, make amendments, and then pass the third reading; after which we send a message to the House of Representatives stating that we have agreed to the Bill subject to certain amendments. Those amendments, and those only, are open for discussion. In the case of a Bill which we may not amend we must in the nature of the case adopt a very different procedure, and a different principle is brought into play. In the case of a Bill which we may not amend, we go into committee, but we do not read the Bill a third time, and do not pass it. The Committee reports to the Senate and the Senate sends a message to the House of Representatives requesting that certain amendments be made. Such a Bill has never been passed by us; the third reading has never been agreed to; and the motion that the Bill do now pass has never been put. The Bill is open so far as the Senate is concerned, because we have never gone out of committee. The Bill is still in committee, subject to a message having been sent to the House of Representatives. Therefore the standing order which I have just read is quite right. In the case of a Bill which we may not amend, we have not read it a third time, whereas in the case of an ordinary Bill we do read it a third time before sending it to the House of Representatives. Supposing we receive a message from the House of Representatives virtually complying with our request, there is no necessity to refer the Bill in question back to the Committee, because everything in connexion with it is finished. The Houses are in accord, and all that we have to do is to read the Bill a third time and pass it. So that the difference in procedure and in the principles upon which we base our procedure is great.

Senator CLEMONS.—Do such Bills on leaving Committee go back to the Senate?

Senator Sir RICHARD BAKER.—What we did last session, and must do, is this: A Bill is referred to the Committee, and the Committee reports to the Senate. We do not read the Bill a third time, but we send a message to the House of Representatives informing them that we make certain requests. In the case of ordinary

Bills we do read them a third time and pass them before sending any message to the House of Representatives. So that the position is entirely different. When the message comes back from the House of Representatives, if it does come back, agreeing to everything we suggest, and making amendments accordingly, we are in this position: There is no necessity to refer the Bill in question back to the Committee, because they cannot amend it. All our requests have been complied with, and all that we have to do is to read the Bill a third time and pass it, if we choose to do so. So that I contend that the words of the particular standing order which I have read are correct. I ask honorable senators to bear in mind the fundamental difference between the two positions. If they do that, I am quite sure that they will see that the procedure suggested, which was the procedure we adopted last session, and which has always been adopted in South Australia, is correct. I am not going to labour the argument, or to say anything more about it, because the subject will come up for consideration again. I make these observations so that when it does come up again, honorable senators may bear in mind the fundamental difference between the position of a Bill which we can amend, and which we read a third time and pass, and concerning which we send a message to the House of Representatives embodying our amendments; and the position of a Bill which we cannot amend, which we do not read a third time, which we do not pass, and on which we wait till the House of Representatives makes the amendments we desire. When the House of Representatives makes those amendments, the whole matter is at an end so far as we and they are concerned. There is no question between the two Houses, and all that we have to do is either to read the Bill a third time and pass it or to reject it. There is no object in referring it back to the Committee of the whole Senate, because that Committee can do nothing. It is, as it were, *functus officio*. The Senate has adopted the Committee's report, and sent a message to the House of Representatives, which has agreed to make the amendments we require. The Bill comes back containing those amendments in the form in which we want them, and we read it a third time.

Senator Sir JOSIAH SYMON (South Australia).—My criticism of the standing order referred to by Senator Baker was not limited to the point that when a Bill is returned from the other place with a compliance with our requested amendments, it must then be read a third time without the necessity for its going back to the Committee of the whole. We all know that a Bill which we cannot amend, cannot be read a third time if we request amendments in it until those amendments have been dealt with in another place. What I complain of is that after the time when the Bill is read a second time—as unnecessarily stated in the first of these new standing orders—there is nothing to prescribe what the course of procedure of the Senate or of the Committee of the whole Senate shall be. There is a jump from the second reading of the Bill to the return from the House of Representatives of the message with regard to the requests of the Senate. It is merely with the object of suggesting further consideration in the interval, and so that these rules may be recast, and we may arrive at something definite, that we are discussing them now. The first standing order in question is No. 242—

Bills which the Senate may not amend shall (unless otherwise ordered), after the second reading has been passed, be referred to a Committee of the whole.

We know what is done there. The next standing order is 243—

All messages from the House of Representatives in reference to such Bills which do not completely comply with the request of the Senate . . . shall . . . be referred to the Committee.

There is a great gulf there. One standing order leaves off with the second reading of the Bill, and its reference to the Committee of the whole, and the next standing order starts with the return of our request from the House of Representatives either complied with or not complied with or modified. It is as though a Rip Van Winkle had made these standing orders and had gone to sleep between Nos. 242 and 243. What is the procedure? When a Bill which we cannot amend gets into Committee it will be dealt with in the ordinary way, except that we shall make requests instead of amendments in form. But there is nothing to prescribe that they shall take any particular form, or at what stage of the procedure in Committee we are to make our requests. If it is to be at any stage, let us say so.

It is not provided in these standing orders how the report is to be made. Personally, I think the Bill should go back to the Committee of the whole, because it has never left the Committee as a Bill in the Committee stage. Suppose there is a standing order prescribing that we shall send it to the House of Representatives before the preamble is agreed to?

Senator DRAKE.—We sent the Tariff Bill back from the Committee.

Senator Sir JOSIAH SYMON. — We adopted procedure for the moment on that occasion. I dare say we can do so again. But here, in this off-hand, loose, undefined way, at the end of Standing Order 244, it is provided that, if a message is returned from the House of Representatives complying with every request made by the Senate, the Bill may be read a third time, and passed forthwith. That is not the way to settle a matter of that kind. Suppose there were half-a-dozen requests made, and the House of Representatives complied with part of them, should not the Bill go back to the Committee for the re-consideration of the remainder? I hold that the Bill is in the Committee stage up to the time of the return of the message from the House of Representatives. It is only a matter of procedure that in order to get the Bill to the House of Representatives with our requests for amendments, it goes back to the Senate, because the Committee is not a proper body, and the Chairman is not the proper functionary to send a message to the other House. The Bill is still in Committee, and that is what Senator Baker has entirely overlooked.

Senator Sir RICHARD BAKER.—No.

Senator Sir JOSIAH SYMON.—It is as plain as possible that if a Bill leaves the Senate with suggestions for amendments, and those amendments are not agreed to, it is in the Committee stage and should go back to the Committee to have the suggestions reconsidered. When a final agreement is arrived at between the two Houses, the Committee reports to the Senate and the Bill is read a third time. There is no hypercriticism, as Senator Baker supposes, in calling attention to a matter which affects the substance of our constitutional position. My criticism regarding the word "demand" is not got rid of by reference to *May*. I say that Standing Order 246 is one that might be construed as holding a pistol at the head of the House of Representatives. The

language used is of a most aggressive character throughout. What is more to the point, having regard to our constitutional position, is the fact that it ties our hands to three messages, and does it aggressively; whereas if we had an opportunity of sending 30 messages, we might avoid all difficulty. It is a fact that we are laying down by that standing order a rule of conduct for the House of Representatives—that they shall receive our messages three times and return them three times. I think that carries out our constitutional position fairly. I refer to this because there are two parties to the bargain, and it is said I am hypercritical. I believe that my honorable friends opposite, and many others, are of that opinion, and if the Tariff Bill had come back again to us, and we had not been inspired by the spirit of compromise, we should have had to incur the odium of laying it aside. I hold the opposite view that we have the right, under such circumstances, to return the Bill to the House of Representatives, and throw upon them the odium of laying it aside. I rather agree with the standing order, but if we lay down this rule it must be remembered that we are laying down a rule which impinges upon what the House of Representatives may claim. Suppose they differ from it, it may turn out to be like a man receiving a letter which he does not like. He sends it back again, and it is again sent to him, and so the game of battledore and shuttlecock goes on until the address upon the letter is worn off. I recognise Senator Playford's view that we should incur the odium, but I say "no," the other House ought to do so. But if we, by a standing order, put our foot down, and say—"This House is going to adopt this course," that will only be another instance in connexion with which we may get ourselves condemned before our time by the House of Representatives. If we are going to assert that right—and I do not deny that we may fairly do so by a standing order—I think it ought to be couched in some kind of language which will be, perhaps, less aggressive than that which is here adopted by which in effect we say—"This is the law we lay down. We are going to act upon it. If you, the members of the House of Representatives, and we, the Senate, disagree, we will send the Bill back to you, and you may do what you like with it." It is fair that we should try to preserve that right to ourselves, but we should do

it in as unaggressive a way as we possibly can. So that my criticisms are not hypercritical. They are observations of substance which, I am sorry to say, Senator Baker seems to have entirely misapprehended.

Senator Sir RICHARD BAKER (South Australia).—Senator Symon has entirely overlooked some of these standing orders. The honorable and learned senator says there is an hiatus between what it is proposed we shall do with a Bill after we have referred it to the Committee of the whole and the time when we send a message to the House of Representatives. I absolutely contradict that. If honorable senators will look at these standing orders they will see that first of all the Bill is referred to a Committee of the whole, then the standing orders set out what results can be arrived at by the Committee; they regulate the procedure and powers of the Committee, and they then go on to say that, whenever the Committee reports, a message shall be sent to the House of Representatives. Now, where is the hiatus? There is a complete sequence.

Senator Sir JOSIAH SYMON.—The whole thing is a jumble.

Senator Sir RICHARD BAKER.—The whole thing is not a jumble. It is all very well for Senator Symon to make assertions, but assertions are not proof. The whole thing is not a jumble, but it is absolutely in sequence, and is absolutely logical. There is no hiatus at all. The Senate, when it obtains a report from the Committee, if it is adopted, sends a message to the House of Representatives, and the standing orders as drafted go on to say that all messages received from the House of Representatives which do not completely comply with our request—that is to say, whenever there is not complete agreement—shall be referred to the Committee. Where is the hiatus and the want of sequence?

Senator PLAYFORD.—The hiatus is between Standing Orders 242 and 243.

Senator Sir RICHARD BAKER.—That is a matter merely of the numbering of the standing orders.

Senator Sir JOSIAH SYMON.—Then why not number them correctly?

Senator Sir RICHARD BAKER.—They are numbered correctly. The standing orders first of all state what the powers of the Senate shall be. Then they state what the powers of the Committee shall be; and finally what the procedure of the Committee

shall be. And if the numbering needs to be altered, surely it is a small matter, and not worth so much discussion and talk. If it is merely a matter of putting Standing Order 243 where Standing Order 242 now is, and so on, it is a matter of very small importance indeed. But if honorable senators will look at these standing orders as a whole they will see that they follow the same principle as our ordinary standing orders in reference to Bills. That principle is, first of all, to state what the Senate shall do, then to state what the powers of the Committee are, and then to show how the Committee shall proceed. If these standing orders had been divided into three parts, and at the head of each there had appeared the words—"Procedure in the Senate," "Power of the Committee," "Procedure in Committee," these remarks, which are really uncalled for, would probably never have been made. I strongly object to criticisms of this sort, which have no substance at all, and which ought not to be made.

Senator Sir JOSIAH SYMON (South Australia).—It is quite refreshing to have the President of the Chamber talking about criticisms having no substance at all, and about the time being wasted when we find the honorable and learned senator occupying ten minutes in a long dissertation exactly in opposition to the view he expressed when Senator Pearce suggested that the clauses should be re-numbered. Senator Baker then assured us that they did not require to be re-numbered at all. The honorable and learned senator was then perfectly clear that the numbers were all right. Now we find that he is quite convinced that they should be re-arranged.

Senator Sir RICHARD BAKER.—I did not say so.

Senator Sir JOSIAH SYMON.—Any honorable senator who looks at them will see that they are absolutely unintelligible, in the sequence in which they stand. The question we have to deal with is, whether these standing orders give adequate provision for the purpose contemplated under the Constitution, and whether they give it with sufficient consideration for the rights of the other branch of the Legislature. However, the proposal made is that these standing orders shall be postponed to give Senator Baker an opportunity of sleeping upon the matter, and of reconsidering, not only their arrangement, but their substance also.

Senator Sir RICHARD BAKER (South Australia).—If Senator Symon thinks that he is to do all the talking, and that I shall remain silent, I can assure him that he is very much mistaken. I again ask honorable senators not to attach any undue importance to these criticisms which are not founded upon substance at all.

Senator Sir JOSIAH SYMON.—Why repeat this offensive language?

Senator Sir RICHARD BAKER.—Why should Senator Symon have repeated himself half-a-dozen times in the course of this debate? I admit that I am repeating myself, but I am only answering repetitions from the other side. I do not think it is at all wise to continue this debate seeing that these standing orders are to be postponed.

Senator Sir JOSIAH SYMON.—Then do set some kind of an example.

Senator Sir RICHARD BAKER.—But I can assure Senator Symon that he is wrong if he thinks he will prevail by the repetition over and over again of sentences which do not carry any weight.

Motion agreed to.

Standing Orders 242 to 250 postponed.

Standing Order 251—

The quorum in Committee of the whole shall consist of the same number of senators (exclusive of the Chairman) as shall be requisite to form a quorum of the Senate.

Senator Sir RICHARD BAKER (South Australia).—I think this standing order requires to be altered by the omission of the words "exclusive of the Chairman."

Senator WALKER (New South Wales).—I was just going to call attention to that, because under the Constitution the quorum is fixed at twelve, until Parliament otherwise provides.

Amendment (by Senator DRAKE) agreed to.

That the words "exclusive of the Chairman," lines 2 and 3, be omitted.

Standing Order, as amended, agreed to.

Standing Order 252—

A Committee of the whole shall be appointed by a resolution "That the Senate shall resolve itself into a Committee of the whole," either immediately or on a future day.

Senator Sir JOSIAH SYMON (South Australia).—In this standing order there seems to me to be an hiatus, if I may be forgiven for using that expression. I hope I may be allowed to say that the standing order is incomplete. Standing Order 252,

I think, follows Standing Order 380 of our present standing orders, and adopts the whole of it. Of course, it is awkward to say "either immediately or on a future day." If the Committee is fixed for a future day under an order of the day, the matter is thus provided for in the next Standing Order 253.

Whenever an order of the day is read for the Senate to resolve itself into a Committee of the whole, the President leaves the Chair without putting any question . . .

But if it is proposed to go into Committee of the whole immediately, then we ought to provide for that as we do under our existing Standing Order 381, which says—

When such a resolution has been agreed to—

That is a resolution to go into Committee of the whole.

the Speaker shall put the question, "That the Speaker do now leave the Chair," which being agreed to, he shall leave the Chair accordingly.

Otherwise there is no order that he shall leave the Chair. I therefore move—

That the following words be added, "and if immediately," then the President shall put the question: "That the President do now leave the Chair," which being agreed to, he shall leave the chair accordingly.

Amendment agreed to.

Standing Order, as amended, agreed to.

Standing Orders 253 to 266 agreed to with verbal amendments.

Standing Order 267—

If no notice be taken, or it appears upon a division in Committee that a quorum of senators is not present, the Chairman shall leave the Chair of the Committee, and inform the President thereof, but make no further report. No decision of the Committee shall be considered to have been arrived at by such division.

Amendment (by Senator DRAKE) agreed to—

That all the words after "taken," line 1, be omitted with a view to insert in lieu thereof the words, "of the absence of a quorum in Committee the Chairman shall count the Committee and, if after the bell has been rung for two minutes, a quorum be not formed, or if it appears on a division, by which division no decision shall be considered to be arrived at, that a quorum is not present, he shall leave the Chair of the Committee and the President shall resume the Chair."

Standing Order, as amended, agreed to.

Standing Orders 268 to 272 agreed to.

Standing Order 273—

"Motions.—That the Committee do now divide" shall be moved without discussion, and be immediately put and determined . . .

Senator HIGGS (Queensland).—We have heard a great deal about the standing orders

of South Australia, and there is no doubt a great deal to admire in those rules and in that State and its people. But a very great flaw can be observed in this standing order.

Senator PLAYFORD.—It is one of the wisest of standing orders.

Senator DRAKE.—It has worked very well here.

Senator HIGGS.—The standing order has worked very well here, for the reason that there has been no very contentious legislation before us. The standing orders are framed for the protection of the minority, and it should not be in the power of a simple majority to close a debate.

Senator DRAKE.—On one occasion Senator Higgs closed the Government.

Senator HIGGS.—I do not remember the circumstances; I must have been suffering from a slight aberration at the time. This standing order is prompted by a consideration of the conditions of the British House of Commons, where there are some 678 members, and where there are at times scenes of great disorder; and if we had a similar number of members I could quite understand a provision of this kind being necessary. I can imagine that a lot of trouble might be caused by even a moderate multiplication of the cantankerous element of this Senate; but, in my opinion, such a standing order was never intended for a deliberative body such as this. It should be remembered that this Senate is composed of six representatives from each State, and though, according to the Constitution, the smaller States have an equal voice with the larger States, it is now proposed to curtail the powers of the former. When the Commonwealth grows, and new States are added, a small State might send six senators with a mandate to advocate certain legislation; and under the standing order it would be possible for the representatives of the largely-populated States to combine to crush such legislation. That could easily be done by one of the more powerful senators jumping up as soon as opportunity offered and moving that a division be taken immediately, and no opportunity would be afforded of showing why a division should not be taken at that time. The calm and judicial way in which, generally speaking, we have conducted our deliberations, entitles senators from the smaller States to ask that such a motion should be carried by a reasonable majority. Let us provide for something more than a

bare majority. I feel inclined to ask the Committee to provide for a majority of two-thirds of the senators then present. I believe that the standing order found its way into our code because it was feared by certain honorable senators that some senators from Queensland might endeavour to impress their extraordinary views on the Senate at inordinate length. It will be remembered that in the first code of standing orders distributed certain pages were pasted over with more drastic provisions. For what reason? To meet the case of the senators from Queensland who had been given a bad reputation by those of our opponents who witnessed the Commonwealth celebrations and the opening of this Parliament, and who, of course, did not fail to describe us in what they considered to be our true colours. A feeling of consternation was created, and then certain honorable senators said—"We will fix them by the standing orders." I hope the Committee will recognise that a provision of this kind is only intended for use in a large body such as the House of Commons, which, owing to the large number of its members, cannot in ordinary times, when there is no opposition, conduct its business with reasonable speed. In the Senate, as a rule, not more than 24 senators are present. We are being asked to prepare a standing order for a time of trouble which will never arise here. I appeal to Senator Playford, who is liberal minded, and represents a numerically small State, not to pass this standing order without requiring the vote of a reasonable majority. With a view to testing the feeling of the Committee on the point, I move—

That the word "Motions" be omitted with a view to insert in lieu thereof the words "A motion."

Senator PLAYFORD (South Australia).—Senator Higgs must be very hard up for arguments when he appeals to the representatives of the small States. I could understand an appeal being made to the members who represent small States in another place, because while one State is represented by only six members in that House, another State is represented by 23 or 24 members. In the Senate, however, the small State has equal representation with the large State. It is a poor foundation upon which my honorable friend has rested his superstructure. This rule has not been taken as he indicates

from the standing orders of the House of Commons. The right to apply the closure is not vested in either a bare majority or a two-thirds majority, but in the Speaker of that House. The rule is taken from the South Australian code. I believe it was not enforced on one occasion last session.

Senator DRAKE.—Once, on the motion of Senator Higgs against the Government.

Senator PLAYFORD.—I never knew this form of the closure to be put in force in South Australia until the temper of the House had been raised to a high pitch by the great waste of time which had gone on. It has only been put in force by the House in self-defence. There must be a rule of that sort in every deliberative Assembly, large or small, unless a minority is to be allowed to "stone-wall" to such an extent as to become a nuisance to every member who attends to his duties properly and fairly. The rule has never been abused in South Australia. I feel sure that it will never work harshly in the Senate, and that it will only be applied when it is richly deserved. It will be sufficient to provide for its application by the vote of an absolute majority.

Senator DE LARGIE (Western Australia).—I support the amendment, because I think that the vote of more than a bare majority should be required when the closure is applied. Last session I suffered from the existence of this rule in our code. I submitted a motion to the effect that the editor of a newspaper in this city should be brought to the bar for printing a scurrilous article on royalty. Not being a person who parades his loyalty very often, I was surprised to find so many honorable senators who had received favours from His Majesty taking up the opposite position and applying the closure. The exercise of this power should not be placed in the hands of a bare majority. In the case of my motion, only two honorable senators had spoken, and the matter had not been nearly sufficiently ventilated. But because it was not a palatable one to a number of honorable senators the gag was applied. Just as it operated against me on that occasion, it may operate against those honorable senators on another occasion, although not with my support. It may happen that only the representatives of one State are interested in the ventilation of a grievance, and, of course, the application of the gag in that case would be a much more

grievous affair than it was in the case in which I was interested. I hope it will not be applied here again, except by the vote of a fair majority.

Senator Sir JOSIAH SYMON (South Australia).—I think we cannot do better than pass the standing order as it is framed. Of course, it is the "closure," and that is an expression which, especially when it is converted into the word "gag," immediately suggests some improper attempt to put a stop to free discussion. It has been the most successful, and it is the fairest method of putting an end to a debate which has lasted long enough, or to the discussion of a subject which has been discussed enough, whether by one speech, or by two or three speeches. Its application does not depend on the President, the Chairman of Committees, or the leader of the Government, but on the sense of justice and fair play of the Chamber. During the whole of the time I had personal experience of this rule I never knew it to be abused. In a moment of excitement—perhaps in a fit of indignation—the application of the closure has been moved; but an appeal by two or three members always availed to have the motion withdrawn. It cannot be moved in the middle of a speech. If a member is ready to speak, and that fact is indicated to the mover of the motion, it is always withdrawn. But the great safeguard is the sense of fair play and justice to the House itself.

Senator MCGREGOR (South Australia).—In the light of past experience I agree with those who are in favour of the standing order. But still I think that Senator Higgs is quite right in suggesting that the vote of a substantial majority should be required. I have noticed in other Parliaments that when party feeling was running very high, and the majority was very narrow, they were prepared on every occasion to take advantage of the weakness of the minority, and to stifle further arguments. The result was that there was not a fair discussion. In cases of this kind a two-thirds majority is necessary. Probably the same amount of dissatisfaction would not be left on the minds of those who took part in such debates if a two-thirds majority had to operate. Senator Playford has said that he does not mind whether the majority is an absolute or a two-thirds majority. It would be better for us to adopt a two-thirds

majority of those present than to provide that an absolute majority of the Senate shall settle the matter.

Senator PLAYFORD.—I never said an absolute majority of the Senate.

Senator MCGREGOR. — Probably the honorable senator meant an absolute majority of those present. To safeguard the honour of the Senate—because there are times of excitement when a very small majority might be tempted to do an injustice to a minority—we ought to adopt the suggestion which I am supporting. If a set of senators were making themselves obnoxious, there would be no trouble in inducing a two-thirds majority to restrain them; but to say that half-a-dozen members shall be silenced by a majority of one against them is absolutely unfair.

Senator DAWSON (Queensland). — I may state at the outset that I intend to support Senator Higgs' amendment. It is all very nice for Senator Symon to use sweet-sounding phrases, as he is in the habit of doing, in advocacy of the line of action that he recommends. He has been in the happy and fortunate position of living all his life in a calm political atmosphere. From my experience of political life, I am not prepared to leave my rights as a member of this Senate to the "keen sense of justice" of any majority of it. Our standing orders are a printed document, which enables honorable senators to know exactly what are their rights and privileges. They stand there in black and white. Any senator has as much right under them as any other, whether sitting behind the Government or in opposition. It ought not to be left in the power of any majority at any time, whether they have a "keen sense of justice" or a desire to do injustice, to rob any senator of his rights and privileges. Surely the Postmaster-General has not yet allowed to die out of his memory what a "keen sense of justice" means in a heated political atmosphere. If this standing order is passed, in all probability I shall take advantage of it at some time to apply the closure to some particular member, though I shall not require it to be applied to me. If other people are going to use it, I shall be justified in using it upon others, though I certainly think we can do better without it. When Senator Drake was sitting in opposition in the Queensland Parliament, together with my honorable friend Senator Glassey and myself, we did not discover any "keen sense

of justice" in the mere majority opposed to us. We found that every standing order that could be twisted and stretched in any way whatever to deprive us of our right of expressing our opinions on the floor of the House was used by the Chairman and carried out by the majority, because we were in a minority. It is not fair to ask us to depend on the good-will and charity of a majority of the Senate. By allowing the closure to operate in this way, a simple majority of one, even though the attendance might be only one above a bare quorum, might be able to punish any group of senators who had not offended in any way whatever. Take a case that occurred only to-day. We had a discussion on these very standing orders consisting largely of a duel between members of the happy family from South Australia. It resulted in a drawn battle. I believe both the combatants drew blood. It might easily happen that some senators or a majority of those present might lose patience with such a duel and might use the closure. With what result? That every other honorable senator, although not offending in the slightest degree might be deprived of the right of expressing any opinion on the merits of the case at issue. Once the closure motion is carried the question is decided, and the mouths of the whole of the members of the Senate are closed. I object to being subjected to a drastic punishment when I am not an offender. Senator Playford has given a case in justification of this proposal. He tells us that on one occasion, in the South Australian Parliament, Senator McGregor set to work to adduce a number of reasons why he intended to oppose a particular measure. He numbered those reasons, and after two hours he was still engaged in stating number one and had not approached number two. God only knows how long he would have been before he got to number five! Therefore it was wise, argued Senator Playford, to have a rule of this kind to stop senators, like Senator McGregor, from getting as far as reason number five. It might be wise on such an occasion to punish Senator McGregor for wilfully wasting time and obstructing public business, but there is no reason whatever why unoffending senators should be punished for his offence. It is also to be remarked that the offending senator who calls down this drastic provision is not effectively punished at all,

because it is impossible to move the closure until the offending senator has completed his offence. Therefore the guilty escapes and the innocent are punished.

Senator Sir JOSIAH SYMON.—You save others from following the offending senator's example.

Senator DAWSON.—You punish the innocent because the innocent may be tempted to offend. That is a reason advanced by an honorable and learned senator who asks us to depend upon the fairness of the majority of the Senate! These are good and sufficient reasons against this particular provision. If we want to prevent what Senator Playford has complained about, we can provide that a motion may be submitted that a particular senator be no further heard. Then the offender will be punished, whilst the innocent will escape. I see no reason for this standing order.

Senator FRASER (Victoria).—I cannot conceive of any reason why any honorable senator should be afraid of the majority of the Senate. It appears to me that any one who puts himself in that position has a guilty conscience. Those who are afraid of a majority will, I suppose, object to being turned out at the next election, unless there is a two-thirds majority against them. That would be a splendid idea! Next time they would want to increase the majority to nine-tenths, and after that I suppose they would wish to provide that they should represent the minority. There is no common sense about the idea. I cannot conceive that any honorable senator is on sound ground in objecting to a decision by the majority. I trust that the Senate will adopt the standing order.

Senator DOBSON (Tasmania).—Like Senator Fraser, I am astonished that our democratic and radical members in the labour corner refuse to bow to a majority in the Senate. Almost everything we do is done by a majority, even though it may be only a majority of one, and our honorable friends opposite are quite inconsistent in insisting that a two-thirds majority shall be necessary to carry the question, "That the Committee do now divide." A question, "That the Chairman report progress," or "That the Chairman leave the chair," is carried by a majority of one, and yet it may have the effect of blocking the whole policy of a Government, and may make and unmake a Government. If honorable senators are sick of listening to matter which is not

practical politics, we are told that a majority of one is not to be sufficient to stop the continued waste of time. The Senate should have absolute control over its own business. We hear many references to the "gag," but my experience is that if the "gag" could be put upon each of us to some extent, it would be better for the conduct of parliamentary business. If ever the parliamentary machine collapses and does not do justice, it will probably be on account of the excessive amount of talking indulged in. If I had my way I should limit the speeches of honorable senators, and also of Ministers. I should be pleased to consent to a limitation myself, because I believe I should then deliver more condensed speeches, and speeches with more in them. I think we should retain absolute power by majority to say as a Senate that we have had enough discussion upon a particular question. And if honorable senators will bring forward extraneous subjects we should be able to say in the same way that we do not desire to discuss certain subjects.

Senator PEARCE (Western Australia).—During last session there was an average attendance of 24 senators, and I point out that under those circumstances, if Senator Higgs' proposal is agreed to, sixteen senators will be able to close a debate. Surely, if there is a gross abuse of the privileges of debate, we shall be able to find sixteen senators willing to prevent it! What will happen in the other case? Thirteen senators will be able to effectually block eleven other senators.

Senator DOBSON.—If a majority of one can throw out a Customs Bill, why should not a majority of one prevent an honorable senator gossiping too much?

Senator PEARCE.—Senator Dobson must see the distinction—that in one case we are legislating, and in the other we are deciding upon our legislation. Is it advisable that thirteen senators shall be able to say to eleven others, "We shall at once close the debate upon this subject"?

Senator DRAKE.—That is just what honorable senators did last session.

Senator PEARCE.—I suppose I shall be as ready as any other honorable senator to take advantage of this proposal, but I think that the proposal made by Senator Higgs will give ample power to stop any debate which is a gross abuse of privilege.

Senator CHARLESTON (South Australia).—I hope the standing order will be

agreed to as printed. I have had a good deal of experience of a similar standing order, and I found it work exceedingly well. I was for ten years in a House with a membership of 24, and even there debates were sometimes continued without any useful purpose in view. It is a proper thing for those elected to transact the business of the country to be placed in a position to stop obstruction of that character. I have known the motion, "That the House do now divide," to be put and subsequently withdrawn when it has been found that one or two members have been especially anxious to speak. But where there is a deliberate purpose to prolong a debate unnecessarily we are perfectly justified in adopting the best means to prevent it.

Senator DAWSON (Queensland).—Senator Fraser seems to be under the impression that this world is governed by majority, and that a majority can do anything it pleases. The honorable senator is entirely mistaken. Majorities cannot do as they like. There is a restriction, and in every well-governed community the rights of the minority are preserved, and if the majority encroaches upon those rights there is a tribunal to punish them. I am contending that the rights of a minority in the Senate should not be at the tender mercy of the temper which the majority may be in at any particular time. Honorable senators speak of other honorable senators as having guilty consciences, and as being afraid to trust the justice and fair play of their fellow senators. I have already said that I have proved what the sense of justice of fellow members of Parliament is worth by a personal experience, which has been a lengthy, and, to some extent, a painful one. The veriest child in the community who sticks his hand into the fire and gets it burned, learns by experience not to put his hand in the fire again. Possibly Senator Fraser has always been in the happy position of being with the majority, and has never been called upon to suffer. The honorable senator represents absolutely the wrong class to have ever been subjected to the injustice this standing order provides for. I have been astonished that Senator Drake, who has been through precisely the same experience as Senator Glassey and myself, has not raised his voice with those of the colleagues with whom he was associated in the Queensland Parliament. From my

experience in the Queensland Parliament, I would as soon trust myself alone at midnight with a gang of burglars as trust to the sense of fair play and justice of certain members of that Parliament. We found that they were capable of torturing and twisting every standing order, not only to gag us, but to put us outside the House, and if our election had had to be determined by their interpretation of standing orders their keen sense of fair play and justice would have prevented even our nomination for election. When there is a keen difference between political parties the sense of fairness and justice in either party is never very keen. Senator Dobson has said that it would be a good thing if honorable senators all round could be prevented from talking so much or so loosely upon every subject that comes up for discussion. With that I absolutely agree. But this standing order is intended to apply only to the minority, and it never can apply to the majority. So long as Senator Dobson continues to sit with the majority he will only have the pleasure of applying the gag, and will never have to undergo the discomfort of having it fitted on himself. As the Senate is constituted it might very well happen that a combination of honorable senators representing two of the States could absolutely close the mouths of the representatives of any one State on which they might have some design. That is a kind of thing for which we certainly should not specially provide in our standing orders. We should stand as a minority in relation to our standing orders as any citizen of the Commonwealth stands in relation to the law governing the country.

Senator DRAKE.—Senator Dawson has mentioned my name particularly, and has taken us back a long time to what happened in the Queensland Parliament. But the recollection of what happened here last session is fresher in my mind. During last session we had this standing order in force in the Senate, and it was used I think only twice, and first by Senator McGregor.

Senator PEARCE.—No; it was first used by the late Senator Sargood against Senator De Largie.

Senator DRAKE.—Then it must have been used more frequently than twice. On the first occasion I remember Senator McGregor moved the motion immediately after Senator Neild had spoken. Then I have a very vivid recollection of another

time when it was used against the Government, and certainly not because members supporting the Government had been doing too much talking. It was used not for the purpose of preventing them speaking, but for the purpose of taking a division in a thin House. Late at night there were twelve honorable senators present in the Chamber who wished to go to a division, and there were eleven on the Government side who were not prepared to go to a division. The motion that the Senate do now divide was then moved and carried on division by twelve against eleven.

Senator DAWSON.—Did the honorable and learned senator think that fair at the time?

Senator DRAKE.—I did not, and I was surprised that honorable senators opposite should have done it. Having done that it seems rather surprising that they should express so much indignation at what is regarded as a base and brutal majority overriding the rights of the minority. Surely the minority of eleven on that occasion had some rights as against the majority of twelve; but those gentlemen, no doubt, considered that they were discharging a public duty in using this particular weapon.

Senator MCGREGOR.—Because it was at their hands.

Senator DRAKE.—Those honorable senators do not desire that weapon to be used at the present time, nor do they anticipate that they will desire to use it in the future. I do not blame them for the action they are taking, but it seems rather unnecessary to draw public attention to myself and my own particular case, seeing that recently, on the most prominent occasion on which the closure was used, I, as the representative of the Government, was the special victim.

Senator CHARLESTON (South Australia).—Senator Dawson seems to be under the impression that, under this standing order, the vote has always gone against the member who was anxious to speak, but I have known it go in the contrary direction many times.

Senator DAWSON.—I say that the standing order can apply only to the minority, and never to the majority.

Senator CHARLESTON.—I have known, when a motion of the kind has been submitted, one or more honorable members, who also desired to speak, cross the floor in order to give a majority to the

member against whom it was sought to exercise the standing order.

Senator MCGREGOR.—I have known cases in which no such generosity was shown.

Senator CHARLESTON.—So have I; and in every such case the closure has been the right thing. In all the years I have worked under a similar standing order I have never known it abused.

Senator DAWSON (Queensland).—Senator Drake has said that this particular provision was applied last session against the Government, and has asserted that honorable senators who sit in the same corner as myself did not at that time manifest the indignation we are manifesting now. But we are now framing permanent standing orders, and if we do not now object to what we deem objectionable we must for ever after hold our peace. We should then have no right to protest when the standing order was applied. Last session we adopted temporary standing orders, and it was not then considered wise to discuss the rules, but to accept them on trust. We have worked under those standing orders for one session, and have found this provision at any rate objectionable. Senator Drake, in response to an interjection from me, said he considered the exercise of this standing order last session as grossly unfair; and in doing that he admitted that the exercise of a standing order of the kind leads to unfairness, otherwise injustice. Senator Drake, however, is now in favour of the standing order, not because he believes in its justice, but because it was used against him last session; and now in a spirit of retaliation he seeks to make it permanent.

Senator DRAKE.—No, No!

Senator DAWSON.—I can attach no other meaning to the words of the honorable senator, who offers no justification beyond the incident of last session.

Senator Drake.—I merely wished to show the use which was then made of the standing order.

Senator DAWSON.—I then pointed out that the standing order itself was objectionable, but said that if it were allowed to remain, we, in common with other senators, would probably use it. It must be distinctly understood that we are not contending that the Senate should not have some power to curtail debate, but that that power should not be placed in the hands of one senator. There ought to be a provision similar to that

found in other Legislatures, so that when the closure is applied it shall be with the consent of at least two-thirds of the senators present. Indeed, I would go further, and say that the two-thirds should not be less than one-third of the whole Senate. Surely it is not too much to ask those who are great sticklers for the standing order, to show some reason for it, and if they cannot, to let it go by the board. On our side, we have clearly shown very good reason why such a power should not be exercised by one senator.

Senator HIGGS (Queensland).—I am sorry so many are opposed to the amendment, and if it be the intention of the majority present to defeat it, I hope they will reconsider the matter and postpone the standing order until there is a reasonable number of senators in the Chamber. There are now only 19 out of the 36 senators present, and yet we are laying down rules of procedure to last for a great number of years.

Senator FRASER.—The standing orders can always be altered.

Senator HIGGS.—There will not be much alteration if many are of the same mind as the honorable senator. It is true, as Senator Playford said, that the small States have equal representation with the large States; but that only applies to the present Senate. Under section 7 of the Constitution new States may be created, and the Senate has the power to increase or decrease the number of representatives, providing that the original States each retain six. Under that section a small State may be created with only three representatives; and we may easily imagine what could happen then. If, as Senator Playford says, the whole Senate gets thoroughly sick of a discussion, surely it would be possible, with, say, eighteen senators present, to get thirteen to agree to a motion under this standing order. The same honorable senator said that it does not much matter either way.

Senator PLAYFORD.—I said that there is no question of justice in the matter.

Senator HIGGS.—There is certainly a great question of justice. Senator Fraser talks about minorities having no rights.

Senator FRASER.—I said that a minority may be often right and a majority often wrong, but that a minority has to submit.

Senator HIGGS.—The majority must rule, and we always take that view at election times. But the majority rule is then applied only after full and adequate

discussion of the programmes of the candidates, and there is no application of the "gag." This standing order, although it merely refers to a division in Committee, deserves all the opprobrious epithets that can be applied to it. When I was saying something about the reputation of the Queensland Legislature, it was suggested that I was romancing, and ought to be able to write a book; but is it not a fact that honorable senators, since the standing orders were first produced, have received a page of the most drastic provisions ever submitted in a Legislature, dealing with infringements of the order and privileges of the Senate? On this point I refer honorable senators to Standing Order 428 and those following it, which are provisions originally introduced in the House of Commons to meet such occasions as that on which Colonel Sanderson, M.P., and other honorable members indulged in a free fight, and generally upset the equilibrium of the Chamber. These standing orders are introduced here because honorable senators have an idea that at some time I, or other senators of similar disposition to myself, may make things uncomfortable. Senator Drake's reason, as representative of the Government, for supporting this standing order is that at one time we in this part of the Senate, after giving most unswerving support to the Government, found it desirable to once disagree with them and carry a motion under the rule. Because we did that, Senator Drake is going to apply the "gag" to us for all time.

Senator DRAKE.—I did not say anything of the kind.

Senator HIGGS.—Senator Drake forgets all about the experience of the Opposition in the Queensland Parliament—an experience never suffered in any Parliament of Australia—and only has an unhappy remembrance of what occurred here last session. The honorable senator, who has a many-sided character, objects to us in this corner, because we are not a lot of Nazarenes who turn the other cheek when struck. This standing order was exercised against us at a very early period, by either a strong supporter of the Government or a member of the Opposition, and when we found the weapon used, we thought we would give others a taste of the same treatment, in order that we might at some future time receive support in our endeavour to alter the provision. We have all along said that we object to the closure, and while

there is a hope that honorable senators will give way and take the same view as we do, we have a right to ask for fuller discussion. The majority in favour of the Pacific Island Labourers Bill has been described by Senator Symon as a majority of only one or two.

Senator Sir JOSIAH SYMON.—I said it was not a big majority.

Senator HIGGS.—I appeal to the Committee whether any attempt was made by honorable senators to limit the discussion on that measure? Was not the most ample discussion of its provisions allowed? No one attempted to apply the gag, although it was known that there was a majority in favour of such legislation.

Senator Sir JOSIAH SYMON.—Nor would they in any other case of equal importance.

Senator HIGGS.—We do not know. A time may come when the Senate may not be composed of broad-minded magnanimous gentlemen, and I am looking ahead. The honorable and learned member has talked about the sense of justice of the Senate. Its sense of justice has been shown during this discussion. Although we are considering an important question affecting the procedure of the Committee for all time, we hear honorable senators interjecting that Senator So-and-So has spoken once, and he has no right to speak again. I believe that if we were to discuss the question all night it would be recognised in the future that we did quite right. I desire to call the attention of honorable senators to a book which, I am sure, they studied when they first entered politics. In Mill's *Essay on Liberty* these words occur—

If all mankind minus one, were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person than he, if he had the power, would be justified in silencing mankind. Were an opinion a personal possession of no value except to the owner; if to be obstructed in the enjoyment of it were simply a private injury, it would make some difference whether the injury was inflicted only on a few persons, or on many. But the peculiar evil of silencing the expression of an opinion is that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion still more than those who hold it.

I am very sorry that honorable senators are not paying sufficient attention to the words of one of the great teachers of the human race. This is one of the most serious rules that we have had to consider, and it is well worthy of full discussion. No less than seventeen honorable senators are absent. I am satisfied

that if they had anticipated that the Committee would have reached Standing Order 273 to-night they would have made an effort to be present.

Senator DONSON.—Surely we can recommend the standing order.

Senator HIGGS.—I do not believe in postponing the consideration of an important question of this kind.

Senator CLEMONS.—It will not hurt the honorable senator.

Senator HIGGS.—It may hurt me. I am reminded of what occurred when we were considering the Tariff Bill. My action was not approved by several honorable senators. On one occasion I was discussing at some length a proposition, and when I appealed to Senator Playford to stay and listen to some of the important arguments I had to offer, he said that he had had enough of the discussion, and he went away. He thought it was absurd on my part to proceed in that way, but I feel sure that honorable senators will now admit that if we had allowed Senator Symon and his followers to take their own course with the schedule they would have attempted to alter the duty on almost every item. It was only because a few honorable senators freely discussed the items that they said—"We will not bother about a number of the items with which we originally intended to deal. We shall allow them to go as they are," and instead of about 175 requests for amendments being sent to the other House, only about 100 were sent. I consider that I fulfilled a public duty in occupying the attention of the Committee as I did, even though some honorable senators deprecated what they considered to be a waste of time. A time may come when similar legislation will be brought forward.

Senator DRAKE.—If the honorable senator will resume his seat, I will ask the Committee to report progress.

Senator HIGGS.—I shall be very pleased to resume my seat.

Senator DRAKE.—As we have not made quite as much progress to-night with the standing orders as I anticipated we shall go on with their consideration on Wednesday.

Senator Sir JOSIAH SYMON.—To-morrow.

Senator DRAKE.—I doubted whether we should be able to get a quorum to-morrow. I shall be glad if honorable senators will make a House to-morrow.

Progress reported.

ADJOURNMENT.

PRIVATE MEMBERS' BUSINESS.

Senator DRAKE (Queensland—Postmaster-General).—I move—

That the Senate do now adjourn.

Senator HIGGS (Queensland).—I desire to ask the Postmaster-General whether he will give me an opportunity on Wednesday or Thursday next to discuss my notice of motion relating to the action of the Governor of Victoria.

Senator DRAKE.—I cannot consent to put aside Government business for that purpose. The only private members' business on the paper for to-morrow is a notice of motion in the name of Senator McGregor, and after it is disposed of, or after the lapse of the time which is allowed for private members' business, we shall go on with the standing orders.

Question resolved in the affirmative.

Senate adjourned at 10 p.m.

House of Representatives.

Thursday, 11 June, 1903.

Mr. SPEAKER took the chair at 2.30 p.m., and read prayers.

PAPER.

Sir EDMUND BARTON laid on the table—

Interim reports of Engineers-in-Chief upon the proposed transcontinental railway from Kalgoorlie to Port Augusta.

ST. LOUIS EXPOSITION.

Mr. O'MALLEY.—As all the countries and nations of the world, with the exception of Australia, are being represented at the World's Exposition at St. Louis, will the Prime Minister reconsider his decision regarding the representation of the Commonwealth there, seeing that the United States authorities have offered adequate space free of all charge?

Sir EDMUND BARTON.—The Consul-General for the United States has lately written to this Government, inviting us to reconsider the decision that the Commonwealth cannot as such be represented at the St. Louis Exposition, and in his communication he offers, on behalf of his Government, to provide abundant space in one of the buildings for Commonwealth exhibits.

Upon receipt of that letter I felt it my duty to communicate with the Premiers of the States, in order to ascertain their feelings upon the question of co-operating in a general representation. To my mind the representation of the Commonwealth is not likely to be successful unless such co-operation is secured, and the obtaining of it depends upon the answers which will be received from the Premiers of the States.

SUGAR EXCISE DISTRIBUTION.

Mr. V. L. SOLOMON.—I wish to know from the Treasurer if it is a fact that revenue from the excise duties on sugar, which should have been paid to some of the States, has been retained by the Government in anticipation of legislation authorizing its distribution on a *per capita* basis?

Sir GEORGE TURNER.—Under the provisions of the Excise Tariff Act and the regulations framed in accordance with them, it was necessary to pay the rebates immediately; but as we could not at once provide for the distribution of the excise, the whole amount was, at my direction, placed to the credit of a trust fund, and rebates were paid out of that fund up to about the end of December last. In the meantime I ascertained from the returns which were coming in that it would not be right to continue to follow the plan originally suggested, and I then withheld the distribution until I could obtain a decision from Parliament upon a proposed alteration of it. Immediately Parliament has dealt with the matter the whole amount will be distributed. But as the State of Queensland was anxious to have money paid to her, I advanced £25,000 to that State, and had any other State desired to be paid any portion of the amount I should have made a similar advance, keeping well within the sum which I thought she was entitled to.

Mr. V. L. SOLOMON.—The right honorable gentleman does not propose to make the Bill retrospective?

Sir GEORGE TURNER.—Yes. It will take effect from the beginning of this year. That is the reason for the retention of the money.

VICTORIAN INCOME TAX.

Mr. MAHON.—Seeing how destructive the practice is to friendly Federal feeling, I wish to know from the Attorney-General if

he intends to request the Government of Victoria to restrain its Commissioner of Taxes from harassing honorable members of this Parliament who represent other States with illegal demands for income tax assessed upon their salaries, and with threats of punishment for the non-payment of the tax?

Mr. DEAKIN.—I do not know that that is a matter upon which we can officially approach the State of Victoria, but I am still hoping to receive from the Premier the intimation, unasked, that members of this Parliament representing constituencies outside Victoria will be excluded from the operation of the local Income Tax Act.

TELEPHONE GUARANTEES.

Mr. JOSEPH COOK asked the Minister representing the Postmaster-General, *upon notice*—

1. What is the amount of the losses on the telephonic guarantee lines in New South Wales?
2. How long was this amount accumulating?
3. What was the value and yearly average of the total telephonic business during the same period?
4. What was the average yearly amount of the bad debts?
5. What was the average yearly proportion of bad debts to total business?

Sir EDMUND BARTON. — A report has been obtained from the Deputy Postmaster-General, Sydney, to the following effect:—

Information prior to 1893 cannot be given. A statement of the particulars required since that date is being prepared, but will take two days to complete. The questions will be replied to, as far as practicable, when the report is received.

MAIL CONTRACTS.

Mr. MAHON asked the Minister representing the Postmaster-General, *upon notice*—

1. Were public tenders called for the conveyance of a mail between Mount Magnet and Black Range, Western Australia?
2. In what manner were tenders invited, and when?
3. Will the Postmaster-General direct that, in future, all mail contracts, even of an emergency nature, shall be advertised either in the *Commonwealth Gazette* or in a newspaper published in the district concerned, or both?

Sir EDMUND BARTON.—The necessary inquiries are being made, and a reply will be given in due course.

PACIFIC CABLE.

Mr. THOMSON asked the Minister representing the Postmaster-General, *upon notice*—

1. Whether the Postmaster-General has received a communication from the Pacific Cable Board suggesting that steps should be taken to bring the advantages of the Pacific Cable before the public?

2. If so, what steps has the Postmaster-General taken, or does he intend to take?

Sir EDMUND BARTON.—The answers to the honorable member's questions are as follow:—

1. The Postmaster-General has received a communication from the Pacific Cable Board asking him to employ, on behalf of the Board, suitable persons to canvass for business in the States of New South Wales, Victoria, and Queensland, for a period of three months.

2. He has employed a canvasser in Victoria, and has instructed the Deputy Postmaster-General in New South Wales and Queensland to take the necessary action to obtain suitable persons to canvass in those States.

TARCOOLA TELEGRAPH LINE.

Mr. MAHON asked the Treasurer, *upon notice*—

1. What is the contract price of the telegraph line to Tarcoola, South Australia, and the distance under construction?

2. What is the present estimated revenue that will be earned by the line?

3. Did the Government demand the guarantee usual in such cases, and was it obtained?

4. If not, are other applications for telegraph and telephone extensions to more promising centres refused unless accompanied by a cash guarantee; and, if so, why?

5. Is the money spent on constructing this line "new" expenditure, and will any loss in working and maintenance be chargeable solely to South Australia?

6. How much does the Treasurer propose to allocate next year from revenue for telegraph and telephone extension in Western Australia?

Sir GEORGE TURNER.—The answers to the honorable member's questions are as follow:—

1. There is no contract price, as the line is being constructed by the Department. The amount provided on the Estimates is £14,000.

2. No estimate has been made.

3. It is not usual to require guarantees in all cases. Provision is being made for an additional line from Perth to Eucla at an estimated cost of £20,000 without guarantee, and also for an additional line to Yardea, in South Australia, to provide better and more adequate means of communication with Western Australia, without guarantee.

4. The Department is not aware of any extensions to more promising centres which have been refused unless accompanied by cash guarantees.

5. The cost of construction is at present charged against the State, but ultimately will be

dealt with in the same manner as transferred properties. Any loss in working and maintenance is charged against South Australia.

6. A considerable sum will be provided for this purpose on the forthcoming Estimates, but the actual amount has not yet been settled.

TELEGRAPH LINE REPAIRERS.

Sir EDMUND BARTON.—In reference to the question asked last night by the honorable member for South Australia, Mr. Batchelor, as to the position under the Public Service Act of men in the line-repairing branch of the Postal Department, I have been furnished from the Department of the Minister for Home Affairs with the following information—

The Public Service Commissioner has called for a return from all the States, showing every line repairer employed, the nature of his work, his length of service, and other particulars, with the object of considering their claims for being brought into the permanent service before the 30th instant, when the present exemptions will expire.

Until these returns are all received and thoroughly investigated, it is not possible to say what number of line repairers would be drafted into the permanent service, but the Commissioner is of opinion that a very large number of them will have the exemptions removed at the termination of the date named.

Every effort has been made to get the whole matter completed before the due date, viz., 30th June.

SUGAR BONUS BILL.

SECOND READING.

Sir GEORGE TURNER (Balaclava—Treasurer).—I move—

That the Bill be now read a second time.

Honorable members will recollect that, in pursuance of the policy which was adopted by Parliament almost unanimously, in order to create a white Australia, certain legislation was passed providing for the payment of rebates of excise upon sugar grown by white labour, to compensate the growers for the extra expense they might be put to in employing white instead of coloured labour. The schedule to the Excise Tariff Act provides that the duty upon manufactured sugar shall be 3s. per cwt.—

until the 1st January, 1907, less, from 1st July, 1902, a rebate to the grower of sugar-cane and beet. The rebate in the case of sugar-cane to be 4s. per ton on all sugar-cane delivered for manufacture, and in the production of which sugar-cane white labour only has been employed after 28th February, 1902. The rebate is calculated on cane giving 10 per cent. of sugar, and is to be increased or reduced proportionately, according to any variation from this standard. A

similar rebate to be allowed in respect of sugar-beet—the rebate to be allowed at the rate of £2 per ton on the sugar-giving contents of the beet. All rebates to be allowed at the time of delivery of the cane or beet on the ascertainment in manner prescribed of the sugar-giving contents, and so that it may be prescribed that the average sugar-giving contents of the cane or beet in any particular district shall be taken to be the sugar-giving contents of each lot of cane or beet in such district. That provision has been carried into effect, and has worked well, except so far as the charging of the amount of rebate is concerned. The Bill which is now before honorable members does not in any way alter the practice. We shall still carry out the principles already laid down, and for which we have power to make necessary regulations from time to time. What we ask honorable members to consider is whether it would be better to divide the amount to be paid for rebate among the people of all the States, or to charge it according to the quantity of sugar grown by white labour consumed in each State. When the provision which I have read was agreed to, I was under the impression that the arrangement for which it provides would be an equitable one, and that the amount of sugar upon which excise was paid used in each State would probably be somewhat in proportion to the population of that State. But experience has shown, as I will demonstrate to honorable members by giving them the actual figures, that that does not occur, and that if we are to continue the practice of charging to each State the £2 per ton allowed as rebate on the amount of sugar grown by white labour consumed in that State, some of the States will pay practically nothing, while Queensland, and, in particular, New South Wales, will have to bear almost the whole burden. This occurred in consequence of large imports of foreign sugar into Victoria and South Australia, the amount of excise sugar consumed in those States having been very small indeed. In these two States very considerable revenue has been derived from the import duty of £6 per ton, whilst the States which have consumed the white-grown Australian sugar have practically borne the whole burden of the charge.

Mr. V. L. SOLOMON.—Have they not been credited as the States in which the sugar has been consumed?

Sir GEORGE TURNER.—I shall deal with that point presently. The amount of the rebate has to be paid immediately

the cane is delivered at the mill, and the £2 per ton rebate, as it is called, is then paid. I am perfectly sure that had honorable members known at the time the Act was passed of the effects that would follow from the mode proposed for the payment of the rebate, they would never have agreed to it, because it is quite certain that as a white Australia was designed for the benefit of the Commonwealth, whatever sacrifices have to be made must be shared by the whole of the people. I confess that the returns which have come in with regard to the consumption of sugar have astonished me, and have, after full consideration, led me to the conclusion that it would be very unfair and unjust to take any other course than to distribute, according to our population, the burden of the sugar rebates for the past year, as well as for the years over which the rebate provisions extend. There has been some misconception in Queensland and New South Wales as to the effect of carrying out our original proposal. It was thought that the whole of the rebate would be charged to the State in which it was paid. That is that New South Wales or Queensland, which produced white sugar, and sent it away to Western Australia or Tasmania, would be charged the whole of the rebate. That was never intended, because it would be monstrously unfair. The mode we intended to adopt was to use the Inter-State adjustments and credit to each particular State the amount of duty collected on the sugar consumed in that State. That would resolve itself into crediting £1 per ton upon white-grown sugar, and £3 per ton upon black-grown sugar, and, therefore, Queensland and New South Wales would not have been called to pay upon anything more than for the quantity of white-grown sugar actually consumed in those States. That was the utmost extent to which we intended to go, but, as experience has shown, that system would operate very unfairly indeed. I have circulated for the information of honorable members certain tables, which I will explain, in order to facilitate an understanding of what is indeed a very difficult and complicated subject. It is really extraordinary how some of the sugar gets mixed up. Some is exported to other States direct, and some of the Queensland sugar is imported into New South Wales and becomes mixed with the black-grown and white-grown sugar produced in that State,

Sir George Turner.

and is ultimately re-exported to some of the other States. The figures I have adopted in the returns referred to are not absolutely correct, because I cannot arrive at the exact amounts until after the 30th June. I am satisfied, however, that they are approximately correct—sufficiently so to enable honorable members to judge of the effect of the two alternative courses we have to consider, and between which we have to choose. New South Wales produced 21,000 tons of sugar, of which 18,000 tons was grown by means of white labour, and 3,000 tons by the employment of black labour; or in the proportion of .85 white and .15 black. I am following the figures given in the return, although later information leads me to believe that there will probably be a little over 19,000 tons of white-grown sugar, and a little less than 2,000 tons of black-grown sugar. It will be seen from these figures that in New South Wales practically the whole of the sugar produced is white grown, whereas quite the reverse is the case in Queensland at present—although we all hope that the quantity of white-grown sugar in that State will largely increase. So far as the past year was concerned the white-grown sugar in Queensland amounted to 12,000 tons, and the black-grown sugar to 66,000 tons, or a total of 78,000 tons; in the proportion of .15 white and .85 black.

Mr. CONROY.—Are there any later figures in regard to Queensland?

Sir GEORGE TURNER.—No; the figures given in the return are practically correct. Taking the two States together, 12,000 tons of white-grown sugar in Queensland, and 18,000 tons similarly produced in New South Wales give us a total of 30,000 tons of white-grown sugar. Queensland produces 66,000 tons of black-grown sugar, and New South Wales 3,000 tons, making a total of 69,000 tons of black-grown product, or a gross total of 99,000 tons as the year's production. I now desire to give honorable members a few figures which are not in the printed document. I wish to show them what has become of the Queensland production. Queensland yields 78,000 tons altogether. Of that quantity 6,000 tons is refined in Queensland and goes into New South Wales for consumption there direct; 41,000 tons of unrefined sugar is sent to New South Wales, and is there mixed with the white and black-grown sugar of that State during the process of refining; 8,000 tons of unrefined sugar

is sent to Victoria. Of course, honorable members will understand that when the refining takes place no distinction is or can be made between the white and the black-grown sugar, as both classes of product are refined together, and, therefore, if we charge the States upon a consumption basis we shall have to ascertain as nearly as we can what proportion of white-grown and black-grown sugar is used. We know the proportions of white to black-grown sugar in Queensland, and also the proportions of the two classes of product in New South Wales. We know, further, that certain quantities go direct from Queensland to New South Wales, and that a large quantity is sent there unrefined, and is mixed with New South Wales sugar. The result of this is shown in the next table. The quantity of Australian sugar dealt with in New South Wales—not necessarily consumed—is made up as follows:—The New South Wales production is 18,000 tons of white-grown and 3,000 tons of black, or a total of 21,000 tons. The quantity sent direct to New South Wales from Queensland is 950 tons of white and 5,050 tons of black-grown sugar, making a total of 6,000 tons. The proportion in the latter case is arrived at, in view of the knowledge that the white-grown sugar of Queensland bears the proportion of .15 per cent. to .85 per cent. grown by black labour. That is how we arrive at the proportion of the white-grown sugar that goes direct to New South Wales. Then we have 6,250 tons of white-grown sugar, and 34,750 tons of black-grown sugar, or a total of 41,000 tons sent from Queensland unrefined to New South Wales. The home-produced sugar in New South Wales and the Queensland unrefined sugar, mixed together, give us the proportion of .39 of white-grown sugar, as against .61 black-grown sugar, or practically two-fifths as against three-fifths, and we may base our calculations with regard to it upon these figures. Honorable members will see that these figures give about the fair proportion of the white-grown as against the black-grown sugar in Queensland and New South Wales taken together. In Queensland the white-grown sugar represents .15 per cent., and in New South Wales .85 per cent., so that when the New South Wales and Queensland sugars are mixed we arrive at the proportion which we have to deal with so far as sugar refined in New

South Wales is concerned—whether it is used there or sent to other States. The sugar which goes direct from Queensland to New South Wales bears the same proportion in regard to white and black-grown sugar as that which is sent to the latter State in an unrefined condition. By adding together the figures which I have mentioned we arrive at a total of 68,000 tons. Of that quantity 8,000 tons appear to be sent to other States, the proportions being—Western Australia, 1,200 tons white-grown and 1,800 tons black-grown, or a total of 3,000 tons; Tasmania, 1,800 tons white-grown and 2,700 tons black-grown, or a total of 4,500; and South Australia, 500 tons. As the figures for the last-named State are so small, I have not attempted to divide the quantity into its proper proportions of white and black-grown sugar. Therefore, that leaves New South Wales with 60,000 tons of sugar for her own consumption, of which 22,200 tons is white-grown and 37,800 tons is black-grown. I have endeavoured to show the proportions in which the black and white-grown sugar would be consumed by the various States. I do not say this would all be consumed during the present financial year, because there would be a certain quantity—about 7,500 tons—which would have to be carried forward to next year; but as the rebate has to be paid as soon as the sugar-cane is delivered at the mill, it is only fair that, in calculating the proportion of rebate, we should take the whole quantity produced for the season, whether it be consumed this year or in the earlier part of next year. I have shown honorable members the proportions of the 60,000 tons consumed in New South Wales. Victoria imports practically the whole of her Australian sugar from Queensland in the proportion of 1,250 tons of white-grown and 6,750 tons of black-grown. Queensland uses 23,000 tons herself, and sends to South Australia 500 tons. Western Australia receives 3,000 tons from New South Wales, and Tasmania receives 4,500 tons also from New South Wales. Therefore, we find that out of the 99,000 tons of sugar produced in Australia, about 30,000 tons may be taken to be white-grown, and 69,000 as black-grown, distributed in the proportions shown in the figures I have laid before honorable members. The approximate amount of the rebate paid is £60,000. This sum may be increased by £500 when

we have the complete figures. £36,000 is paid to the growers of New South Wales in respect to 18,000 tons, and £24,000 to the growers of Queensland in respect to 12,000 tons. The money has actually been paid in those States, but would be distributed if we were to adopt the consumption basis in a certain manner which I have pointed out, and in a somewhat different manner if we were to choose the population basis. I now propose to show the effect of the two distributions, so that we can judge from a financial stand-point, leaving out the Australian point of view, what will be the result in each particular State.

Mr. EWING.—Has the Treasurer fairly set down the quantity which each State actually consumes?

Sir GEORGE TURNER.—I shall supply the information later on. The figures I have given show the rateable consumption of the total quantity produced this year, and I propose later on to show the actual amount consumed in each State. If honorable members will look at the next table they will see figures set out showing the amount that will be charged to each State on a consumption basis, and also upon a population basis. I do not wish to weary honorable members by giving details. If we adopt the basis which we regard as fairest to the States, namely, that of a population basis, New South Wales would get £22,758 more than on a consumption basis, and Tasmania would gain £894. These two amounts, totalling £23,652, would be made up by contributions of £16,286 from Victoria, £862 from Queensland, £5,658 from South Australia, and £846 from Western Australia. But whether the burden be distributed upon the basis of consumption or of population, I think that at the end of the financial year, speaking roundly, the amount, so far as Tasmania, Queensland, and Western Australia are concerned, would be just about the same, and that South Australia and Victoria would each apparently lose considerable sums, which would go to New South Wales. I say "apparently" lose, because we cannot declare that these sums really represent a loss. It has been the good fortune of these two States to receive a very large amount of revenue from imported sugar—an amount far more than I anticipated, and much in excess of that which will probably be derived from the same source in ordinary years. A considerable sum has been paid by way of

excise in Queensland and New South Wales during the past year. Queensland sends her sugar supplies principally to New South Wales and Victoria, whilst New South Wales exports pretty largely to Tasmania and Western Australia. I have already informed honorable members of the proportion in which the mixed sugars would work out. Possibly some of the representatives of South Australia or Victoria, or even the Governments of those States, may think it is hard that they should be called upon to repay this money. It may be so for this particular year, but it is only an act of simple justice to the other States that the burden imposed upon the Commonwealth by the adoption of the policy of a white Australia shall be equitably distributed amongst the different States. It is only fair and logical that the expenditure incurred in this connexion should be based upon the population of the States rather than upon their consumption of sugar, which may vary from year to year. These two States have received very large revenues from imported sugar—very much more than could possibly have been estimated at the beginning of the year. At the same time we must not forget that the distribution of foreign-grown sugar is entirely in the hands of the importers, and practically under the control of one company. It is just possible that this year it may have suited that company to send its imported sugar to Victoria and South Australia, whilst next year its purpose may be served by sending it to New South Wales, Western Australia, or Tasmania. If we are to deal with the question upon a consumption basis, honorable members will see that the more foreign sugar is imported into any particular State, the less will be the quantity of excise sugar used, and the less the rebate paid.

Mr. GLYNN. — Practically all the sugar previously consumed in South Australia was imported.

Sir GEORGE TURNER. — South Australia appears to import direct. It may suit the company to which I have referred to send a certain portion of its imported sugar to South Australia. But that is looking at this question simply from a provincial stand-point, and I ask honorable members not to regard it in that light. We ought rather to remember that, when we declared in favour of a white Australia, we distinctly affirmed that the adoption of that policy must not be at the

of any particular State or States. Australia has no cause to grumble so the receipts are concerned, because duty formerly imposed upon sugar in State was only £3 per ton. In Queensland it will be seen that it makes very little difference this year in which way the amount of rebate is distributed, but as the production of sugar by white labour increases so the total rebate, which has to be borne by the cane cultivators, will increase. The difficulty in the way of distributing the payment upon a consumption basis is in Victoria, by importing direct from Queensland, gets only 15 of white-grown sugar, and consequently will pay on that quantity only, whereas Tasmania and Western Australia, which obtain 40, will pay on that quantity. As between these States, it can hardly be said to be a fair advantage. But if we look forward to the year 1906-7, we shall be forced to the conclusion that those who have sugar will not wait back till after 1st January, 1907, in order to avoid paying excise, whilst in the meantime the rebate will probably have been reduced to much more than it represents at present. It would be manifestly unfair to expect the two States which grow the cane to pay the rebate and to obtain nothing for whatever. But that is what would happen if we did not adopt a different method from that which now obtains.

Mr. CAMERON.—They are getting the benefit of it.

Mr. GEORGE TURNER.—It is true that the growers get the benefit of the money added there, if honorable members would regard this question purely from a grower's point of view. But I think that the House will decline to adopt that course, seeing that for the benefit of the cane of the Commonwealth we have decided in favour of a white Australia.

Mr. E. E. EWING.—The cane growers have to substitute white labour for black labour if they obtain any rebate.

Mr. GEORGE TURNER.—In my open remarks I pointed out that this rebate was given to the growers to enable them to bear the burden imposed on them by the payment of white instead of black labour.

Mr. GLYNN.—In New South Wales sugar was previously produced by white labour.

Mr. GEORGE TURNER.—That is so, but New South Wales will derive a benefit from that. But we have no means of

discriminating between New South Wales and Queensland, or any other State. In the course of a few years I trust that Victoria will be producing beet sugar, and I am perfectly certain that the people of this State would consider themselves very harshly treated if they were then called upon to pay the whole of the rebate of £2 per ton upon their production, because the beet was grown by white instead of coloured labour. What applies to New South Wales at the present time, may possibly apply to the other States later on.

Mr. GLYNN.—South Australia is sacrificing about £100,000 a year for the purpose of carrying out the policy, and for that she receives no return.

Sir GEORGE TURNER.—South Australia is not giving up much at the present time. Eventually, of course, all the States will have to make a sacrifice.

Mr. GLYNN.—It represents about £700,000 a year upon the basis of the figures produced.

Sir GEORGE TURNER.—That is on the assumption that Australia produces all the sugar required for its own use. If honorable members will look at the last table, they will see one startling effect which the present year has disclosed. In New South Wales 11,000 tons of sugar were imported, from which a revenue of £66,000 was derived; in Victoria 47,000 tons were imported upon which £282,000 was collected. In Queensland the imports of sugar totalled 1,000 tons, the revenue from which was £6,000; in South Australia 16,000 tons were imported, the receipts from this source aggregating £96,000. Western Australia imported 7,000 tons, upon which she collected £42,000; whilst Tasmania imported 3,500 tons, representing a revenue of £21,000. Honorable members will, therefore, see that Victoria and South Australia—the two States which, under this proposal, will have to contribute a certain sum to assist in carrying out the white Australia policy—have received very large sums of revenue from imported sugar. Turning to the next column, honorable members will find that New South Wales consumed 56,000 tons of sugar, upon which an excise duty at the full rate of £3 per ton was charged, thereby collecting £168,000, whereas Victoria consumed only 8,000 tons, has derived a revenue of £24,000. South Australia practically is not affected, and the two other States of Western Australia and Tasmania received fair

amounts both from excise and import duties. These figures show the varying proportions in which the various States consume Australian sugar and imported sugar. It is clear, therefore, that it would be unreasonable to make a distribution in the manner which was originally proposed. The time has now arrived when, in the light of the experience of the past twelve months, we ought to consider whether we did not make a mistake—as I believe we did—and whether we should not remedy that mistake by providing that the distribution from a national point of view shall be upon a population basis. Judged by the way in which the revenue is now coming in, the hope which has been expressed that eventually we may be able to abolish the excise duty upon sugar may yet be realized. The excise was imposed for the purpose of assisting the white Australia movement, and because some of the States could not afford to forego the duty. If we could possibly have avoided it, we should not have imposed an excise duty upon sugar any more than upon Australian wine. Had it not been for the financial difficulties of the States, Parliament would have been very glad to enact that no excise should be charged in regard to Australian sugar.

Mr. GLYNN.—We are surrendering about £800,000 a year in revenue.

Sir GEORGE TURNER.—My honorable and learned friend desires to open up a discussion in regard to the wisdom of the adoption of the policy of a white Australia—a question which has been already decided. That matter has been settled by this House, according to the mandate received from the people, and no good purpose will be served by re-opening it. If any loss is occasioned to the Commonwealth by the adoption of that policy, the States have to make it good.

Mr. GLYNN.—I voted for the proposal, but we are paying too much for it.

Mr. SPEAKER.—Order; the discussion of that question is not in order.

Sir GEORGE TURNER.—The revenue derived from Australian sugar this year will be about £274,000, whilst that from imported sugar represents £513,000, making a total of £787,000, which is a very large sum to obtain from that article.

Mr. G. B. EDWARDS.—Was there no beet sugar imported?

Sir GEORGE TURNER.—I do not think so. If any beet sugar was imported,

it represents only a small quantity, which would not appreciably affect the question of distribution. Whilst temporarily undertaking the duties of Minister for Trades and Customs, my attention was called to the question of whether beet sugar was not being imported in lieu of cane sugar, but subsequent investigation proved that there was no foundation for the surmise. The Commonwealth consumes about 177,000 tons of sugar during the year. The consumption of the locally-grown article and that of imported sugar is almost equal, the former last year representing 95,100 tons, and the latter 82,000 tons. I hope that the day is not far distant when the Commonwealth will consume only Australian grown sugar. We shall probably lose a certain amount of revenue in consequence thereof, but we are all hopeful that the progression which will take place as we believe during the next few years will give us additional revenue from other articles, and so enable us to give up the excise on sugar at the end of the period named. I have endeavoured in my speech to place before honorable members as clearly as I can the figures relating to this matter, and I have also circulated them so that they may have an opportunity before the debate on the second reading of the Bill is resumed to dissect them and give the House the value of their criticisms. I have put forward all the information at my command, so that honorable members may have as full a knowledge as I possess in relation to these figures.

Mr. EWING.—Can the right honorable gentleman say what will happen if the sugar held over is the Australian and not the imported article.

Sir GEORGE TURNER.—I cannot do that exactly. When I spoke of the 7,500 tons, I was dealing only with Australian sugar. That was one of the most difficult elements in the calculation that I had to make, because I found at the beginning of the year that a certain quantity of mixed sugar, both the imported and the Australian article, was held in stock. No doubt, a certain quantity—perhaps a little more or a little less than last year—will remain in stock at the end of the present year. I have ascertained that the production of Australian sugar for the year amounted to 99,000 tons.

Mr. CONROY.—Why has the production been so low this year; it is a good deal below the average?

GEORGE TURNER.—Yes. I believe that last year, or the year before, some 100 tons of sugar were produced; but, as it is possible at this period to obtain a nation, this year's crop will not be very much from last season's returns. Of course, there may be an improvement, with a really good year we might produce 125,000 or 150,000 tons. In that case, as I have already pointed out, the burden upon the producing States would be no more oppressive than before, if we demanded they should continue to bear it, as is the present. That is one condition which has led strongly to the conclusion that, if we do not do justice all round and make Australia pay for Australia's wish, we shall not be able to distribute the burden upon a population rather than a consumption basis.

MR. FISHER.—That argument rests on the assumption that white labour will be employed to cultivate sugar in Queensland and New South Wales.

GEORGE TURNER.—Yes. We must remember that the extent of white labour employed in the cultivation of sugar will increase; and that it will do so is shown by the number of applications we have received for permission to participate in the cultivation granted in respect of white grown sugar. The extent of acreage under sugar cultivation this year is, I believe, about 25 per cent. greater than it was last year. I trust that as time goes on, and as the workers gain in experience, their numbers will largely increase, and that at the end of the period named, Queensland and New South Wales will be able to produce sufficient sugar to meet the requirements of the Commonwealth, even if they are unable to produce sufficient to allow an inter-State trade to be opened up.

MR. FISHER.—By white labour?

GEORGE TURNER.—Certainly. It is our desire that it shall be produced by the labour that induces us to ask the people of Victoria and South Australia to contribute, at all events for the present, and give up revenue to which they are otherwise entitled. But while a demand is made upon them we have to remember that they also may have to make an appeal to the patriotism of the other colonies a year or two hence. The variations in trade may be such that imported sugar may be consumed largely in those States which now use the local article, while the sugar

on which excise is paid may be used more largely in States which now consume the imported article.

MR. THOMSON.—The Queensland sugar-growers will seek the nearest market until the production becomes so great as to compel them to go into distant ones.

SIR GEORGE TURNER.—It might suit New South Wales to send the Australian-grown sugar in much larger quantities than at present to the other States, and to consume a good deal more of the imported sugar. If we insist upon the continuance of the present practice, and if it is found that the people of that State have to pay a much higher rate than we are called upon to pay, that event may occur. There is a large firm operating there, and it may consider such a course desirable. We cannot say what changes may arise, and it is quite possible that the States which are now reaping the benefit of the revenue obtained from imported sugar will not obtain so much from it a few years hence. It is not my wish, however, that honorable members should consider this subject solely from that point of view. I have placed the matter before them so that they may clearly see how the proposal will affect the individual States. We must not deal with this question from any provincial point of view; but we should remember that as the policy of a white Australia was adopted for the benefit of the whole Continent, the whole Continent should contribute rateably towards the cost of carrying out that policy.

Debate (on motion by Mr. THOMSON) adjourned.

SUGAR REBATE ABOLITION BILL.

SECOND READING.

SIR GEORGE TURNER (Balaclava—Treasurer).—I move—

That the Bill be now read a second time.

I need not weary honorable members by dealing at length with the provisions of this measure. It follows as a necessary corollary of the Bill the principles of which I have just explained. It simply takes away the provisions for rebate in the Excise Act, so that if we pass it we shall have no power to grant it. If the Sugar Bonus Bill be passed into law, however, we shall be able to grant bonuses.

Debate (on motion by Mr. CONROY) adjourned.

JUDICIARY BILL.

SECOND READING.

Debate resumed from 10th June (*vide* page 746), on motion by Mr. DEAKIN—

That the Bill be now read a second time.

Mr. CONROY (Werriwa).—The first question which the House has to consider in dealing with this matter is whether any measure of this or any other kind is necessary for the establishment of a High Court. To that I think but one answer can be returned. Throughout all Australia a proposal for the establishment of a court of some kind or other is expected, and the question before us is whether the Bill under consideration is the one that should have been brought forward. I assert that it is not the Bill that Australia requires. What was demanded by the people of Australia was a very short measure, consisting at most of four or five clauses, giving power for all actions or claims against the Commonwealth to be decided in the Courts which at present exist throughout Australia, and, at the same time, giving the power to grant mandamuses and prohibitions to the various Courts exercising the other jurisdiction. It is clear that, under our Constitution, we have power to confer Federal jurisdiction upon the various States Courts, and in that respect it differs greatly from that of the United States of America. The honorable and learned member for Indi referred last night to the analogy of the American Constitution, and said that the word "shall," which appeared in that Constitution, was considered mandatory. In support of that assertion he read the opinion given by Mr. Justice Story, but he failed to mention that the very same Judge pointed out that, so far as the Congress of America was concerned, the provision in the Constitution for a Federal Supreme Court was mandatory upon it, inasmuch as it had no power whatever to vest any of the States Courts with original jurisdiction. The difference between the United States Constitution and our own in that respect is so marked that honorable members with a legal turn of mind will readily understand it. Under our Constitution, we are able to confer on any courts which we choose to select, both original and appellate jurisdiction. So great is the difference between our Constitution and that of the United States, that what was obligatory in the

case of the United States is not obligatory upon us. Even if it had been obligatory upon us to create a High Court, we should clearly have had the power to create a court at very much less expense than the one proposed in this Bill will involve. It would have been open to us to select the various Judges of the States Courts, and, merely as the result of being invested with Federal jurisdiction, they would have had to resolve themselves into a body to determine questions of law coming before them. The Attorney-General admitted that we could invest the States Courts with Federal jurisdiction, but he said a serious objection to the adoption of that course was that we might obtain decisions from a State Court of weak Judges. But can it be contended that all the Judges of the Bench which he proposes to create will be of the same mental strength: that their minds will be cast in exactly the same mould, and that consequently every case that comes before them will be decided in the same way? If that is the Attorney-General's view he makes a very erroneous estimate of human nature, and one that he cannot expect to realize. Even if we might obtain under such a system a decision from a weak State Court, the same result might be expected from one or other of the Judges who are likely to be appointed under this Bill. We have the right of appeal to the Privy Council from any of the States Courts, and that is a fact which should be borne in mind. I was also surprised to hear the honorable and learned member for Indi speak of the Privy Council, not as it exists to-day, but as it existed over twenty years ago. He totally ignored the fact that nearly twenty years ago four professional Justices were appointed to that tribunal, and that the great bulk of the cases which come before it are now decided by them. Therefore, instead of having a body of men not conversant with all the questions that come before them for determination, we have at least four members of the Privy Council who sit for the express purpose of hearing and determining the various appeals which arise. Therefore, the value of the decisions given by them cannot be over-estimated. From my point of view, however, it is not necessary for us to dwell upon that fact, because only 223 cases have been carried to the Privy Council during the last twenty years, an average of 11 cases

Are we, therefore, to form a which in all probability will have to with only eleven cases a year? But may not be able to prevent at least the number of appeals that arise going direct to the Privy Council, not even attempted to do so in the The Attorney-General has not attended it, because he clearly recognises he has not the power. However desirable might be to have that power, we deal with the matter as we can in the position in which we are placed, and must remember that we cannot override the provisions of the Constitution by trying to pre-appeals to the Privy Council. Both the Attorney-General and the honorable member for Indi spoke strongly of the necessity for appointing Federal Judges who would be likely, not to interfere with the Constitution, but to strain its provisions according to the preconceived notions of the Ministry as to what they should be. If the statements of those honorable and learned gentlemen amounted to anything, they amounted to this, that we should appoint a Federal Judiciary to alter the Constitution. Is the Attorney-General in that contention? Does he see the value of his position? On his showing we are to have a Judiciary which will set above the law, and, instead of performing the proper functions of such a body construing the Constitution, will take it upon itself to alter its provisions. That is a very bad idea to set before honorable members. I have never believed that Judges should make the laws, and since I have been a member of Parliament I am still more firmly of that opinion. It is the duty of the Government to legislate for the people, after due consideration of all the circumstances involved. If an amendment of the Constitution is required, the proper course to take is to amend it as provided in the instrument under which it is necessary that resolutions embodying the required alterations be passed by both Houses of Parliament, and then submitted to the vote of the people throughout the States for their approval. The Judges of the Federal Bench are to be men of political experience and presence, I presume that none of those who have served upon the Judicial Benches of the States will be eligible for appointment. Therefore we are to trust the interpretation of cases arising under the Constitution to an untrained Judiciary.

Mr. WILKS.—The honorable and learned member does not suggest that the appointments will be political?

Mr. CONROY.—I will allow that the appointments are to be made with the greatest care and attention; but a certain bias of mind is hoped for by the Attorney-General. What we want is a Judiciary which will hold the balance between the Federal Government on the one side and the States on the other. We want to have the Constitution interpreted exactly according to its meaning, not to have it altered according to the whim of its framers, or to satisfy any opinion as to the possibility of improving it. If the Government had proposed to provide only for an Appellate Court, their position would have been much stronger than it is now. But the Bill goes further than that, inasmuch as it does not invest the various States Courts with the Federal jurisdiction necessary to bring justice in Federal matters within the reach of all. If the States Courts are not invested with Federal jurisdiction, it will be necessary to appoint Federal Courts of similarly limited jurisdiction. Otherwise we shall be practically denying justice to the great bulk of the people. This is a matter to which I particularly call the attention of the democratic members of the House. One of the things which all true law reformers fight against is the present expense of litigation. They wish to bring justice as far as possible within the reach of all. But the Bill not only does not do that, but it prevents justice being done in hundreds of cases. We must not forget that the great bulk of the civil cases which are brought forward for legal settlement are tried in the magistrates' courts, because those courts provide the most economical method which has yet been devised for giving justice to the people. I should like to see the criminal and civil jurisdictions of these courts separated, and in referring to them I shall term them police courts in regard to their criminal jurisdiction, and magistrates' courts in regard to their jurisdiction in civil proceedings. The great bulk of the people go into the magistrates' courts because they cannot afford to take their cases elsewhere, and those who are animated by the desire to see justice properly administered would be strongly opposed to their abolition. But if Federal jurisdiction is not granted to them—limited, of course, in much the same way

as their State jurisdiction is limited—in an immense number of cases it will be impossible for people to obtain justice. Then above the magistrates' courts are the County or District Courts. Are we to allow them no jurisdiction in Federal matters? If we do not, we shall be taking an extraordinary course, because we shall either be denying justice to many, or will have to appoint a large body of Federal Judges to travel through the States to bring justice within easy reach of the people. The District Courts of the States, and the practice of the Supreme Courts in going on circuit, are part of a system for the cheapening of law to the people.

Mr. JOSEPH COOK.—But in proportion as we cheapen it to the litigant we increase the cost of administration.

Mr. CONROY.—I do not doubt that that is so. Sometimes objection is taken to the number of Judges, and to the cost of appointing any additional Judge. But it must be remembered that if the number of Judges is not sufficient for the work to be done, litigants are put to a great deal of expense, and the ends of justice are often defeated. Where the Judges are too few, it sometimes happens that witnesses are kept in waiting for a week, and even for two or three weeks, at immense expense to the parties to the suit. Such a state of things justifies an increase in the cost of administration. If we do not grant jurisdiction to the District Courts and to the Supreme Courts, we must appoint more than five Judges to the Federal Bench. How could five men do the judicial work for all Australia, when it takes seven men to get through the judicial work arising in the higher courts of New South Wales? If the Bill is passed as it stands, within a year the Ministry will have to bring in another measure to provide for the appointment of another five Judges, and we shall be bound to agree to it. No other course would be open to us, since it would be absolutely necessary, in order to give justice to the people, to make the sittings of the Court more frequent, and to enable its Judges to visit more places than five Judges could visit. But the Government do not propose to give Federal jurisdiction in civil proceedings to the States Courts. The Government allow the States Courts to have Federal jurisdiction in criminal matters in which the liberties of the people are affected, but they refuse to grant them jurisdiction in civil cases. I

understand the difficulty of their position. They say—"If we gave the States Courts Federal jurisdiction in civil matters there would be appeals from them to the Privy Council, and we want, so far as we can, to stop the practice of appealing to the Privy Council." But the proper way to do that is to obtain an amendment of the Constitution. I have not the slightest doubt that if the people voted for such an amendment it would not be difficult to obtain the consent of the Imperial Parliament. We should not attempt to bring about that result by a side wind, but we should be straightforward and clear, and let every one know exactly what our object is. If we confer only appellate jurisdiction upon the High Court, and give various other courts original jurisdiction, as I submit we must, the Appellate Court may be passed by. Judging from the example of America, there would not be more than two appeals upon constitutional questions every year. It may be that honorable members think we ought to create the court even to deal with these questions, but if so, let it be a Bench of three Judges only. If, on the other hand, the High Court is to have original jurisdiction, and is to have exclusive power of dealing with all claims against the Commonwealth, the most serious delays will take place, and the people will be deprived of reasonable opportunities of obtaining justice. Trifling claims brought against the Postmaster-General or some other representative of the Commonwealth, involving £2 or £3 for wages, may have to be decided in the High Court. The result of this will be that as the High Court cannot sit in any given place more than probably once in twelve months, persons having perfectly good claims against the Commonwealth may have to wait for six months or more before they can obtain the hearing of their suit. Of course, it will be argued that provision will be made for that, and that the necessities of the case will be met by the Claims Against the Commonwealth Act. But I submit that if the Bill is passed as it stands the States Courts vested with Federal jurisdiction will refuse to exercise their powers. The Bill confers certain rights of removal from States Courts to the Federal High Court, and the former tribunals will naturally be indisposed to deal with cases which may be removed from their control, perhaps just when they are about to give a decision.

are told that the expense of maintaining the High Court will not exceed from £000 to £30,000 a year. If it were not for me that the establishment of the Court was necessary, I should not hesitate to expend that sum, or even twice that amount, because I realize that we must not neglect the cost of administering justice. I do not, however, place any reliance upon the estimate of the Attorney-General. We do not have five Judges, whose salaries, together with those of their associates, will amount to a total of about £18,000 per annum. Besides this we shall have to provide the ordinary paraphernalia of courts, which cannot be altogether dispensed with. I could ask how this estimate can be justified, but it is considered that the salaries of five Judges of the Supreme Court of New South Wales total £19,000 per annum, and £60,000 in addition is required to meet other expenses connected with the maintenance of the court.

Mr. PAGE.—The Attorney-General told me that the States officials would be used for the High Court.

Mr. CONROY.—Yes, no doubt; but we can only be relied upon to a certain extent. No provision has been made for juries or for the interest on the cost of proceedings in which the courts are to sit; and it is manifestly absurd to suppose that all the incidental expenses other than those incurred in paying the Judges and their associates will be met by the Attorney-General's estimate. The Judges of the High Court will have to do infinitely more travelling than any Judges connected with the States Supreme Courts, and, further, they will be subject to all the disadvantages arising from having no settled courts, such as exist in the States. How can it, therefore, be assumed that the expenses will be kept down to such a low level as is represented by the Attorney-General's estimate? Does the honorable learned member mean to assert that if here the Attorney-General of New South Wales comes to-morrow, he could reduce the expenses of the Supreme Court by something like £45,000 per annum? I venture to say he would not attempt anything of the kind.

Not one farthing has been allowed for the expenses connected with juries, and it is to be supposed that the Judges are to carry on their work unless they have a library provided for them? I do not believe that five Judges will be anything more than enough to bring justice within reach of the

people, and if the Bill is read a second time, I shall certainly—unless the Court is made merely appellate—propose the appointment of five additional Judges in order to increase the strength of the Bench, and allow of a much more satisfactory itinerary than can be supplied by a Bench such as is proposed.

Mr. PAGE.—Will the honorable and learned member favour the elevation of laymen to the Bench?

Mr. CONROY.—If the honorable member could show me that laymen would administer justice in such a way that litigants would not be involved in still greater expense than at present, I should willingly support the appointment of laymen to the Bench. Sensible laymen, however, know that owing to their being unacquainted with the law, they might not be able to administer justice with much success, and therefore they refuse to rush in where angels fear to tread.

Mr. PAGE.—Common sense is not always law.

Mr. CONROY.—The law ought to be common sense, and it is only when there is a departure from common sense on the part of the Legislature that the law fails to reflect that quality. The laws cannot be any better than the sense of those who frame them. In support of my remarks with reference to the unreliability of the estimate of cost furnished by the Attorney-General, I need only point out that there are 590 clauses in the High Court Procedure Bill. This should give honorable members some idea of the complicated machinery which will be brought into existence when the Bill now before us and the measure to which I have just referred are passed. If we confer original jurisdiction upon the High Court, we must take care to appoint a sufficient number of Judges to go through the country and deal without undue delay with all matters which require to be brought before them. If we make it a purely appellate court we are met with the consideration that as appeals can be taken direct from the States Supreme Courts to the Privy Council, there may be little or nothing for the High Court to do. If we confer original jurisdiction upon it the five Judges will not be sufficiently numerous, and the expenses will probably reach £80,000 or £100,000 per annum. Even in New South Wales the expense incurred in providing the paraphernalia of the Supreme Court is very great.

Mr. DEAKIN.—We intend to have a court without paraphernalia.

Mr. CONROY.—The Ministry are perfectly aware that if all the offices which will have to be constituted under this Bill were enumerated the people of Australia would stand aghast. They would be heard crying out—"We want something which will bring justice within the reach of all in the most inexpensive manner possible." If army after army of lawyers is to be fastened upon the community, where shall we end? I could not help being impressed by the speech of the honorable member for West Sydney, who, despite the great disadvantages under which he labours, has for several years past studied the great principles of law in order to better qualify him for the work of legislation. Yet in spite of his natural predilection as a lawyer he appealed to all those possessed of democratic tendencies to vote against this Bill. The responsibility, therefore, which rests upon those honorable members who pride themselves upon representing only a class—

Mr. PAGE.—Who pride themselves upon what?

Mr. CONROY.—I repeat that the responsibility resting upon the representatives of a great class of the people is a very serious one. I shall be very much staggered indeed if, in the face of the opinions expressed by the honorable member for West Sydney, his serious judgment upon this matter is set aside by members of the party with which he is associated. I would further point out that apart from the members of the Ministry, more than three-fourths of the lawyers in this House have spoken against the measure as an entirely unnecessary one. I submit that the expense contemplated under it is altogether concealed from the people.

Mr. PAGE.—What causes all the lawyers to be against it?

Mr. CONROY.—For once we are alive to the necessities of the people, and we regret that some honorable members who fought with us against the Bonus Bill are entirely opposed to us upon a question of this sort.

Mr. TUDOR.—Is this a Bonus Bill?

Mr. CONROY.—It is a Bonus Bill for lawyers. If the measure passes, the honorable member has described it in exact terms. It is against that bonus that I protest. It is not my intention to labour this matter further. I merely ask honorable

members to recognise that if we agree to the second reading of the Bill it will practically be beyond our power to remodel it. I have no hesitation in declaring that if two or three short clauses had been inserted in the Claims Against the Commonwealth Act when that measure was before Parliament last session, all that is required in the way of providing a proper tribunal, to which the humblest citizen could appeal, would have been accomplished. Holding these views, I must necessarily vote against the second reading of the measure, and in Committee I shall endeavour to have it shorn of its most objectionable provisions.

Sir EDMUND BARTON (Hunter—Minister for External Affairs).—Had it been possible for us to go to a division last night, so anxious am I to see the business of the session proceed that I should have foregone my right of speech upon this question. But as I hope we shall come to a division to-day, seeing that the opportunity of yesterday was lost, I feel that I am called upon to say something regarding this Bill, but not to deal with mere details. I hope to establish what I have to say on this question upon the old and well-sanctioned principle that the second reading of a Bill depends upon the principles contained in it, and that the details may be left to the Committee stage. What, therefore, to my mind is vital to this Bill, and to my support of its clauses, I shall leave to the Committee stage. Whilst my remarks may not be very brief, I shall, by adopting this method, be enabled to curtail them somewhat. I hope to establish four propositions which I mean to set up. One of these is that a High Court, not only to interpret but to guard the Constitution, is a necessary element in any Federal Constitution. The next is that our Constitution contains a mandate for the erection of a High Court as soon as parliamentary exigencies allow. My third proposition is that this mandate will not be fulfilled by any of the suggestions put forward; and my fourth, that, apart from the constitutional aspect, the court is now and will become more and more a practical necessity. As to the first proposition, I hold that the position in a Federal State is altogether different from that in a unitary State, or in a State not of the Federal character. The great principles of the Federal form of government are two in number. The first is the supremacy of

the Constitution—a principle which may exist elsewhere, but which in Constitutions more upon the British form depends upon the enactments or declarations of a sovereign Legislature, whilst in written Constitutions, especially of a Federal character, it is necessary that every piece of legislation should be within the limits which the people have set for themselves in the Constitution which they have adopted. The supremacy of the Constitution is, then, the first matter. The next is that the Constitution shall distribute between bodies with limited and co-ordinate authority, such as the Federal and States Governments, the whole of the powers of government. How are these principles to be maintained? They can be maintained in only one way—that adopted by the Americans in framing their Constitution. They can be maintained only by the establishment of a court which derives its authority from the Constitution itself, which can prevent action by any of the constituent bodies of the Federal system involving a breach of the Constitution, or trenching upon the powers accorded by that Constitution. That is to say, that the first function of a High Court, such as it is proposed to establish under this Bill, is to maintain intact the principles which underlie the Federal system. This is admitted by every federalist writer with whom I am acquainted, and is proved by the whole experience of the United States. But it is said that the case of America provides for us no analogy—that we have a Privy Council to which we can appeal to interpret and guard our Federal Constitution. It is true that we have a Privy Council to which we can go in certain cases; but that is an argument, I venture to say, which should not be used by any one who has regard for the self-governing powers of Australia. The Constitution was intended to extend those powers. In support of that proposition I will quote from the report of the proceedings of the Convention which sat at Adelaide—the first of a series of three Conventions which formulated the Constitution. The work which was done by that Convention then, so far as it relates to the Judicature, stands almost letter for letter with the Constitution of to-day, except in respect of section 74, which deals with the relations of the High Court to the Privy Council. What were the objects expressed in the Constitution which the Convention hoped to adopt?

At the request of that Convention on the 23rd March, 1897, I brought down certain resolutions, setting forth the grounds upon which it was considered desirable to create a Federal Government, and those resolutions were unanimously adopted. The first of the purposes declared in them was that in order to “enlarge the powers of self-government of the people of Australia,” a Federal Government should be created to “exercise authority throughout the federated colonies,” subject to certain principal conditions which were therein laid down. The resolutions provided that—

Subject to the carrying out of these and such other conditions as may be hereafter deemed necessary, this Convention approves of the framing of a Federal Constitution

for the establishment of three things—a Parliament, an Executive, and a Federal Supreme Court, which should also be “a High Court of Appeal for each colony in the Federation.” There was laid down the necessity which exists under any Federal Constitution for the three branches that one naturally associates with the very idea of a federation: an Executive, a Parliament, and a Judiciary—a Judiciary not confined to the ordinary work of an appeal court, but one which was described in the resolution as a “Federal Supreme Court,” which, in addition to discharging those functions which generally appertain to an appeal court, should also be the guardian and the arbiter of the Constitution. In order to strengthen the argument put forward by the honorable and learned member for Indi in the masterly speech which he delivered last night, let us see whether it was intended at the beginning to establish a High Court as an integral part of the Constitution rather than as an institution which might be blown up or down at the mere caprice of any Parliament. What was it that we were to establish under these resolutions? What was it that the Convention, consisting of representatives elected in equal numbers from each State without any plural voting, determined should be created? It was to be a Federal Constitution which “shall” establish a Parliament, an Executive, and a Supreme Federal Court. The Constitution was to establish the High Court, and, as pointed out so well by the honorable and learned member for Indi, that court was to be regarded, not only as an institution for the creation of which there was a mandate, but as an institution

which was, as far as possible, to be an element and a factor in the Constitution itself. It was not to be a thing to be created according to the whim of any party, or even according to the number of cases that might be expected to come before it. It was to be a part of a Constitution which, without it, would not be the Constitution intended. I contend, therefore, that the argument with regard to the Privy Council is not one to be used by an Australian who has regard for the enlargement of our self-governing powers, because it was declared, not only by the Convention, but subsequently by the whole of the people of this country, that a Constitution fulfilling and carrying out the principles embodied in these resolutions was the Constitution they desired. The Constitution was designed to extend these self-governing powers, and to possess this element, without which it would not have been complete. To that end the resolutions provided that there should be this Parliament, this Executive, and this Supreme Court. It is true that we can appeal to the Privy Council to interpret our Constitution. This Constitution, however, was intended to be, in its very essence, a complete grant of self-governing rights, and yet it is suggested that we should leave one of the most important branches of self-government to the Privy Council, which, however respectable—and I use that term with all respect—is still outside that instrument. I do not propose to say anything that would defame the Judges of any existing Court of Australia, or the men of great learning and eminence who constitute the Judicial Committee of the Privy Council. But what was it that was provided in the Constitution as framed by a Convention of elected representatives of the people—elected for that one work alone—and indorsed by the people themselves at the referendum? This was the original clause 74—

No appeal shall be permitted to the Queen in Council in any matter involving the interpretation of this Constitution, or of the Constitution of a State, unless the public interests of some part of Her Majesty's dominions, other than the Commonwealth or a State, are involved.

That is what the people desired.

Mr. KENNEDY.—But they did not secure it.

Sir EDMUND BARTON.—They did not obtain all that they wanted. The clause continued—

Except as provided in this section, this Constitution shall not impair any right which the Queen

may be pleased to exercise by virtue of Her Royal Prerogative to grant special leave of appeal from the High Court to Her Majesty in Council. But the Parliament may make laws limiting the matters in which such leave may be asked.

It is true, as the honorable member for Moira has said, that we did not obtain all that we desired. But it is in this respect alone that we did not. We may take it that practically the decision carried into statutory effect by the British Parliament gave all else that we demanded, and it was a great and magnificent indorsement of the demand made by the people of this country for their own Constitution. But if we did not obtain all that we asked, which is unfortunately true, that is surely the worst of all reasons to be urged as showing that we should not make the best use of that which we have? That is the position set up. It is argued that because the people of Australia demanded to be made the expositors of their own Constitution through their own Judges—subject only to cases in which public interests in other parts of the Empire were involved—and did not secure all that they asked, that, therefore, so much as is now granted should not be exercised. It is urged that because the Constitution has one of its members maimed to a certain extent, even that injured arm should not be exercised. What logical reason can there be for such a suggestion?

Mr. HENRY WILLIS.—Did not the delegation make an amendment?

Sir EDMUND BARTON.—The Imperial Parliament amended the Constitution. The delegation which went to England to expedite the passage of the Constitution through the Imperial Parliament consisted of five of the original members of this Government, and we took all that we could get.

Mr. HENRY WILLIS.—What about patching up the injured arm? Could not the people amend the Constitution if they so desired?

Sir EDMUND BARTON.—I shall come presently to the question of restoring that arm of the Constitution. The five members of the delegation happened to be members of this Government as originally formed, but one of them, unhappily, is now deceased. That delegation was sent to London to work, if possible, for the passing into law word by word, and letter by letter, of the Constitution which the people of this

try had claimed for themselves. The delegation comprised the Attorney-General, Minister for Trade and Customs, my honorable colleague, Sir Philip Fysh, the Sir James Dickson, and myself. We fought a hard battle, and I do not think any one who looks back upon our work can say that we failed to do all that we could to have the mandate of the people decided out.

Mr. McDONALD.—The late Sir James Dickson was not in favour of the Bill as it came home.

Sir EDMUND BARTON.—Although I was with us at first, he subsequently adopted a different view of the question. Five-fifths of the delegation, however, stood with us; and their mandate from the Conference of the Premiers who appointed them, was that they were to secure the adoption of that Constitution without amendment. I am not here to criticise my late colleague's view of his duty. I know that the remaining members of the delegation held a view different from that entertained by him, and that we did our best to enforce it. As a result, we secured the passage of the Bill practically as agreed to by the people, save that clause 7½ was amended so that instead of providing that—

"No appeal shall be permitted to the Queen in Council in any matter involving the interpretation of this Constitution, or of the Constitution of a State"

no limitation was made. Without following the wording too narrowly, that provision was limited practically to cases in which appeals were from decisions of the High Court, and the constitutional questions were described as those involving—

"the limits *inter se* of the constitutional powers of the Commonwealth and those of any State or States, or as to the limits *inter se* of the constitutional powers of any two or more States."

That included all the constitutional questions of interpretation which were likely to arise. As the result of long negotiations, and as I am frankly bound to admit to this House, only as the price that was to be paid to prevent more drastic amendments of the Constitution, the amendment which I have described was adopted and carried into effect by the British Parliament with the proviso that an appeal might be given from the High Court to the Privy Council on a question involving an interpretation of the Constitution if the High Court decided that that question was one that

ought to be determined by the King in Council. The High Court was only permitted so to certify if satisfied that for any special reason that certificate should be granted.

Mr. FOWLER.—The certificate of the High Court is still necessary.

Sir EDMUND BARTON.—Absolutely necessary. I take it that a court of that character, with the added authority which it will possess, not only because of its prestige but from its selection on Executive responsibility from the best legal talent of Australia, will be a body that will be able to decide definitely and with independence for itself whether a case ought to go to the Privy Council or not. No other body that I am aware of is in so good a position so far as that purpose is concerned.

Mr. MAUGER.—Then the High Court has the power to block any appeal?

Sir EDMUND BARTON.—It has power to refuse to permit an appeal from its decisions, unless, of course, it is satisfied in its conscience that that appeal should proceed to the Privy Council. But there was a further amendment made. Originally the clause provided that—

Except as provided in the Constitution, this Constitution shall not impair any right which the Queen may be pleased to exercise by virtue of Her Royal Prerogative to grant special leave of appeal from the High Court to Her Majesty in Council. But the Parliament may make laws limiting the matters in which leave may be asked.

That power to make laws limiting the matters in which such leave might be asked is retained, with the reservation that Bills containing any limitation of the cases in which special leave to appeal might be asked shall be submitted for the Royal Assent—reserved, as it is said, for His Majesty's pleasure. That practically was the only amendment of that portion of the clause. Thus the appeal as of grace as distinct from the appeal as of right is preserved in this section, as it was in the original clause, with a limitation which the original clause imposed, giving power to this Parliament to curtail cases in which special leave might be asked, to use the constitutional phrase, and with the further limitation that every such Bill that was passed must be reserved for the pleasure of the King.

Mr. HUGHES.—Until such time the appeal will remain as it stands now, except in constitutional disputes between State and State.

Sir EDMUND BARTON.—Unless there is a constitutional amendment at some future time, the appeals will be limited as they are in this section, with the further condition, which I have just added, that laws passed by this Parliament to limit the matters in which special leave to appeal may be asked, shall be reserved for the pleasure of the King. That is the difference between the original clause and the section as it now stands, between the clause which received the sanction of the Australian people in every State and the provision which, at peril of the more drastic amendment of the Bill, had to be accepted before the measure could pass the Parliament of the United Kingdom. I admit that in my judgment even that alteration should not have been made. In the relations which exist between us and the United Kingdom, happy and permanent as I hope they may be, it would have been better if we had had conceded to us all that we asked—the right to decide these cases for ourselves, and to say what our Constitution meant, however the matter arose, so long as we did not interfere with the public interests of other parts of the Empire. I was of the opinion, and so were my colleagues, that the phrase, “people of other parts of the Empire,” was sufficiently intelligible and definite. That, however, was not the opinion which prevailed at Westminster, and the result was that the further definition which exists in the Constitution was imposed. We reluctantly accepted that amendment, but we experienced keen joy in the knowledge that we were able to leave the scene of our labour with the assurance that the seal which would make it permanent law would be placed upon the Constitution which our people had adopted. If the original position which we went home to defend in respect of this matter is a good one, there is no one who thinks so who should not help us to take all the advantage we can of what is left to us of the position. I think that that is the attitude which must be taken, except by those who think that what is left in the Constitution is not sufficient for the foundation of a High Court of wide jurisdiction, and entitled to the respect of Australia.

Mr. FOWLER.—There is practically very little withheld from the court.

Sir EDMUND BARTON.—The diminution of its powers—which, as I have said, was not what I wanted to see—still leaves

it a high and competent tribunal, a court whose decisions on certain constitutional questions cannot be controverted by any other judiciary, except at its own will, and which must therefore be effective as the actual balance of the Federal Constitution. To confine that Court to appellate jurisdiction would be one of the worst sins we could commit against the desire of the people who framed it, because their intention evidently was that the Constitution should be complete in all its aspects. While they were not called upon to vote on a third referendum in order that they might express an opinion upon the alterations in the 74th clause, I take it that the alteration was made practically by the common consent of the Imperial Parliament and the people of Australia. Although the two parties held a diverse opinion upon the question at issue, it was not thought sufficient to require the taking of a third referendum. That being so, it may fairly be argued that the alteration did not, in the opinion of our people, take away from the High Court the standing and value, as an essential factor in the Constitution, which they themselves wanted to give it. The alteration might make the Court less valuable, but it did not entirely remove its value. So after our determinations at Adelaide, after our labours during the various sessions of the Convention, and after the popular indorsement of our work, it may be taken that the Constitution was pared down in the particulars to which I have referred with the consent of the people. But I decline to listen to any one who says that, so far as the just attributes of the Court are maintained in the Constitution, the people do not wish it to continue. This is the first time that it can be said, with a sense of pride and glory, that the founders of the Constitution are the people. Even the Constitution of the United States of America received no final popular indorsement. Ours is the only case in which such an indorsement was given. We cannot get away from the position that a Constitution without such a High Court as is not only asked for, but ordered, would not be the same as the Constitution which we now have, and would be a different instrument to work under from that which the people designed. That is the position which I wish to take up. It is no doubt a high one, but it is justified in reason and by our sense of responsibility to the people.

Mr. JOSEPH COOK.—An absolutely technical point.

Sir EDMUND BARTON.—My position is in no sense absolutely technical, unless I am to be told that to insist upon carrying out that which the people for the first time in history have had an opportunity to order is a technical position. To my mind if there is a broad reason for taking up the position which we have taken up in introducing the Bill, it is that a High Court is part of the Constitution as designed by the people. It is, therefore, a matter in regard to which we should not refine and quibble. We should not say, "Wait until another day," or complain that the establishment of a High Court will cost too much—supposing the proposed cost to be fair and reasonable. What we should say is that this is what we were told to do, and that there shall be no unnecessary delay in doing it. It has been argued that, owing to the form in which the Constitution now stands, the High Court will not be its guardian and interpreter; but I venture to say that that will not be found to be so. The safeguards provided in the 74th section will enable the High Court to give such decisions in interpreting the Constitution as will be the just and, in almost every case, the final arbitrament of disputes between State and State, or between State and Commonwealth. If it is found that it is not so much the effective guardian and arbiter as we hope, what is the duty of Australians? To decline the court, or to sweep it away? No; to exercise the powers which the Constitution gives us. It is our duty to use those powers in amending the Constitution so that, without any authority withstanding us, we shall be able to give the High Court the whole of its attributes, and thus dispose of the arguments of those who say that because it is not big enough it ought not to be established. In any case, under section 74 we have the power to limit appeals, and there is nothing to prevent us from exercising that power at any time. So much for the position which I venture to submit, that the High Court is a necessary element of the Constitution for the purpose of interpreting and guarding its provisions. I come now to the next question, which has been much debated, and that is whether the Constitution contains a mandate for the creation of the High Court. That proposition I venture to affirm. Moreover, I say that the mandate has peculiar force, from the fact

that the Constitution has come direct from the people.

Sir EDWARD BRADDON.—There is no mandate as to the time.

Sir EDMUND BARTON.—I shall deal with the question of time later on. In interpreting the Constitution, as we have to do for ourselves to-night, to determine whether the High Court is necessary, and whether the creation of it is a duty imposed upon us by the Constitution, we must take not only the lawyer's view, to be arrived at by the construction which is to be extracted from the meaning of the words used, but a broader view—perhaps a broader view than a Judge upon the Bench would be empowered to take. That view springs from this consideration: Take the Constitutions of the States. They are in one sense like ours, inasmuch as they have been sanctioned by Acts of the Imperial Parliament. In the case of the Canadian Constitution there is the same similarity. Acts of the Imperial Parliament were necessary to give all these Constitutions the force of law. But let us now look at the point of difference. Was the Convention which framed the resolutions—because there was no Bill until those resolutions reached England—upon which the Canadian Constitution was founded, elected by popular vote? In no sense. Was the framing of the Constitution of any one of the States the act of a convention of representatives chosen by popular election? In no sense, and in no case. Was the indorsement of the people given to the Constitutions of either Canada or of any of the Australian States? Not in any instance; nor, as the Attorney-General reminds me, was such an indorsement given in the case of the Constitution of the United States. But in regard to the Constitution of the Commonwealth of Australia, not only did every elector record his vote for or against its acceptance, but he voted with a printed copy of it in his hands. No man went to the polls in any of the States to vote on that question without having had an opportunity to read the very words of the Constitution, which had been framed by those whom he had himself elected. Therefore, there is a great difference in origin between our Constitution and every other Constitution that we know of, since in our case an educated people, knowing what it provided, and without doubt as to its meaning, voted for its acceptance. Never was a Constitution approved of which more clearly expressed its intention in its

words. There are difficulties in the interpretation of other Constitutions, and there always will be difficulties which will invoke the wisdom and learning of our Courts of Justice, but anything plainer than our own Constitution was never placed in the hands of the electors. Now, let us reflect upon the position we occupy in considering anything that may be construed as a mandate, if it be one, which comes from those who appointed the men to draft it, and afterwards took it in their own hands and learnt to understand it, and then approved of it. Surely we cannot compare that case, so far as the origin and meaning of the words is concerned, with the ordinary conditions in which a Constitution is merely framed as an Act of Parliament. All the elements are different. In how many cases is Parliament elected for one purpose only? I defy any honorable member to direct attention to any such instance. But the Convention at which the Constitution was adopted was elected for one purpose only. Parliament does not submit its constitutional work for popular approval; Parliament has not done so. But this Constitution was submitted to the approval of the same people who met and elected the members of the Convention by which it was adopted.

Mr. KENNEDY.—Parliaments are always amenable to popular opinion.

Sir EDMUND BARTON.—Yes; and I am sorry to have to say that there are a great many persons—not of course in this Parliament—who mistake newspaper articles for the expression of popular opinion. When we come to the question of the construction of this Constitution, must we not bear in mind the facts relating to its origin and the meaning of those who indorsed it? Coming to the Constitution itself, I can, with the greatest confidence, indorse the construction placed by the honorable and learned member for Indi upon section 71. Those who, like many of us on the Ministerial benches, went through all the strife and the turmoil attendant upon the making of that Constitution—through the many sittings of the Convention, through the two referenda, and finally through the work of endeavouring to obtain the entire acceptance of the Constitution in the United Kingdom—can, without arrogance, and without any feeling but that of humility, claim that being so intimately acquainted with the conditions under which the instrument was framed, they are entitled to speak as to the

words used to convey the intentions of the framers. What could be more plain than this?

The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia.

That is certain, but what follows is not certain.

And in such other Federal Courts as the Parliament creates, and in such other courts as it invests with Federal jurisdiction.

Without relying too much on the word “and,” which is significant in this connexion, it is certain that the creation of the Federal Supreme Court is imperative whilst the addition to the Federal High Court of other Federal Courts or Courts of Federal Jurisdiction is made, in the terms of the Act, discretionary with the Federal Parliament. We have therefore a distinction between the imperative mandate regarding the Federal Supreme Court and the discretionary power with reference to other Courts.

Mr. THOMSON.—Is anything said as to the order in which the Courts shall be established?

Sir EDMUND BARTON.—I shall deal with that point presently. It is true, as is argued by the honorable and learned member for South Australia, Mr. Glynn, that this mandate cannot be enforced by injunction, but should that consideration weigh with statesmen or with this Chamber? Is there no debt of honour in statecraft? Are there no duties except legal duties? Is a Member of Parliament to say that he stands as a member of a body which will not do its duty because there is no court above it to issue an injunction compelling it? Is there not a moral responsibility as well as a legal responsibility? If there is no tribunal above us—and we cannot be enjoined by a High Court which is not created—to make us do our duty, are we relieved of it? The question has been raised as to whether this mandate has to be carried out at any particular time or not. The honorable and learned member for Indi quoted from the report of the judgment of the Supreme Court of the United States in the case of *Martin v. Hunter*. His quotation was a most valuable one, and is to be found in Quick and Garran's *Annotated Constitution of the Australian Commonwealth*. There are some further words in that very judgment which seem to be so interesting, and to apply so directly to the matter now before us, that I shall take the

opportunity to quote them now. Mr. Justice Story, who delivered the judgment, is an eminent jurist, and has written a collection of legal treatises perhaps not surpassed by the work of any other jurist in the world. I ask honorable members to consider the words which I am about to quote, because they are not contained in the argument of an advocate, or even in the argument of a politician standing here in support of or in opposition to a measure, but are the calm words of judicial interpretation. Mr. Justice Story says—

The same expression—"shall be vested"—occurs in other parts of the Constitution, in defining the powers of the other co-ordinate branches of the Government. The first article declares that "all legislative powers herein granted shall be vested in a Congress of the United States."

And this has an important bearing upon the meaning of the words "shall be vested."

Will it be contended that the legislative power is not absolutely vested; that the words merely refer to some future act, and mean only that the legislative power may hereafter be vested? The second article declares that "the Executive power shall be vested in a President of the United States of America." Could Congress vest it in any other person; or is it to await their good pleasure, whether it is to vest at all? It is apparent that such a construction, in either case, would be utterly inadmissible. Why, then, is it entitled to a better support in reference to the judicial department?

These are clear words, fair and conclusive as a matter of argument, but what do they lead to? They are an express denial of the statement that the mandate in the Constitution is one that can be paltered and trifled with, and that it was intended that the Constitution should be maimed in one of its arms at the will of Parliament. It is in controlling transgressions beyond the Constitution, either by this Parliament or by the Parliaments of the States, that the work of the High Court will in a large measure lie. Clashes between the authorities that are created will arise as often as weak humanity overrides its powers, either in the Federal or in the States Parliaments. In the heat of debate, and in the turmoil of party, excesses of power will inevitably be committed, as they have been committed in the United States. We want a tribunal composed of men who understand the people, who live amongst them, who understand the history of and the reasons for our Constitution, and who are not dependent for their knowledge upon casual reading. We require a judicial body which will be able to tell us what our Constitution means, and

whether those outside the calm and judicial arena, who have passed laws, have exceeded their powers or have remained within them. How can we have this unless we provide for the establishment of the third arm of the Constitution? It is said that the Constitution does not specify the time within which the High Court is to be created.

Sir EDWARD BRADDON.—Hear, hear.

Sir EDWARD BARTON.—I am happy to hear any remark from my right honorable friend, but I recollect that one of the chief arguments of his right honorable leader, in his recent indictment against the Government, was that the High Court should have been provided for at the outset of our Federal career, and that the Government was to blame for not having constituted it long ago. I suppose that where doctors disagree the patient may be expected to die.

Mr. JOSEPH COOK.—Every one on the Government side of the House is now supporting the leader of the Opposition.

Sir EDMUND BARTON.—Every one on this side of the Chamber is supporting the leader of this side and his colleague, who is responsible for the introduction of the Bill. I venture to say that the Constitution does not specify a time within which the High Court shall be created, because the words relating to it are of an immediately imperative character; it was regarded by the framers of the Constitution as beyond doubt that the courts would be established as soon, at any rate, as parliamentary exigencies permitted. What I mean by parliamentary exigencies are the exigencies of parliamentary business. I do not forget that the honorable and learned member for South Australia, Mr. Glynn, in one of his speeches in connexion with this very matter, pointed out the limitation of two years in regard to the passing of the Tariff. The honorable and learned member advocated a make-shift amendment of the Judiciary Bill of last session, because he said the time of Parliament would be taken up for the first two years in framing the Tariff. That is what happened. The greater part of two years was taken up in passing the Tariff, and anxious as we were to pass the Judiciary Bill, the opposition to it in those days was greater than it is now. Experience has since shown the necessity of the Court, and the delay has given us greater assurance of the attainment of our object.

Mr. HENRY WILLIS.—Could not the Government have succeeded in passing the Bill through last year?

Sir EDMUND BARTON.—It would have been harder to pass it through last session than it will prove now. If honorable members believe that it would have been more difficult last session than at the present to pass the Bill, they must give us credit for having exercised good judgment in not pressing it on a former occasion. I believe that the sense of the people has been awakened to the necessity for the establishment of the Court to a much greater degree than was the case when the Bill was previously before us.

Sir EDWARD BRADDON.—What about the exigencies of finance?

Sir EDMUND BARTON.—I have been speaking of parliamentary exigencies, and I am going to establish my proposition. My right honorable friend is so eager, in his youthful impetuosity, that he will not allow an argument to be carried to its proper conclusion. The only delay that can find any sanction under the terms of the Constitution is that which must necessarily arise out of the facts of the case. Before there could be a Parliament—and it is admitted that the institution of the Parliament was an urgent and prime work, to be performed without unnecessary delay—there must be an Executive. The Executive is founded on equally imperative words—words which in themselves vest the executive powers of the Commonwealth in the Governor-General and the Executive Council. Their intervention was necessary before Parliament could be elected or summoned, and, therefore, the words of the section must be read in the light of necessity.

Mr. JOSEPH COOK.—They should be read in the light of common sense.

Sir EDMUND BARTON.—I am reading them in the light of common sense. The Executive must precede the Parliament, because, without an Executive, there could be no Parliament. Then Parliament came under the mandate that it must be elected within six months after the establishment of the Commonwealth. I admit that this mandate contains a condition as to time which was not inserted until the second session of the Convention. Then we find that the Judiciary is provided for.

Mr. JOSEPH COOK.—Without any limit as to time.

Sir EDMUND BARTON.—There was no time limit with regard to the creation of the Executive, but the necessity of the occasion required that they should be at once summoned. There need not have been any time limit imposed with regard to Parliament, because a Parliament whose election had been unnecessarily postponed would have wreaked summary vengeance upon the Executive which postponed it. The provision could not be made for the establishment of the High Court before the election of Parliament, because the fixing of its component parts must necessarily be a matter for the Legislature. Does the fact that the mandate of the Constitution had regard to the inherent necessities of the case, and did not impose any limit as to time, afford justification for the indefinite postponement of the establishment of the Federal Judiciary? The Executive first, the Parliament second, and the High Court third, is the natural and necessary order. No delay beyond this necessary sequence was contemplated by the framers of the Constitution. The whole argument for delay, I venture to say, is an afterthought, because throughout the Convention debates, and the hundreds of meetings which preceded the taking of each referendum, there was no attempt made by any one taking a prominent part in them, as, in any sense, a leader of the people, to postpone the creation of the High Court—no thought of relegating it to any position inferior to that of one of the three co-ordinate arms of the Constitution, without the full existence of which that instrument of Government must be more or less maimed.

Mr. HIGGINS.—Are not two arms sufficient for any one?

Sir EDMUND BARTON.—No; I do not think so. They are certainly not enough for a monkey. The honorable member has forgotten the quadrupeds in the animal kingdom. I have referred to the natural and necessary order, and no delay was contemplated for a moment. The question was put before the electors prior to the referendum being taken. The matter was so much in the minds of the people that, whilst the Convention was sitting, an estimate was made of the cost of establishing this tribunal. That cost was set down at £23,700. The whole question was thoroughly thrashed out in the various debates. With what result? This brings me to my next proposition, that the mandate of the

Constitution will not be fulfilled by any of the suggestions that have been made. But before dealing with that matter I wish to refer to this portion of the Constitution. Section 75 prescribes that the High Court shall have original jurisdiction—

In all matters—

1. Arising under any treaty.
2. Affecting Consuls or other representatives of other countries.
3. In which the Commonwealth or a person suing, or being sued, on behalf of the Commonwealth, is a party.
4. Between States, or between residents of different States, or between a State and a resident of another State.
5. In which a writ of mandamus, or prohibition, or injunction, is sought against an officer of the Commonwealth.

In one of the cases in which a writ of mandamus was sought, the Full Court of one State has decided that it cannot issue such a writ, and that no tribunal save the High Court can.

Mr. HIGGINS.—The Government could give them the necessary power if they wished.

Sir EDMUND BARTON.—We could, if we chose to make the courts of all the States the arbiters of the Constitution. So much for the category of matters in which the High Court is to have original jurisdiction. If it is conceded that it is imperative that that tribunal shall be endowed with such jurisdiction, what an extraordinary position it is to argue that its creation is not equally imperative? I come now to the proposition that the mandate of the Constitution will not be fulfilled by any of the suggestions which have been made. I wish, first, to refer to the suggestion of the honorable and learned member for South Australia, Mr. Glynn. I find that in the Adelaide Convention this question was raised during the debate upon certain resolutions, a portion of which I have read. Without wearying honorable members upon this subject, I think I may quote a few words which I ventured to use on that occasion, in respect of the suggestion which has been made that the Court should consist of the Chief Justices of the several States. They are as follow :—

I should like to make a short reference to one argument that has been used with regard to the Federal Judiciary. It has been suggested that the Federal Judicature should consist of the Chief Justices of the various colonies. I beg to say that so far as I am advised, I entirely dissent from that proposal. I think that that would be a provision which would make totally against the

value of the Federal Judiciary for the work which it has to perform. One of the smallest objections is that in these colonies—if they are there anywhere it is not a provision of law—the strong feeling prevails that no Judge should sit on appeal from his own decision, and it is a very plain provision in New South Wales.

Mr. PEACOCK.—And in Victoria.

Mr. BARTON.—I am glad to hear that, because I had a strong suspicion that it was so. Whether or not, it is in all the colonies a provision of law that no Judge shall sit on appeal from his own decision, it ought very speedily, under the powers given by the Constitution, to be a provision of law for the Commonwealth, and if it once becomes so I should like to know what capacity, what adequacy, for this work will be left amongst the half-dozen Chief Justices who will at their sittings have to decide on appeals from half-a-dozen States.

It would be a case of alternately walking into the court and out of it. The report of my remarks upon this subject proceeds—

And when we bear in mind that in every appeal from a State the Chief Justice of that particular State must not take part in the hearing, there would be still less chance of forming a court that would be as acceptable or satisfactory as a Federal Court of final appeal.

If it is contended that the Federal High Court will not possess any more knowledge of the laws of the individual States than does the Privy Council—and that has been contended during the course of this debate—we are placed in this position : if we enact that the Chief Justices of the States shall be the components of the High Court and that none of them shall sit in appeal from his own decision, we shall find—seeing that all the Chief Justices are parties to the principal decisions of the States Supreme Courts—that in the very instances in which an acquaintance with the laws of a particular State is required to arm the High Court with the necessary knowledge, the man who could best furnish it will be ineligible to sit upon the Bench. I went on to say—

There is another strong objection. If this is to be a Federal Court it must not spring from any provincial origin. If the object of the court is Federal, and if it is to be made an arbiter between State and State and between State and Commonwealth, if it is right that it should be a Federal instrument—and clearly it must be so, because it is one of the essentials of a Federal Constitution—well, then it must be equally clear that it must not owe its origin to provincial appointments.

Later on I said—

If such a provision were carried into effect the Federal Executive would not have a chance of deliberating upon the question, but must take

the Judge provided, even though the results attending his appointment were not such as were expected.

So that if the proposals submitted by the honorable member for South Australia had been carried the Federal Executive, which ought to have the responsibility of making the very best choice of Judges for this Court, and who should suffer if its responsibility is not honestly exercised, would be freed from that responsibility, and Judges, because they were the States Chief Justices, without reference to the question of whether or not they were uniformly successful as Judges, would be placed upon the Bench to determine Federal affairs. That would be about as unconstitutional an anomaly as could possibly be created—unconstitutional, not only in the sense that it is a breach of this written Constitution, but in the sense that it is opposed to every known principle of British constitutional law. I was going to say that that proposal got no further than the end of that debate, but I find that it did, as was mentioned by the honorable and learned member for Indi last night. On page 265 of the record of the proceedings of the Convention in Melbourne, I find that, under the name of the honorable and learned member for South Australia, Mr. Glynn, there is an amendment, which reads—

The High Court shall consist of a Chief Justice and, until Parliament otherwise provides—

That, it will be seen, is merely a temporary provision—

—the Chief Justices of the States. In the case of the illness or death of the Chief Justice, the powers of the Supreme Court may be exercised by the other Justices, being not less than three.

In the speech delivered by my honorable friend upon that occasion, he said—

It is extremely probable that during the first two years of the Federal Parliament legislation will be confined to such a question as the arrangement of uniform customs duties.

That proposal was opposed by various members of the Convention, and a concise statement of the points in opposition to it was made by a very able member in the person of Senator Symon, who used these words—

I think honorable members will agree with me that a more nondescript tribunal could not very well be constituted than that which he proposes. He wants to strike out all the words after "and" in the fifth line, and to add "until Parliament otherwise provides the Chief Justices of the different States in the Federation." The effect of that would be that we should have a Federal Chief Justice, and that the Chief Justice in each separate State would become, immediately he

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crossed the border of his own State into Federal territory, a puisne Judge of the higher Court. We should then have this extraordinary sort of *alla podrida*, a Federal Chief Justice owing his position, his emoluments, and his Judicial allegiance to the Federal Parliament, and four puisne Judges in one sense under him who are Chief Justices in their own Court, and who owe their Judicial allegiance and their emoluments to the separate States.

After replying to an interjection by the honorable and learned member for South Australia, Mr. Glynn, the speaker proceeded :

But then as my honorable friend (Mr. Isaacs) interposed a moment ago, with an exceedingly pregnant suggestion, they will all owe their tenure of office—not only their judicial allegiance and emoluments, but their tenure of office—to the State. Then see what an extraordinary position these Judges would occupy in a High Court so constituted. I could understand the suggestion although I think it would not be one which would meet with the approval of any reflecting man, that the Judges of the different State Courts or a selection of them, should constitute the High Court of Justice ; but to say that you should have a Federal Chief Justice appointed by the Federal authority, and as I say, owing undivided allegiance, if I may use such an expression in relation to Judicial affairs, to the national Government in its highest sense, is a position of matters which I am sure could not possibly commend itself to any one, I certainly did not hear any argument that was at all convincing on the question of the desirability of making such a change as this, but my honorable friend must also have noticed that by so altering the clause you are limiting the choice of the Federal Executive in the selection of its Judges.

The remaining portion of the argument that I wish to cite reads thus :—

At any rate there is nothing to prevent the Federal Executive from having the benefit of the experience, the wisdom, and the learning of the existing occupants of the judgment seat in Australia if they so choose. But if you introduce this into the Constitution, you are limiting the power of selection by the Federal authority, limiting their choice, and binding them down to the selection of one Judge—the Chief Justice—from the whole of the judicial power of Australia, whether on the Bench or off it ; and as to the other Judges—whether the number is two or four, is, as Mr. Barton said, a matter of minor importance—limiting their choice to the existing Benches. I think it cannot be too strongly emphasized that such a state of things would be extremely unsatisfactory.

The result of that debate was that the amendment submitted by Mr. Glynn was defeated by 29 votes to 9, and I find that amongst the majority was the honorable and learned member for Northern Melbourne. To adopt the suggestion which has been brought forward during this discussion, would be to go back upon the decision of

the Convention. That is not a task which this Parliament need hesitate to perform, if it is of opinion that the Convention was wrong. But it is in consequence of that decision that the constitution of the Court itself is in the form in which it is now presented to Parliament, and in the form laid down in the Constitution. The rejection of that amendment had this result; that not only did the honorable and learned member for South Australia fail to alter the text of the Constitution in the direction which he desired, but in that respect it remained in its original form, and in that form was adopted by the people. To adopt the suggestion which has now been put forward, would be not only to go back upon the decision of the Convention, which, in itself, might be a less important matter, but to deliberately set at naught the intention of the Constitution itself. Although it might not be technically unconstitutional, certainly it is morally so. I shall not travel over the ground which was traversed by the honorable and learned member for Indi in order to prove that such a proposal is unconstitutional in essence; but it is clear that unless the Chief Justices of the several States were removed altogether from the States Benches, they would occupy a dual position, and, irrespective of the volition of the Federal Government and the Federal Parliament, they would be entitled to sit on that Bench for life, apart from any question of misbehaviour, misconduct, or inability to do their work. It is about as unconstitutional a proposition as was ever brought forward even with the object of saving money. In addition to that, I venture to say that to give the powers of the Constitution, and those which in any event must be wielded under a High Court Bill, to gentlemen appointed under such circumstances would lead to consequences which could not be included in any description of a wielding of this Constitution as it was framed. In view of the immense importance of the functions of this Court, would it be right that it should be practically under the control of the States Executives? If the Judges who from time to time may be made Chief Justices by the Executives of the States are to be the constituents of this Court, it must be clear that it will be at the will of the States Executives that the Federal Court will be appointed. Did any one contemplate such a thing in setting up

this Constitution? Was it contemplated by any one who voted for the creation of the Convention? Did any member of the Convention, or any one voting for the adoption of the Constitution, contemplate putting the powers of the High Court into the hands of any authority chosen by the Executives of the States and not by the Executive of the Commonwealth? If such a provision had been contained in the Constitution Bill, would it not have provoked an outcry? If it would have done so—and I believe that would have been the result—how can we adopt such a proposal now? This Court may, and probably will, have to decide upon the validity of Commonwealth legislation, and I wish to know whether the function of deciding upon the validity of the legislation of the Commonwealth is to be intrusted to a body appointed by the States Executives? Concede, if you like, that every State Judge we have ever had has been a model of fairness and impartiality—concede everything that you can for the sake of argument—but is it right that those who in the ultimate resort are responsible to States Parliaments that fix the terms of their selection, and who owe their position to the States Executives, should be placed on the judgment seat as the final judges of the validity of our legislation? The proposition has only to be stated in order to show that it is one which no well-balanced mind should accept.

Mr. HIGGINS.—Why not state the converse position? If States Judges are not fit to deal with Commonwealth laws, how can Commonwealth Judges be fit to deal with States laws?

Sir EDMUND BARTON.—The honorable and learned member has already defeated his own argument, because he has said that if a litigant does not desire to go to the High Court, he can go to the Privy Council. He has told us, further, that he would advise a litigant to do so, notwithstanding the vote which he gave in the Convention on the amendment moved by the honorable and learned member for South Australia, Mr. Glynn.

Mr. HIGGINS.—That is not an answer to my question.

Sir EDMUND BARTON.—I contend that it is. We expect consistency from those who put questions to us. It is clear, at any rate, that where the purpose of a Constitution is national, where its design is to perpetuate cohesion among States, any

tendency, if there is a tendency, arising from the origin of appointments to the Bench so created, should be, if anything, a tendency in favour of the purpose of the Constitution, which is the preservation of the national element. We may say what we please as to all these converse responsibilities; as to the fitness of Judges of the Federal Court, and Judges of the States Courts, but we must face the one position, that we are here for the purpose of guarding and carrying out the Constitution of the Commonwealth—that we are to take that course which, at any rate, best secures its permanence and solidity.

Mr. WILKS.—Is there any danger?

Sir EDMUND BARTON.—To provide against danger is the function of every sane, far-seeing legislator.

Mr. WILKS.—Is there any sign of danger?

Sir EDMUND BARTON.—I do not wish to discuss that point. There are always dangers in a Federal Constitution. It is not because they are free from danger, but because, in their balance, they provide a greater safety, that they are adopted. Every Constitution, whether Federal or not, must be full of dangers. The Federal Judges should do this work, not because they will be biased in favour of the Federation, but because, being responsible to the national Parliament, they will take the national view. This does not mean the obliteration of States rights, and, in touching upon that point, I wish to ask the honorable and learned member for Northern Melbourne to give me his special attention while I quote from an article written by an American Judge. In the March number of *Scribner's Magazine*, I find a valuable article by Mr. Justice Brewer, Associate Judge of the Supreme Court of the United States, dealing with that Court and its history, and I propose to quote shortly from it. It is a valuable article, but I can give only a little of it, and it is very pregnant in its application to this part of the argument which has been waged on both sides. He says, at page 275—

Its decisions—

That is, the decisions of the Supreme Court of the United States—

have always been in harmony with and sustaining the proposition that this Republic is a nation acting directly upon all its citizens with the attributes of authority of a nation, and not a

mere league or confederacy of States. The importance of this cannot be over-estimated, and will be appreciated by all who compare the weakness of the old confederacy with the strength and vigour of the Republic under the present Constitution. A brief reference to some of these decisions is deserving.

I shall quote only a few of those references. Mr. Justice Brewer refers to the case of *McCulloch v. Maryland*, in which it was held that—

Congress may pass any Act which, not forbidden by the Constitution, is reasonably appropriate and helpful in carrying into execution the powers expressly conferred.

In *Brown v. Maryland* the Court ruled that—

The control of commerce with foreign nations was wholly in the general Government, and that no State could directly or indirectly place any restrictions thereon, even to the extent of imposing a licence upon an importer for selling goods in the package in which they were imported.

In *Gibbons v. Ogden*, one of the leading cases of the Supreme Court of the United States, the decision was—

That the nation had supreme authority over all navigable waters of the Republic, and that no State could give exclusive rights to any such waters, although wholly within its territory.

In *Ableman v. Booth* it was decided that—

One in custody of the United States officers could not be discharged therefrom by process of a State Court;

while in *Martin v. Hunter*, to which I have already made reference, it was held that—

A party to a litigation in a State Court denied a right claimed by him under the national Constitution could take his case from the State to the United States Supreme Court, and have his claim of right there determined.

Mr. Justice Brewer points out that—

These are merely illustrations. To them might be added many other cases of similar import, extending to the present day. The court has uniformly upheld the nationality of the Republic, and accorded to it all the rights which attend nationality.

In the light of our marvellous development and the wondrous growth of this Republic to the first place in the family of nations, one may well pause to consider what would have been our history if the decisions of the Supreme Court had been adverse to this rule of nationality. Suppose that the Court had held that, because the Constitution did not in terms grant the power to charter corporations, Congress could not charter a national bank, where would have been our great financial system? Suppose it had ruled that a State might impose a licence on every importer from foreign nations; that it had supreme authority over all the navigable waters within its limits; that its courts could take from the custody of the United States officials any person arrested for an alleged violation of Federal law, and that there was no

power in the Supreme Court to review the judgments of State Courts adverse to rights claimed under the Federal Constitution (and the questions presented in these cases were, under the strict language of the Constitution, debatable), where would have been the vigour and strength which exist in our national government, and which have been among the strongest supports of national progress? Reflections such as these will give some idea of how much the Supreme Court has, by its decisions, affected the life of the Republic.

I crave attention to the remaining portion of this quotation—

It must not be supposed that, because it has constantly affirmed our nationality, the Court has been steadily undermining and destroying the legitimate power of the States. On the contrary, it has always ruled so as to uphold full governmental action on the part of the States unembarrassed by Federal power. Thus, it held that the nation could not levy an income tax on a salary paid by a State to its officials. (*Collector v. Day*, 11 Wall., 113.)

I do not quote that passage with relation to any present-day fact—

It has upheld the police power of the States in a multitude of instances. It affirmed the right of a State to grant special privileges, even when the grant resulted (as shown in the slaughterhouse cases coming from Louisiana) in creating a burdensome monopoly.

It would be an easy and a pleasant task to point out how in many other ways the Court has, by its decisions, affected the life of the Republic, but the limits of my paper forbid. This must do for the past. As admitted by all careful students of history, the Supreme Court, whose organization and powers constitute the most striking and distinguishing feature of the Constitution, has been a most potent factor in shaping the course of national events. It stands to-day a quiet but confessedly mighty power, whose action all wait for, and whose decisions all abide. Turning to the future, every thoughtful man wonders what is coming to the Republic, and many inquire what the Supreme Court will do in shaping that future, and how its decisions may affect the national life.

Mr. HIGGINS.—Does that quotation show that the High Court should be established at once?

Sir EDMUND BARTON.—As I am reminded, those who are in a difficulty usually flit from point to point. I had not made up my mind to use this quotation because of the time that I knew I must necessarily take up in dealing with other phases of the question. It was really suggested to me by the action of my honorable and learned friend in challenging the question whether there ought not to be a national court with a tendency to the consolidation of the powers of the nation. It was in answer to that question, really, that

I quoted this extract; now he asks me something totally different.

Mr. HIGGINS.—No.

Sir EDMUND BARTON.—The quotation shows that the Court should be appointed at once. It does so because it illustrates the fact that in every hour of its life the Supreme Court of the United States has been the necessary guardian of the Constitution of that union and the liberties of its people, protecting them against any encroachment, whether from outside or from a State within, that tended to endanger the national life of the community.

Mr. HIGGINS.—Does the right honorable gentleman say that a High Court could assume that function better than a State Court?

Sir EDMUND BARTON.—The quotation which I have just read is a sufficient warrant for me to contend, not only from the argument in the article in itself, but from the citations which it makes of decided cases, that there is a necessity for a tribunal which is in its essence national; and that tribunal can never be secured by resort to resources which are confessedly provincial.

Mr. HIGGINS.—The right honorable gentleman begs the whole question.

Sir EDMUND BARTON.—That is the invariable plea of the man who cannot sustain his argument. My honorable and learned friend is always courteous in his interruptions, but those who interject in a manner which shows that they are flying from place to place of their position in an endeavour to maintain it show the weakness of their contention. I need not mention further that the recent decision of the United States Court with regard to the lottery tickets establishes a position, in the protection of the whole Republic against monopolies and trusts, which will be seen in the future to be of the highest advantage to the liberties of every citizen of that great country. It should be understood, further, what is the meaning of this proposal to import the Chief Justices of the several States to form a High Court. It means handing over the judicial power to the States Executives indefinitely, because under the Constitution the Judges of the High Court must be appointed for life, unless they commit one of the offences for which they are removable. Assuming, as I think I may, that I have given a definite, intelligible, and argumentative answer to my

honorable and learned friends, the only alternative to our proposal is practically to leave things as they are, which I think is the arrangement favoured by the honorable and learned member for Northern Melbourne—investing the States Courts with Federal jurisdiction, and looking to the Privy Council as a court of appeal.

Mr. GLYNN.—Hear, hear; for the present. That is the general inclination.

Sir EDMUND BARTON.—Let us see how that arrangement would work. At any moment a judgment might be given by any one of the Supreme Courts of the six States—and in some of the States a final judgment might be given by a single Judge. Such a judgment might decide a question of the highest constitutional import, and might paralyze the administration of affairs by the Commonwealth for the year or two which, according to the law of averages upon which my honorable and learned friend the Attorney-General has descanted, would elapse before the decision of the Privy Council could be obtained. Until such a judgment was upset or reversed, it would probably be followed by the lower courts in the State in which it was delivered, and possibly by the courts of the other States. What wisdom there is, then, in the proposal! What a substitute it provides for a national Court!

Mr. O'MALLEY.—It would be a good thing for the lawyers.

Sir EDMUND BARTON.—Undoubtedly it would; because if there is anything which increases litigation it is the conflicting decisions of several courts. But I am tired of hearing the cry that something may be good or bad for the lawyers. If lawyers are intrusted with the confidence of the people, and are sent here to represent them, their arguments are entitled to as much weight as are those of other men, and to such additional weight as their experience in legal matters may give them. The legal members of the House who have spoken against this measure are therefore to be listened to with great care, and without the smallest suggestion that they are influenced by improper motives. But while I concede so much to them, I may, and do, fairly claim as much for myself. A decision is given, perhaps by a single Judge in one State, or it may be by the Full Court, from which there can be no appeal except to the Privy Council; and, if that decision is adverse to the Government, administration is paralyzed.

More than that, the question must arise whether, the decision having been given in one State, and having force only in that State, the Government shall follow it in one State and defy it in the other States, or follow it in all the States? Which would honorable members advise us to do? Would not any sane man suggest that a decision of the Courts, whether right or wrong, should apply to the whole Commonwealth, and that, instead of having a system under which decisions given in one State might be followed in that State and disputed in the rest, until there could be an appeal to the Privy Council, it would be better to grasp the opportunity to establish a Court of national jurisdiction which, as it justifies its existence by the purity and clearness of its interpretations, will the more commend itself to the approbation of the Commonwealth.

Mr. HIGGINS.—The Government have not found any inconvenience to arise yet from conflicting decisions.

Sir EDMUND BARTON.—That may be true; but we are only at the beginning of things. My argument for the establishment of a High Court is not founded upon the contention that there is now a huge list of cases awaiting decision, but upon the duty of this Parliament to set that Court in motion at once, because, so long as we are deliberately without it, we are preventing the attainment of the full Constitution for which the people voted. Now, let us imagine a decision in regard to which there is no conflict—a decision in one State. Should the Commonwealth Government follow it in the other five States, or defy it there? Is not the embarrassment created by such a position a sufficient reason for the creation of a Court with a national instead of a truncated jurisdiction?

Mr. JOSEPH COOK.—But at the present time there is no embarrassment and no wrong doing.

Sir EDMUND BARTON.—There is embarrassment. The decision was given by the Supreme Court of New South Wales that the importations of the Government of that State are not liable to duty, although they are not exempted in the Tariff. What are we to do under that decision? Unless a court with immediate jurisdiction to hear an appeal is established, we shall have to go to the Privy Council, and wait as long as suitors have to wait in such cases. The only case before the Privy Council in which

we have been concerned up to the present is an appeal case brought against us, and that case has been pending for a couple of years.

Mr. THOMSON.—Its hearing was delayed because of the death of the appellant.

Sir EDMUND BARTON.—That need not cause any great delay, because there are means for getting over a difficulty of that sort very speedily. Our lawyers have been on the point of moving for the dismissal of the suit for want of prosecution. But the point I wish to make is that there has been delay in that case, as there might have been delay through the unwillingness of one of the parties, or for some other reason; though, as the case is *sub judice*, I do not wish to refer to it. But the decision in regard to the freedom of State imports from duty affects only the State of New South Wales, because the Supreme Court of that State has no jurisdiction to make rules which are binding beyond its borders. Their decision, therefore, is of limited application, and the question arises: Are we to follow it in New South Wales and disregard it in the other States, or shall we follow it in the other States, and say, "This is declared to be the law of New South Wales. That law does not bind people living out of New South Wales, but we intend to make it binding on the people of the other States"? Do not honorable members see the dilemma which is caused, not only when there is a conflict of decisions, but where there is a conflict in jurisdictions? Does not the position justify us in saying that some corrective tribunal must be established on the spot, which will be invested with jurisdiction over the whole Commonwealth?

Sir EDWARD BRADDON.—There has been no appeal to the Privy Council against the decision of the New South Wales Bench?

Sir EDMUND BARTON.—No, because the decision was given only the other day.

Sir EDWARD BRADDON.—Has the same point arisen in any other State?

Sir EDMUND BARTON.—No, and duty is being collected upon the importations of the other States. But let me bring the matter back, for a moment, to the question of self-government. When we, or our fathers, came to Australia, we brought with us the rights of British subjects, as they have been made effective in the United Kingdom by the declarations of its Parliament and people. Among those rights is the

right of self-government. Now, an inherent part of that right is, that if a community is allowed to make a Constitution for itself, it should be allowed to say what that Constitution means. It is not self-government if we have to say, "We bow to somebody else as to the meaning of what we said." What we should say is, "We are men of British origin; we know what we meant when we made this law. Our Judges, acting for us, have declared our meaning, and we do not wish to see the question carried any further."

Mr. JOSEPH COOK.—That is the theory, but only the theory, of the Government under which we live.

Sir EDMUND BARTON.—Let us put the other theory by way of contrast. Imagine the case of a man whose son is leaving England to settle in one of the colonies where the British institutions, of which we are so proud, exist. Let us imagine him saying to his son, "You are going out to New South Wales, to a place where there are British institutions, a place where there is popular Government, and where the people have their own way. You will become one of them, and will be able to vote for the election of a representative in Parliament, and to say who shall make your laws, and what laws shall be made. I shall not interfere with that. But when you have made your laws, I, who remain at home, shall be the authority to declare to you what they mean." Is the whole principle of self-government wrapt up in a Constitution which leaves matters in that position? I admit that my argument carries me to this length, that even the existence of a Privy Council as a controlling power leaves us something of full self-government to be desired.

Mr. THOMSON.—Would the right honorable gentleman then remove the Imperial veto?

Sir EDMUND BARTON.—If I had my own way I would have no appeals to the Privy Council. But I can see that it will be many years before that will come about. In the meantime, I should like to see one great Court of Appeal to which all citizens of the Empire might have access established in place of the present system, under which we have the Privy Council as a court of appeal for people residing abroad, and the House of Lords for those who remain at home. That is an arrangement which is

spoken of as giving equality of British citizenship; but there is no such equality under it. Whatever we may say of the purity and the learning of its Judges, the Privy Council has not acquired the same credit for its decisions as has the House of Lords. Whether we like it or not, the authority of the House of Lords is looked upon as superior to that of the Privy Council. Therefore, if there is to be a change, I hope that it will be in the direction of some such fusion of these two tribunals as will give the same rights to all citizens of the Empire. But a better thing would be to allow each community to decide for itself what its Constitution means. More than that, I hope, as time goes on, to see that power is given to us to say what our laws mean.

Mr. THOMSON.—Would the right honorable gentleman take away the power of veto from the Crown?

Sir EDMUND BARTON.—The power of veto does not affect the interpretation of our laws, but our ability to pass certain legislation. On that question I say that while we remain a part of the British Empire, the prerogative of veto is an attribute of the Crown which we cannot deny. I do not think we should venture to object to the power of disallowance in, at least, that class of cases in which our legislation is shown to impinge upon the legal rights of other parts of the Empire. To that extent the Imperial Parliament and the Government of the United Kingdom are trustees for the whole Empire, and their advice to the Crown guides His Majesty in the exercise of his veto. I trust that there will be no abuse of that right, and I do not apprehend any, because we know that kingly vetoes are gradually falling into misuse. The fact that I am prepared, for the purpose of maintaining the Empire unimpaired, to agree that there should be some central authority which may in extreme cases prevent one part of the Empire from encroaching upon the legal rights of another, affords no reason why I should not contend that, with regard to matters where our Constitution and laws are concerned, we should be our own interpreters. Where other parts of the Empire are involved, I am content that the right of veto should exist; in fact that was the very wording of the proposal with which we went to England. I wish to safeguard that principle, because as long as we are a united Empire,

as I believe we now are, the right of veto must be reposed in some authority or tribunal, which should decide whether the interests of any parts of the Empire are wrongfully or injuriously affected. I have never pretended to advocate any finality that would prevent that exercise of right, but I have urged that we should have finality consistent with that right, and subject to no other earthly consideration whatever. I desire to again refer to the question of decisions in the States Courts. I was saying that in the States Courts we might have decisions either of the Full Court, subject to appeal to the Privy Council, but only operative within the limits of the State, or that we might have the judgment of one Judge operating only within the limits of the State. Take the case of *Stephens v. Abrahams*. Under the law of the State of Victoria the judgment delivered by Chief Justice Madden was final, and could not be set aside without an appeal to the Privy Council. If that judgment had been allowed to stand, it would have brought about an absolute paralysis of business. But for the fortunate accident that another case involving exactly the same point was ready for submission to the Supreme Court, the Customs prosecutions in inferior courts would have been blocked indefinitely.

Mr. HIGGINS.—The necessary jurisdiction might be conferred upon the Full Court.

Sir EDMUND BARTON.—Yes, I know, but I think that that would be a poor and meagre supply of food to a Constitution that requires the vigour of its life's blood. In the very nature of the case, how is it to be expected that the States Courts should be left without the supervision of some national Australian Court? Are the States Courts to have jurisdiction in suits between the States? Does it appear to be a small matter to permit a State Court to decide issues between those who are residing in the State in which the tribunal is situated and the citizens of another State? Would it not be incongruous to permit this? Yet we must either give the States Courts power to settle issues of that kind, or we must establish the High Court. We must either establish a Federal Supreme Court, such as is now contemplated, or, by way of a makeshift, arrange for jurisdiction to be exercised by the States Courts. If we adopt the latter

alternative, and we do not subject the decisions of the States Courts to the correction of an Australian Appellate Court, we shall find cases going to the Privy Council, confused by all the very troubles which my honorable and learned friend has suggested, and particularly by this trouble—that a set of Judges who only understand *ex hypothesi* the laws of one State, are deciding between the rights of citizens of that State and the rights of citizens of another, or between the Government of that State and the Government of another. If the hypothesis is correct that the necessary amount of local knowledge is to be found only in those who form the local tribunals, then there will be great danger of injustice to those States or citizens who have to submit in the first place to the jurisdiction of Courts in other States, subject only to an appeal to the Privy Council. I admit that arguments such as these must not, however, be pushed too far. There is a certain refinement at the bottom of every one of them, but arguments of the kind which I have been answering may fairly be met by others equally relevant, and only so far as there is too much refinement in the arguments which have been used against the Bill are my statements upon this head an answer to them. Now, I come to the practical necessity for the High Court, this being the fourth proposition which I took leave at the outset to indicate to the House. I put it to honorable members that it is wrong to argue from actual present conditions as to the practical necessity for this court. In the first place, to a large extent that inquiry is immaterial, because if it is proved that the creation of the High Court is necessary as a part of the Constitution—that it is a mandate from those who made it, and that the Constitution is not complete without it—it is not necessary for me to go further than to argue in support of the three propositions with which I have already dealt. There our duty lies clear, but as the point of practical necessity has been raised, I desire to say a few words upon it. Those who determined in favour of the creation of this court, and, as I venture to contend, its creation at the earliest possible time compatible with the necessary business of Parliament, were judging according to the conditions which existed at that day, and of which they knew. If these conditions have been altered at all, they can only have become changed in so far as the facts of every day

have demonstrated the greater degree of the necessity. If the necessity existed when the Constitution was framed—and upon that point the judgment of its framers is beyond cavil—and if there is greater necessity to-day, as I think there is, the fact only goes to strengthen arguments which really need no strengthening. The Constitution has brought into existence new relations between the States, and between individuals, as well as between the Commonwealth and the various States and individuals. These relationships were not existent as enforceable rights before the Constitution was made; and whatever moral rights may exist, the enforcement of them can only become possible when the mandate of the Constitution regarding the Federal Judiciary is complied with. Those who framed the Constitution knew that. We have no right—and I use the word, of course, in no offensive or arrogant sense—to interfere with the judgment of those who, in specific terms, ordered the creation of the High Court. They ordered it because they forecasted the existence of these correlative rights between the States and the Commonwealth, and between individuals and the States and the Commonwealth, and knew that they must produce litigation which could only be satisfactorily determined by a tribunal in essence national. It is not reasonable to conclude that the public will ever be satisfied to commit the determination of these matters, arising as they do from the creation of the national structure, to the States tribunals, which do not breathe, and cannot be expected to fully breathe, the national spirit. It is easy to say that the Judges of the States Courts will be impartial. I know they will. But the outlook from which men view these matters may be consistent with the most self-sacrificing impartiality, and yet may be such as not to lead to a correct decision. I say this with the most perfect respect for the Judges before whom many of us have practised, and whose integrity and learning I cheerfully admit. I am merely stating in other words that they are human. The States Judges are, in common with others, subject to the weaknesses of humanity, and if we have to determine between a State tribunal and one framed upon purely national lines, let us choose that which is likely to breathe the spirit of, and also to give body to, our highest aspirations.

Mr. JOSEPH COOK.—Will it be impossible for the Judges of the High Court to do any wrong?

Sir EDMUND BARTON.—No. They will make mistakes, just as other Judges do. Those who know the difficulties attached to judicial decisions must be surprised that the mistakes made are not more numerous. The work is very difficult, and requires much training and experience and the exercise of great discrimination. Of course there will be mistakes, but if you create a structure, and you wish to maintain its national character, you must, when a selection has to be made between a tribunal which in its direction and its essence is national and one which in its direction and its essence is local, choose that the tendency of which is national. How could it be contended that local tribunals would be the best expositors of the national sentiment? Was it ever contended before? Could it ever be contended except in this debate?

Mr. JOSEPH COOK.—The Prime Minister has set up the opposite contention.

Sir EDMUND BARTON.—I know that the honorable member for Parramatta has followed me very closely, but I really must say that I have not done any such thing, as he will find upon reference to the *Hansard* report. The honorable and learned member for South Australia, Mr. Glynn, and the honorable and learned member for Northern Melbourne, know from experience that all commercial prosperity means an increase in litigation. That increase we must expect in the Commonwealth if higher prosperity as a nation is to come and continue. Where a new system of rights, duties, and relations is brought into existence, difficulties and doubts must arise, which can be solved only in a court of law. That is part of the price which we have to pay for our political origin, and upon the whole it is a very small price. It is even permitted to a lawyer to ask whether it should not be considered a necessary price, because quarrels between States might, in the course of time, lead not only to their drifting apart, but to their actually drawing the sword against each other. The substitution of a peaceful tribunal for the solution of their differences is surely a boon and a benefit, which can be conferred by only a national court, and which, if bought at twice the price that is talked of, would be a cheap purchase for the new Commonwealth. All my remarks have been directed to the

first function of the Court—its original jurisdiction. It has, besides, an appellate jurisdiction. But it is of more concern to me to show that, apart from its necessity as an Appellate Court, it is required as a Federal Court to determine national questions in the light of the Constitution, giving due weight to all those instruments of Government which regulate the doings of States, and which must be looked at side by side with this Constitution. The existence of this Court as an Appellate Court will depend upon its repute, and its power to attract appeals to itself. Upon that I need say very little. The framers of the Constitution thought that we could erect a Court which, by reason of its repute, would attract to itself in the main the appeals of Australia. That is what the late Sir Henry Parkes believed, as was shown by the honorable and learned member for Illawarra last night when he read the resolutions proposed by that statesman in 1891. The honorable and learned member properly pointed out that the Court which was then dealt with was purely an Appellate Court. Since that time we have progressed; thus in March, 1897, we declared that this Court should discharge functions as a Federal as well as an Appellate Court. It is upon that aspect of the case that I have dwelt, although I believe there is no reason why it should not be a most successful Court without any extravagance being indulged in. As an Appellate Court it will depend upon the same conditions which will, or will not, guarantee its success as a Federal Court. Its success will be measured by the wisdom and learning of the decisions which it gives. I am not one of those who are so craven as to think that whilst we are constantly asserting for ourselves an ability to conduct our political affairs as well as can any other people—and I do claim that—we lack the ability to form a competent judicial tribunal. I do not agree with those who attack the Courts of the States. For the sphere in which their work lies undoubtedly they have been most learned and successful Courts. I give full weight to any arguments based upon their history, but I venture to say that if the field of selection be extended to cover all Australia, instead of that of any particular State, there must be constituted under this Bill a stronger tribunal than is to be found in any State Judiciary. I make that statement without desiring to

say one word of disparagement of any State Judge to-day, without contending for a moment that there are not some occupants of the States Judicial Benches who are eminently fitted to occupy seats upon the High Court Bench. But I do contend that if the field covered by the whole of Australia be open—be it the judicial field alone, apart from the Bench and Bar, which would give us a field wider still—instead of, as hitherto, only a part of the Commonwealth, we shall be able to insure the creation of a court, which, from the wider range of our choice, must necessarily be a stronger and better tribunal than any of which we have had experience. Why do I use that argument? Because, if that is the result, this Court will attract to itself the appeals from the various States. In the infinitely more difficult field of constitutional judgment—in the interpretation not only of this Constitution, but of others, and particularly of those of the States—infinitely greater demands will be made upon the reason, judgment, and self-containment of this Court than can be made upon them in ordinary appeal cases between mere party and party. There is no higher field of legal arbitration than constitutional law unless it be the vague and disturbed field of international law. The work for which this court is primarily constituted—that of being a Federal tribunal, an arbiter—is one which makes the highest demands upon it. If it can satisfy those demands, it can *a fortiori* satisfy all demands as an appellate court. If, then, we are confident, as we ought to be, of our ability to constitute a court which will be the final interpreter of the Constitution, we need have no doubt of its success in matters which, however grave, are not so arduous, and do not demand the same extent of research and learning. I know that I have occupied a long time. I felt that I was discussing a problem of the gravest importance—one upon which none of us should feel cocksure, but one which all are called upon to debate if they have anything to say which is worth putting before the House. I hope that repetitions in which I have perhaps indulged from a characteristic failing will be forgiven. We are all apt to drive home our points a second time in order that we may feel assured that they have got there. I am not, I believe, a great sinner in that respect; but this is a matter for

close consideration. A Bill of this character demands very close argument, and one, therefore, needs to be satisfied that he has thoroughly explained his views to his hearers. It is in that endeavour that I have, perhaps, occupied too much time.

Sir EDWARD BRADDON.—There is one point that the Prime Minister promised to clear up. I refer to the order in which the courts mentioned in section 71 of the Constitution are to be appointed.

Sir EDMUND BARTON.—I will deal with that before sitting down. Those courts are mentioned in a particular order, and if we see no reason why that order should be disturbed, we ought not to disturb it. The intention of section 71 seems to be that first the supreme duty should be performed of creating the High Court. That must be our first act, but it is within the discretion of Parliament to create other Federal Courts as the necessity arises, and also to invest States Courts with Federal jurisdiction. It is within the discretion of Parliament to say that it will create only the High Court at present, but will vest certain States Courts with Federal jurisdiction. It has complete discretion regarding the establishment of other Federal Courts and the investment of State tribunals with Federal jurisdiction, but the establishment of the High Court is an absolute duty created by the Constitution.

Sir EDWARD BRADDON.—Is that a condition precedent to the others?

Sir EDMUND BARTON.—I do not say it is a condition precedent, except in the sense that nobody can bind any Parliament if it chooses to misuse its discretion and betray its trust. To that extent I admit the position, but those who have witnessed the making of this Constitution, and are familiar with its source, know that the intention of its framers was that, without delay, the Federal arbiter was to take its place side by side with the Executive and Parliament. If there was to be delay, it was only such as was inevitable in the very nature of things. There was not to be delay upon the miserable plea that the Court was not needed yet, or that its creation would be too expensive. It comes with ill-grace from us, whose parliamentary inheritance in a very large measure has been an extravagance for which we are all responsible, and who have sanctioned public undertakings which have

produced no beneficial results, to say that we will not give effect to an Act not only of the Imperial Parliament, but of our own people, in which we are told that a certain thing is our duty, and that we are to discharge it—that we will not incur the expense—not an extravagant expense, but whatever may be reasonably necessary to render the performance of the trust committed to us effective—that we will not carry out the mandate of the Constitution and establish a Federal Judiciary. If the Government has culpably postponed that duty—and I venture to say it has not—no similar sin ought to be condoned on that ground. It is no argument to say that because we have delayed this matter too long—and if it had been possible this Bill would have been presented before now—it may now be indefinitely postponed. If the mandate contained in the Constitution has not been strictly followed, that is no reason why the dignity of those who gave it should be further offended. I ask that this Bill may be passed—and this Court, and the other necessary tribunals which will follow its creation, established—not so much in a sense of cringing obedience, which I do not wish to enforce upon any one, but as an indication of loyal affection to the people who caused the making of federation, and who indorsed the work of the Convention. There is one question which should possess all our minds now that we come to the supreme decision of this matter. Do we intend for the sake of saving what is a very small sum, having regard to the many other expenses that may be incurred under the Federation, to postpone indefinitely the performance of an act which ought to be one of our first duties? Let us consider that in discharging that duty we shall be relieving the Constitution from a difficulty; that it was intended that it should consist of these three great limbs—if I am not allowed to term them arms; that one of those limbs has been to a certain extent injured, but that that is no reason why as much vigour as it can be made to exercise should not be applied to the maintenance of the other parts of the body. We ought to be determined to carry out the intentions and the demands of the Constitution by making it complete, and not to plead, because the completion of the organ has necessarily been delayed, that the body is more healthy when it works with a withered arm.

Sir Edmund Barton.

Mr. WILKS (Dalley).—I think we have just listened to one of the most powerful appeals that has been heard in the Federal Parliament. The Prime Minister always excels in dealing with constitutional questions, and in the elaborate speech which he has just delivered he has given us an exhibition of his powers, the like of which he seldom favours us with. The appeal which he has just made is equal to the best efforts of the great federalist of four years ago. We find him to-night, as Prime Minister of Australia, defending this Bill in the spirit in which he defended the Constitution as put before the electors. The speeches made in the defence of the Bill from the Government side of the House have been couched in language which suggests that the Constitution is being attacked. The Constitution, however, is not on its trial. No attack has been made upon it. No one has said that he is opposed to the creation of the High Court, but there is simply a difference of opinion as to the method which should be adopted in its establishment. The Prime Minister, however, described those who opposed the Bill just as he described the opponents of the Constitution Bill, and declared that they were anti-federalists.

Sir EDMUND BARTON.—No. I have not said anything like that to-night.

Mr. WILKS.—That was the attitude taken up by the right honorable gentleman in his enthusiasm for the adoption of the Constitution. To-night he has tried to place the House in a similar position. I have listened to this debate as a layman and as one of the great mass of the people who will never have any occasion to use the High Court, but will always have the privilege of paying for it. I have no training as a lawyer to help me in placing my views on this Bill before the House, nor do I advance them from any particular attachment to the mercantile classes. I speak rather as one who is endeavouring to represent the opinions of the people of his own class, and who follow similar walks in life. The Prime Minister made passing reference to the suggestion that this Bill is being treated as a party measure. But he must see that it is not so. The honorable and learned member for Bendigo, the honorable and learned member for Northern Melbourne, and the honorable and learned member for Corinella, and the honorable member for Gippsland have spoken

most vigorously against this measure; they have even invited us to vote with them against the motion for the second reading. If they are treating it as a party matter I can only say that some honorable members who have hitherto been the most enthusiastic supporters of the Government are now deserting it. Another suggestion has been made—that those who oppose the Bill are influenced by press opinions. The Prime Minister said that he did not trust to the newspapers to direct honorable members in the discharge of their duty. The leading newspapers of New South Wales, however, are vigorously advocating the creation of the High Court, while representatives of New South Wales in this House are, for reasons which they are giving, fighting against this measure.

Mr. JOSEPH COOK.—Does the honorable member say that the two leading journals in New South Wales are supporting this Bill?

Mr. WILKS.—I am told that they are. I usually read both journals, but I have not had an opportunity of perusing the articles said to have been published in support of the High Court. We all appreciate a speech of the character of that delivered by the Prime Minister; but when he insinuates that honorable members who oppose this Bill are influenced by the opinions of the press of the States they represent, he suggests what is entirely wrong. The opposition offered to this measure is by no means a party one. The Prime Minister said that the High Court was essential for four reasons. He urged, first of all, that it was necessary that we should have it to interpret our Constitution. I believe that when it is necessary to interpret and guard the Constitution every provision should be made for the performance of that work. But the Prime Minister said that we should establish the Court, not only for that reason, but because of the mandate in the Constitution that it should be created. I for one, however, am not going to regard the Constitution as a Joss, and fall down and worship it whenever I am called upon to do so.

Sir EDMUND BARTON.—We must either follow it or amend it.

Mr. WILKS.—I am not opposed to the passage of a Bill for the creation of a High Court, but I shall show that such a Bill should not be passed at the present time. The Attorney-General sneers at me.

Mr. DEAKIN.—Certainly not.

Mr. WILKS.—The honorable and learned member for Northern Melbourne, the honorable and learned member for Corinella, and others, have intimated to the Attorney-General that they feel that it is a strain upon their friendship, but that, nevertheless, they are compelled to vote against the second reading of this Bill. I have yet to learn that considerations of personal friendship should guide us in the discharge of our duty in this House. The honorable member for Gippsland, with tremulous voice and with tears in his eyes, has intimated that he feels constrained to vote against this measure, while there are others who say they do not care to vote against the Government, and will therefore support the second reading of the Bill, but that they will support certain amendments when the measure gets into Committee. Is the Bill to be so mutilated in Committee that when it is passed no one will be able to recognise in it the measure now before us? It seems that it is, and that there are only one or two vital clauses which, according to the Attorney-General, will be defended. If that attitude is adopted by the Government, it will say very little for their appreciation of the High Court. The Prime Minister has admitted that the Government would have difficulty in getting this Bill passed into law, and said that he was afraid that if they had persisted in pressing it forward some time ago they might not have succeeded. If there was opposition to the measure then there must have been some reason for it, and if a hard struggle is now to be experienced in passing the Bill into law, would it not be well for the Government to withdraw it until a more convenient season presents itself? In the meantime honorable members could be educated up to the necessity for the Court. I, for one, am willing to be educated in regard to this matter.

Mr. AUSTIN CHAPMAN.—Did not the honorable member, in a speech at Balmain, blame the Government for having failed to push on with the High Court Bill last session?

Mr. WILKS.—No; the Prime Minister said that the people in Australia accepted the Constitution with the provision in it for a Federal Judiciary. But did the people vote for the Constitution Bill because of that provision? If the right honorable gentleman can show that the people of any

State voted for the Constitution Bill because it provided for the creation of a High Court, his argument will be a strong one. The magnificent speech which the Premier has just addressed not only to this Chamber, but to Australia, will cause those who heard it to wonder why the Government have hesitated so long about introducing the measure. Had they taken a similar attitude last session, and had the Bill then introduced been as vigorously defended as this Bill has been defended by the right honorable gentleman, we might not be engaged in the present struggle, but might be enjoying the benefits and advantages of a High Court in full working order. The honorable members who have addressed you on this subject, Mr. Speaker, and especially those who are versed in the law, evidently gave a good deal of time to the preparation of their elaborate attacks upon or defence of the measure. Most of us, however, are not accustomed to the atmosphere of courts. My own acquaintance with the administration of law is fortunately very small, and I hope it will remain so, although I have a great admiration for those who have studied its technicalities, and whose practice in the courts earns them, if not a well deserved, a good income. Ordinary people must look at this matter from what the Prime Minister may term a miserable point of view, but from one from which they have to regard many other matters which come before them for consideration; that is, from a financial stand-point. The Prime Minister had no right to suggest that those of us who have opposed the Bill do so because we are governed by exterior influences. Even if we were all the miserable creatures of the daily newspapers of the various cities of Australia, it must not be forgotten that the press is a great factor in moulding public opinion, and in presenting the views of the people upon public questions. In Victoria, the *Argus* and the *Age* are both opposed to the measure. Can they, because they are of the opinion that the immediate establishment of a High Court is not one of the requirements of the people, fairly be called bitter and violent enemies of the Constitution? But while in Melbourne the press is opposed to the Bill, in New South Wales, I am told, it is in favour of it. Inasmuch, however, as almost all the representatives of New South Wales in this House are opposed to it, that disposes of the imputation of the Prime Minister. The

Mr. Wilks.

right honorable gentleman made a long defence—first of the Constitution, and then of the High Court, and in his concluding remarks he devoted a few minutes to the advocacy of this measure upon the ground of its practical necessity. That is a phrase which the ordinary man can understand, but which we must take for what it is worth. We have been told that the Constitution is in danger, but when I very innocently asked the Prime Minister what danger he apprehended, I failed to obtain an answer, and when I asked what were the signs of danger, the only reply I received was that the people had marched to the ballot with copies of the Constitution Bill in their hands, and that their reason for voting for its acceptance was because it provided for the establishment of a Federal Judiciary.

Mr. McDONALD.—Probably ninety-nine out of every hundred knew little or nothing of the judicial provisions of the Constitution.

Mr. WILKS.—Exactly. It is the bounden duty of the Government to do all they can to win the popular respect for federation, so that the States may be encouraged to confer still greater powers upon us. That is the ground upon which many of us argue for the consideration of questions of economy in regard to this matter. We are anxious that the Federation shall prove a success, so that the people may enjoy, not only the pleasure of hearing fine phrases, but the advantages of personal benefit in the more systematic and economical administration of their affairs. The economical aspect is no doubt a prosaic one to take of a question like this, but if we wish to secure the good will of the people we must not lose sight of their demand for economy. We remember the great skill and ability shown by the Prime Minister in passing the Constitution through the Convention, and we admire him for his connexion with it. But that does not prevent us from differing from many of the conclusions which he has since enunciated in regard to its provisions. For him to say that those who oppose the immediate creation of a High Court are opposed to the provisions in the Constitution which provide for a High Court is as absurd as to say that those who opposed the Constitution Bill were opposed to federation. Even the Attorney-General has admitted during this debate that he would like to see the Constitution amended in some points,

and experience has shown that many of its provisions require amendment. When I wanted to know from the Prime Minister if he saw any sign of an interference with our popular liberties, he dwelt at length upon the fact that the Constitution is the safeguard of our self-governing powers. We all admit that, and we all hope that there will be no infringement of our autonomous rights. But such a statement is of little assistance to us in the consideration of the measure now before the House. The Bill has not been criticised in any party spirit. Lawyers of repute, such as the honorable and learned member for Northern Melbourne, the honorable and learned member for Corinella, who was once a Minister of the Crown in Victoria, and the honorable and learned member for South Australia, Mr. Glynn, have all opposed it. We find, too, that that level-headed gentleman from the land of cakes, the honorable member for Gippsland, who has no pretensions to any extraordinary knowledge of constitutional law and legal practice, also opposed it, because he does not admit that there is any immediate necessity for the establishment of the High Court. I do not wish to traverse the arguments which have been raised in regard to the mandatory character of the provisions of the Constitution in respect to the establishment of a High Court. I frankly admit that the Constitution is mandatory in that respect, just as it is mandatory in respect to the establishment of a capital. But it rests with the representatives of the people in Parliament assembled to determine the urgency of both these matters. Those who are in charge of the Bill have failed to show that the establishment of a High Court is urgent. If they had shown that the people of any one of the States had voted for the Bill because of its judicial provisions, the establishment of the High Court would be in the same position as the establishment of the Federal capital, and I should feel constrained to vote for the Bill. But they cannot do that. Neither can they say that because the Constitution was accepted by the people, therefore every provision in it must have immediate effect, because matters such as the establishment of the High Court are left to the discretion of Parliament, and each representative is responsible to his electors for the attitude which he takes in regard to them. Personally, I am quite prepared to take the responsibility of opposing this measure. I

think that it would be prudent for the Attorney-General to withdraw it, because supporters of the Government, who are grieved in their inmost hearts to oppose them, have declared that they cannot vote for it, while others, who are willing to vote for it, say that it must be seriously amended in Committee. The Attorney-General did not make his second-reading speech on the Bill introduced last session until nearly a year after its first reading, and then the Government was content, although there had been no expression of hostility on the part of the House, to withdraw it altogether. Now it has been brought before us again, and due publicity has been given to its provisions, both by the press and by the members of this House, and the honorable and learned gentleman has reason to believe, from the criticism which has been directed at it, that he cannot pass it in any but a mutilated condition, with provisions which he has admitted will not do what he requires. Now that honorable members have been relieved from party ties, I ask them to consider this question fairly and squarely. Who are the three strongest advocates of this measure? First we have the Attorney-General, who introduced the Bill; secondly, the Prime Minister; and thirdly, the honorable and learned member for Indi. The Prime Minister was bound to defend the measure, but he qualified his support by saying that there were two or three provisions in the Bill that might require some alteration in Committee. The Attorney-General, on the other hand, told us that any attempt to deprive the High Court of any of the powers proposed to be conferred upon it, would be attended by the most unfortunate results. The honorable and learned member for Indi delivered a very able speech, but he traversed much ground over which I am not prepared to follow him. He especially impressed upon us the solemnity of the undertaking in which we were now engaged, but I think we may dismiss any consideration of that kind in view of the more practical issues with which we find ourselves face to face. The Government evidently anticipate that they will have a very hard struggle before they are able to pass the Bill into law. It is apparent from the tone of the debate that the Bill will simply squeeze through, and that some honorable members will be prompted to support it only by their attachment to the Prime Minister, by their affection for

the Attorney-General, or by their unswerving party loyalty. It is not right that party considerations or motives of personal friendship should sway honorable members in a matter of this kind. Under all the circumstances, and in view of the prospect of the measure being very considerably mutilated, I ask the Attorney-General whether he will be prepared to accept it in a radically amended form?

Mr. DEAKIN.—I will answer that question in detail when the Bill is in Committee.

Mr. WILKS.—I am not content to wait until that stage is reached, and I shall record my vote against the second reading. We have been told that we require a High Court, the members of which have had parliamentary experience, and we may reasonably infer from this that the first appointments to the Court will be of a purely political character. This will not specially recommend the proposal to the public, because most people will find it difficult to see any reason why the High Court should necessarily be constituted of those who have had a hand in the framing of the Constitution. There is not the slightest justification for the slurs which have been cast upon the Supreme Courts of the States. If there is anything of which Australia has reason to feel proud, it is the purity of its Judiciary, and the integrity and ability of its Judges. It is desirable that we should have the Constitution guarded in every way, but Parliament should not surrender its powers to any Bench of Judges, however lofty or able they might be. Although the people are no doubt very much attached to their leading politicians, there is no reason why they should be called upon to provide a refuge for them by creating a High Court for which no need exists. It has been conceded by the honorable and learned member for Indi, that there is no occasion to give the High Court such jurisdiction as will cause it to trench upon the business properly belonging to the States Courts. He also said that there was no need for any distrust of, or want of confidence in, the States Courts. The Prime Minister, on the other hand, told us that he wished to have questions relating to the interpretation of the Constitution removed from the purely provincial atmosphere of those Courts. He also stated that there was a practical necessity for the High Court,

but he did not establish his proposition. Only twenty appeal cases have occurred in all the States since the establishment of the Commonwealth, and this in spite of the fact that we might have expected a very large proportion of cases to arise out of the administration of the new Customs Act, which has caused such a large amount of irritation amongst members of the mercantile community. I do not see how there can be any large volume of important business to engage the attention of the High Court, and yet we are told that it is proposed to appoint five Judges, and that it may be necessary later on to increase this number. Some honorable members have declared that unless the jurisdiction of the Court is to be very much restricted, it will be necessary to appoint more than five Judges immediately, and, if so, the estimate which has been given by the Attorney-General will prove altogether insufficient. It has been represented by the advocates of the Bill, that according to the Constitution it is imperative that the High Court should be established without delay. If, however, it is imperative now, it must have been equally so when the Bill was abandoned last session. I do not realize any of the dangers which the Prime Minister apparently apprehends, and I resent the attitude which he has assumed towards all those who have criticised the measure, because he apparently regards them as political brigands who are engaged in an attempt to destroy the Constitution. The great majority of the people who do not revel in the luxuries of litigation in High Courts or elsewhere will be hard to convince that we are working upon the proper lines in establishing the Federal Judiciary at this stage. This is no time to indulge in sentiment, especially in view of the demand made by the people that every economy shall be exercised. The Attorney-General has attempted to show us that if we establish the Federal Judiciary the States Governments will be able to economize by reducing the cost of the administration of justice within their borders, but on the other hand the Prime Minister says that there are not enough Judges in New South Wales, and that we cannot therefore expect the Federal business to be transacted by the State Courts there. To urge that because this Parliament enacts certain legislation the Governments of the States will exercise economy is ridiculous.

The Attorney-General has declared that the High Court will attract a lot of business ; but, as has been pointed out, the citizens of the Commonwealth will still avail themselves of their right to appeal to the Privy Council. Viewing the matter from every stand-point, I am thoroughly satisfied that the Government would be acting wisely in withdrawing the Bill. I would further point out—because it is right that the country should be informed of the fact—that this measure has been “whipped” for in this House as no other Bill has been. Even in the discussions upon the Tariff the same degree of pressure was not brought to bear upon supporters of the Government that has been exercised upon the present occasion. Apparently the days of scientific whipping have passed, and to-night we behold a Minister passing in and out of the Chamber openly appealing to members to support the Bill. I think that the honorable and learned member for Werriwa did well to remind the House that the honorable member for West Sydney, who by the way has recently qualified himself for practice at the Bar, is a vigorous opponent of this measure. He is fully seized of the fact that the bulk of our constituents will never come before the tribunal which it is now sought to establish. The masses will have no occasion to use the Court. They are simply to be called upon to pay for it. We have been told that the leaders of the three parties in this House are in favour of the measure. That, however, is their concern as representatives, seeing that they have to justify their position before the electors. If other honorable members are sufficiently independent to oppose the Bill, I think it is proof to the people of Australia that the Commonwealth Parliament occupies a higher plane than has been suspected. I have no desire to pursue this matter further. It is refreshing to find the old fiction—that lawyers are always intent upon extracting money from the pockets of the people—has been falsified upon this occasion. We all know that the more Courts that are created the more practice there will be for the legal profession. It is therefore doubly refreshing to find the members of that profession vigorously opposing this measure in the public interest. Is the suggestion to be entertained for a moment that these gentlemen, who are so well versed in legal practice, do not understand the matter about which they are talking, and are we to

refuse to be directed by them upon the assumption that they are actuated by a miserable and unworthy motive? I think not. I must oppose the second reading of the Bill.

Sir LANGDON BONYTHON (South Australia).—We have now reached the third night of this debate, and therefore it is not my intention to go into details or to attempt, with any elaboration, to discuss the matter now under consideration. This has been so well done by the Attorney-General and the supporters of the Bill on one side, and by the honorable and learned member for South Australia, Mr. Glynn, and the opponents of the measure on the other, that anything of the kind is quite unnecessary. My object in rising is to make the statement that I intend to support the second reading, but that I reserve to myself the right to vote for any amendments I may think desirable when the Bill is in Committee. During the course of the debate on the address in reply, the Attorney-General undertook to show that the cost of the establishment of the High Court would be counterbalanced by economies that could be effected in the law establishments of the different States. But I think he has failed to sustain his position. He points to the fact that there is now one Judge less in Victoria than formerly. That reduction has not been made in view of the creation of the High Court, but because the spirit of economy is abroad. The hopes of the Attorney-General in this particular will not be realized at present. Something may be done when pleasanter relations have been established between the Commonwealth and the various States. I am in agreement with those honorable members who think the High Court is essential to the completion of the Constitution as contemplated by the Commonwealth Act. I know that the people of South Australia voted for the measure with the knowledge that the machinery of the Federation included the High Court, and they were repeatedly told that this Court was needed in the interests of the less populous States. I agree with the Prime Minister and the honorable and learned member for Indi that no satisfactory arrangement could be made to utilize the services of the Chief Justices of the States Courts. I can see that any arrangement of the kind would be surrounded by difficulties, and I am not sure that in the end it would have economy to

recommend it. Whilst I say this I have not the faintest intention of reflecting on the States Judicatures. From them a Bench could be created of the highest ability and the most absolute integrity—a Bench that would contain members who would compare in legal knowledge and breadth of view with the famous American Judges whose names have been quoted. In view of all the circumstances, I think it will be wise to call into existence an independent tribunal. I say this, but I express the hope that such a tribunal will be established on the most economical lines possible.

Mr. KENNEDY (Moir).—After the very able and eloquent addresses which have been delivered upon this question, I do not propose to deal with it at length. There are, however, one or two phases which appeal to me, and impel me to publicly avow my attitude towards this Bill. It has been insinuated by the Prime Minister that those Victorian representatives who oppose the measure take their views from the morning newspapers.

Mr. DEAKIN.—The Prime Minister said they might mistake the morning newspapers for public opinion.

Mr. KENNEDY.—The insinuation was there all the same, and on that account I propose to say a few words upon the attitude which I take up. The Prime Minister commenced his speech this afternoon by declaring that he had formulated four propositions which he intended to establish. The first of these had reference to the mandate embodied in the Constitution for the creation of the High Court forthwith. To the second and third propositions I do not propose to refer. To me the fourth proposition seemed to be the most essential. But after getting into the clouds for a considerable time, where I could not follow him, the right honorable gentleman, in dealing with that proposition, got down to solid earth again without assigning the slightest reason for the creation of the proposed tribunal at the present time. He simply appealed to the sentiments and aspirations of the Australian people. I am not going to say that the national life of Australia is not influenced to a very appreciable extent by sentiment. The right honorable gentleman told us also that the Constitution had the imprimatur of the people of Australia as a whole—that their representatives in the Convention had framed it, and that the electors had subsequently adopted it. I ventured to remark,

by way of interjection, that it was not the whole of the principles embodied in the Constitution which induced the people of Australia to accept it, but rather its good qualities. In Victoria, I know that considerable difference of opinion arose regarding the respective merits of the provisions of the Commonwealth Bill. It was during my advocacy of the acceptance of that Bill that my attention was directed particularly to the clauses under which it is now proposed to constitute the High Court. I might refer to the different conditions that existed when those machinery clauses were inserted as compared with the conditions which obtain to-day. My attention was particularly directed to the matter last night when the honorable and learned member for Illawarra quoted from the reports of the Convention debates certain remarks made by the honorable and learned member for Northern Melbourne with the view of showing that his opposition to the Bill was inconsistent with the attitude taken up by him at the Adelaide Convention. I pointed out at the time that the position was altogether different. What was the position then? The Convention Bill, as drafted at Adelaide, made provision for a Commonwealth Judiciary that would have satisfied the aspirations and ambitions of the people of Australia. Under those provisions it would have been possible to create an Australian Court of Appeal to determine all Australian matters without encroaching upon the prerogative of the Crown to deal with questions of an international character. At the Adelaide Convention, power was taken for the High Court to deal, not only with appeals involving constitutional or Inter-State questions, but with all appeals from the Supreme Courts of the States, and the honorable and learned member for Northern Melbourne was speaking of the Constitution as it then stood, when he then supported the creation of the High Court. In the draft of the Constitution agreed to at the Adelaide Convention, it was provided, under clause 74, that—

No appeal shall be allowed to the Queen in Council from any Court of any State, or from the High Court, or any other Federal Court except that the Queen may in any matter in which the public interests of the Commonwealth, or of any State, or of any other part of Her Dominions, are concerned, grant leave to appeal to the Queen in Council from the High Court.

We are told by the Prime Minister that it was the Imperial Parliament that whittled

down that provision. Nothing of the sort. The Convention, in the first instance, whittled away the whole of the rights of appeal to the High Court in respect of all matters coming within the purview of the States Courts, and decided that they should remain as they were. That fact is clearly shown in the memorandum that was submitted by the delegates sent to England to confer with the Imperial authorities when the Constitution Bill was before the British Parliament. In that memorandum it is set forth that the Constitution, as submitted to Imperial Parliament, provided that—

No appeal shall be permitted to the Queen in Council in any matter involving the interpretation of this Constitution or of the Constitution of a State unless the public interest of some part of Her Majesty's Dominions otherwise than the Commonwealth or a State are involved.

Except as provided in this section this Constitution shall not impair any right which the Queen may be pleased to exercise by virtue of Her Royal prerogative to grant special leave to appeal from the High Court to Her Majesty in Council.

Then the memorandum set forth that—

It does not abolish appeals to the Queen in Council with respect to State Courts, and as there is no enactment elsewhere that appeals from them are to cease, the prerogative remains, and the appellant may take his case either to the High Court or to the Privy Council. But when, and only when, he goes to the High Court in one of the limited class of cases set forth in the first part of clause 74, he must abide by the decision of that Court.

That proves beyond a shadow of doubt that the anxiety which existed for the creation of the High Court according to the Adelaide draft of the Convention Bill—to which the members had given their adherence, had entirely disappeared. The position was entirely different when the Constitution Bill was submitted to the Imperial Parliament. When it was ratified by the Imperial Parliament the powers of the prospective High Court were still further whittled away, and further powers of appeal to the Privy Council were given. We are told that the desire for the creation of this Court was uppermost in the minds of the people when they accepted the Constitution. I admit that it was then the wish of the great majority of the people of Australia that we should have a High Court, provided that the conditions to which the Adelaide Convention had given its support remained. But they do not remain, and therefore the necessity for the creation of the High Court does not now exist to the same extent as before. That

view was very much in evidence when I, in common with others, was urging the people of Victoria to accept the Constitution as it then stood, and it was also a prominent one during the first Federal election campaign. I found then that the electors were anxious to know whether it was desirable under the conditions then prevailing to create a High Court. What have we been told by the Prime Minister as to the necessity of establishing this tribunal? We have been told that it may be that the reputation which the Court will make for itself by its learned judgments will attract business to it. But is there any necessity to create a High Court in order that it may make a reputation for itself? The necessity exists only if there is work for the Court to do. Those who have spoken during this debate have not questioned the ability of the States Courts to deal with the matters submitted to them. There can be no bias on the part of those tribunals, and as a matter of fact the few Federal matters with which our States Courts have dealt bear no evidence of any such bias. I quite agree that it is practically impossible for us to requisition the services of the Chief Justices of the several States, and to place them in the position of being the Judges of the High Court.

Mr. JOSEPH COOK.—That proposition has never been made.

Mr. L. E. GROOM.—It has been suggested.

Mr. KENNEDY.—I do not think that it has been seriously suggested during this debate. We have a power to create a High Court and other Federal Courts, but I hold that we shall satisfy our present requirements by exercising the right to invest the superior States Courts which now exist with Federal jurisdiction; we have the harmonizing power of the Privy Council to reconcile any conflicting judgments which may arise. That is the view I take of the situation, and I am very much surprised that the Prime Minister did not submit to the House some evidence of what is said to be the absolute necessity for the immediate creation of this Court. Those who oppose this measure may be accused of looking at the matter from a mercenary point of view; but I contend that we should at least regard it from a practical stand-point. Even the Attorney-General urged that the High Court was proposed to be established from motives of economy, but we know that this miniature Court of Appeal, as we may term it, will not

meet the necessities of the situation. If the provisions for a Judiciary which were first laid down in the Constitution Bill still remained, I should not hesitate to support to the full the creation of the Court as proposed in this measure. But I am dealing with the situation as it exists, and I do not therefore feel justified in supporting it. I feel that our States Courts, with the Privy Council as a Court of Appeal, will be able to deal with all matters which are likely to arise for a very considerable time. I have heard honorable members say in this House—just as I have heard the statement made in other Legislatures—that they will support the second reading of a certain Bill, and attempt to mould it according to their views in Committee. I have had some experience of what is possible in that direction, and I consider it desirable for one to take the first opportunity of fighting against a principle to which he is opposed, rather than to run any risk of the combinations or many little influences which may subsequently be at work. It is that experience which will impel me to vote against the second reading of this Bill.

Mr. JOSEPH COOK (Parramatta).—I feel it my duty to say a few words in regard to this Bill from a layman's point of view, and to urge reasons for the vote which I am about to give against the motion for the second reading. I speak upon a subject of this kind with the greatest diffidence. Everything has been said in favour of the Bill that could be said for it by the three honorable and learned gentlemen who have been the principal speakers in support of it. We have listened to-night to a very brilliant speech by the Prime Minister, who dealt with the whole range of the Bill, but who, I contend, did not traverse the whole ground opened up by this debate. The speech was conspicuous for what it evaded as well as for what it proposed. Last night another brilliant speech was delivered by the honorable and learned member for Indi, but it was marred, I venture to say, by a very unfortunate sneer at the Privy Council. I was surprised to hear an honorable and learned member of his ability so obviously sneering at a High Court such as the Privy Council undoubtedly is.

Mr. DEAKIN.—Not at the Court, but at some of its members.

Mr. JOSEPH COOK.—The honorable and learned member for Indi said, with a

most contemptuous shrug of his shoulders—"You can get, well—the decision of the Privy Council." No doubt the honorable and learned member's experience of that tribunal is unfortunate. We all know that some time ago he went to England to conduct a very important case before the Privy Council. Doubtless he then met one of those "scratch courts" which he condemns so roundly, and he came back having lost his case. In these circumstances he very naturally will not have a high appreciation of a court whose judgment had such serious consequences for him.

Mr. DEAKIN.—The honorable and learned member has won far more appeals than he has lost.

Mr. JOSEPH COOK.—That may be, but I think there are very few legal men in Australia who would use the language concerning the Privy Council which he employed last night. It was most unfortunate; it was quite gratuitous and unnecessary. I should like to put in opposition to his opinion of the Privy Council the opinions of some of the admittedly best lawyers in Australia—men like Sir Julian Salomons, Mr. Pilcher, and Mr. Want, who have no political ambitions to serve, and who unhesitatingly declare the Privy Council to be the finest law court in the world. I think that their opinion should have as much weight as the oracular utterances of the honorable and learned member for Indi. But, notwithstanding that blot on his speech, it was a brilliant attempt to say all that could be said in favour of the immediate establishment of the High Court. The Prime Minister told us, in quite a pleasant manner at times, that it was most unseemly for the opponents of the Bill to ask for delay, and that it was an offence against the dignity of the people who sent us here, having accepted the Constitution by referendum. He impliedly stated that it was a misuse of our position and a betrayal of our trust to vote against the Bill. He further described the arguments put forward by the opponents of the measure as miserable. But in spite of these unnecessary aspersions upon his opponents, he made a brilliant speech. In my opinion, however, it is the duty of those who believe that the Commonwealth should be governed upon economic lines to vote against the second reading. I want, in the first place, to protest as strongly as I am able against the rigid and plenary and technical reading of the

Constitution which has been adopted by both the Prime Minister and the honorable and learned member for Indi. They have gone the length of saying that the whole necessity for the measure rests upon the meaning of one word in the Constitution. The Prime Minister objected over and over again to any reading of that kind when he was trying to get the Constitution Bill adopted by the people. Whenever an opponent suggested that a technical reading of the measure would be used to create difficulties in connexion with the amendment of the Constitution, and in defining the respective powers of the two Houses, he invariably met the objection by the statement that the Constitution would be administered by men of common sense, who would not act upon any technical reading of its provisions. Now, however, when he wants to get this Judiciary Bill passed at all hazards, he tells us that everything depends upon the meaning of one word. It is a pity, if he knew that the provision upon which he relies is of such extreme importance, that he did not dilate upon the subject before the Constitution was accepted by the people. He argues now that the people knew exactly what it contained, and have expressed their unqualified approval of every line and every comma in it. Under other circumstances, however, he would be the first to protest against the rigid and unfair reading which he wants us to adopt. It is a very large assumption to say that the people understood the shade of meaning attaching to every word and to the placing of every comma in the Constitution which they accepted. I, for one, made no pretence of understanding it so thoroughly, and I venture to say that no honorable member in this Chamber would declare himself able to do so.

Mr. L. E. GROOM.—The honorable member knew that the Constitution contemplated the establishment of a High Court.

Mr. JOSEPH COOK.—Of course, I knew that. The people, however, believed the statement of the Prime Minister that there would be no technical straining of the Constitution, and that it would be administered on common-sense lines, with a view to securing their interests and welfare. No doubt the Constitution is a sacred instrument, whose aims and whose spirit are to be observed; but there is yet a higher law, namely, the good and welfare of the people, in obedience to which

I am opposing the Bill for the present, and that is the law which necessitates careful and economic administration. I agree with the Prime Minister that the High Court must be created as soon as the exigencies of the situation will permit. But that is a very different statement from the position of the honorable and learned member for Indi, who said that this is not a question of cost or convenience, but of what is right. He told us that it would be immoral, in view of the mandate of the people, to postpone the creation of the Court. But I shall have something to say upon that point a little later. The Prime Minister told us that though we did not get all we wanted in the Constitution, we should make the best of what we have. I have no quarrel with him there. But the question is, what is making the best of the Constitution? From my point of view, it is to postpone the creation of the High Court until a more opportune time. No doubt, it is the right thing to create the High Court, but I would remind honorable gentlemen of the statement in a certain old book, that while all things may be lawful, all things are not expedient. The view I take is that it is not expedient to create a High Court at the present time. The immediate necessity for a High Court has not been made apparent, and until the people have become accustomed to the new condition of things, and can afford the expense of working the Constitution at its ultimate points, it is the highest wisdom to postpone this matter. Honorable members who have supported the Bill have argued the case entirely from the lawyer's stand-point. Every authority they have quoted has been a lawyer. No layman has been quoted as to the beneficial results which have accrued from the strict reading of the American Constitution. Mr. Justice Story, who may or may not be the best judge of the practical relations of the people of America to the Constitution, has been quoted as the authority for determining what is mandatory and what is not mandatory in the instrument. I believe that that Judge interpreted the Constitution nearly 30 years after its acceptance.

Mr. DEAKIN.—That was the first time the question arose.

Mr. JOSEPH COOK.—But the Constitution of America worked very well for 30 years, and no ill consequences befell

the people of that country for want of this interpretation.

Mr. DEAKIN.—They had their Supreme Court during the whole period.

Mr. JOSEPH COOK.—Was the statement of Mr. Justice Story a mere academic performance?

Mr. DEAKIN.—He dealt with the point on the first occasion it was raised.

Mr. JOSEPH COOK.—Then I suggest that no ill consequences will befall Australia if we do not raise the point now. We can confer Federal jurisdiction upon the States Courts, which makes our position essentially different from that of the United States. The people of Australia were not told that the High Court would be established immediately upon the acceptance of federation, and the strained and technical interpretation which has been given to the Constitution is in contradiction to the common-sense administration which was promised to the people. We are told that if we do not vote for the Bill we may be visited with severe penalties. That is the threat which the Prime Minister holds over us. I am prepared to face any consequences which may follow my action in voting against the Bill. The matter is one which concerns only myself and my constituents, because I am not aware that any other power can visit punishment upon us for daring to do what we believe to be in the interests of the people.

Mr. DEAKIN.—The ill consequences that are feared would befall the people, not necessarily their representatives.

Mr. JOSEPH COOK.—Some of us who are opposing the Bill have only recently been before our constituents. I told my electors quite lately that I should vote against the Bill unless it was made clear to me that the cost of establishing the High Court would be very small indeed. The Attorney-General spoke in all for nearly seven hours in advocacy of the provisions of the Bill, and I believe that if he had spoken for seventeen hours we should not have thought his speech too long. But I am afraid that his beautiful words do not carry conviction. He pictured to us what he termed an interesting coincidence when he told us that we were now proposing to take advantage of the third power conveyed in the Constitution and are in the third year of our federal life. What argument is to be based

upon those facts, except one which reflects severely upon Ministers for their non-adherence to their stated convictions, I do not know. If they believed that there is a pressing and imperative mandate for the establishment of a High Court, they have been guilty of the gravest political immorality in postponing it so long. They tell us that they could not deal with the matter sooner. But I shall have a few words to say upon that subject presently. Both the Attorney-General and the Prime Minister have pictured the Constitution as standing upon two legs, and requiring a third leg to prevent it from tottering to its fall. Yet they have been prepared to let it totter until their immediate political necessities could be attended to. What were those necessities? Was it a necessity that we should at once proceed to impose a protective Tariff? It was, I admit, a provision of the Constitution that a uniform Tariff should be imposed within two years, but that could have been accomplished in a month. Acknowledging the urgent need for the establishment of a High Court, because the liberties of the people were in danger, and millions of money were at stake, the Government deliberately postponed its establishment until they could force a protective Tariff through both Houses of Parliament. Why did they not rather say to Parliament—"Help us to pass an interim Tariff, which may be done in a fortnight or a month, so that we may prop up the Constitution, and provide for its sound working?" But they did nothing of the kind. They were prepared to allow the Constitution to totter to its fall, in order to take advantage of the opportunity to make their own political calling and election sure. He says that the Government did not proceed with the Bill last session because they had no reasonable hope of passing it. So that we have the spectacle of the Ministry coming down to the House, and saying—"We believe there is a mandate from the people for the immediate institution of this High Court. We believe, further, that serious consequences will ensue if this Court is not established, and that millions of money may be involved." Then, on being reminded of their previous abandonment of the measure, they explain—"We did not press the Bill last session, because we thought that the House would not pass it." This is a view of Ministerial responsibility which, fortunately, is not often taken by those who hold the reins of

government. The Constitution has apparently been allowed to stand aside, whilst the necessities of office have been attended to. Now, however, that all has been made secure by the passing of the Tariff, and by the enactment of other legislation, Ministers feel themselves in a position to venture forth and to pay some regard to the Constitution. The question we have to consider is not whether it is technically right that the High Court should be established. I am quite prepared to subscribe to that reading of the Constitution, but I am not prepared to agree that the Court should be created just now. I do not believe that any harm will come to the Constitution, or that any serious consequences will be visited upon the people if we postpone action in this matter. We can give our States Courts jurisdiction beyond that which they already possess, and we can still rely upon the Privy Council as a court of appeal. Supposing that some case involving millions of money to the people of Australia were decided in an unsatisfactory manner in one of the States Courts, we should have the right to appeal to the Privy Council; and I venture to say that that body would read the Constitution as sympathetically, and with as much regard for our aspirations, as would the High Court which it is proposed to establish. We are told that we require to have our Constitution interpreted by Judges amidst Australian surroundings. On the other hand, it is alleged that the States Courts cannot be relied upon to decide Federal questions because of their local knowledge and local prejudices. Which is the right view to take? Is it right that our laws should be interpreted in the light of local knowledge and circumstances, or that they should be construed apart from any such influences? If the former proposition is to hold good, why cannot Judges of the States Courts do our work quite as efficiently as would those of the proposed High Court? On the other hand, why should we not place as full reliance upon the Privy Council, as in a Federal Court, which will be probably less free from the operation of local influences. In order to secure the passage of the Bill, the Government and those who are supporting the measure, profess to be eager to get rid of the Privy Council, because it is too far removed from local influences; then on the other hand the States Courts are incompetent to do Federal work because of them.

But it seems to me that in this connexion we have heard a number of inconsistent utterances. It has been urged, as an argument against vesting the Chief Justices of the States with Federal jurisdiction, that a Judge cannot serve two masters. That is a nice sentiment to come from a legal luminary who has been described by the Attorney-General as a "legal lynx." I was under the impression that a Judge should not serve any master but the law which he has to construe and administer. We pay our Judges high salaries and make them absolutely independent so that they shall have no master, and if they are independent in relation to their ordinary occupation, why should they be less so when they are called upon to perform the higher and more important duty of interpreting our Federal Constitution. The Attorney-General devoted a good deal of attention to the question of the expense that will be involved in the establishment of the High Court, but it is only fair to the Prime Minister, and the honorable and learned member for Indi, to say that they snap their fingers at all considerations of cost. They ask—"Is it right that the High Court should be established?" and having answered that question in the affirmative they say—"It must be created, and that immediately." The Attorney-General said he was going to prove that economy would be served by the establishment of the High Court, but he entirely confounded himself when he started to quote precedents. Every precedent mentioned by the Attorney-General showed that the administration of the law was very costly. In New South Wales, the Supreme Court involves an expense of £79,000 per annum, and in Victoria £43,000 per annum, whilst the total cost of administering justice throughout the Commonwealth, including the police, is stated to be £1,750,000 per annum. Yet the Attorney-General tried to persuade us that the High Court would prove comparatively inexpensive, whereas we have every reason to suppose that it will be equally costly with the Courts which are maintained in the various States. There are 82 pages of printed matter in the High Court Procedure Bill dealing with matters of procedure, and I am perfectly sure that the Federal Judiciary will involve an outlay very much in excess of the amount named by the Attorney-General. The area to be covered is

much wider than that of any State Supreme Court, and this must have a great influence upon the cost of administration. If the High Court Judges are to travel over this continent to dispense justice to the people in every State, heavy expense must be incurred. In just such degree as we decrease the cost of litigation to the public we shall add to the outlay upon the Federal Judiciary. Either we must take the Judges to the witnesses, or bring the witnesses over the continent to the Judges, and I am entirely at a loss to understand how the Attorney-General makes up his estimate. The Attorney-General has stated that for the purposes of the Federal Judiciary, we shall be able to obtain the use of State buildings; but I should imagine that his experience would lead him to quite a contrary conclusion. In every case in which we require to use State buildings, the State Governments very rightly expect us to pay a fair rental. In Sydney I know that constant complaints have been made that there is not sufficient accommodation for those who are engaged upon the affairs of the State, and I am sure that no State building in that city will be available for the accommodation of the Federal Judiciary. This will tend to increase the cost of the proposed new Department. Considerations of expense, however, would not weigh with me if we had no alternative method of administering justice with satisfaction to the people. I believe that if we clothe our States Courts with the necessary power to deal with cases involving Federal questions and preserve our right to appeal to the Privy Council, we shall act for the benefit of the general community, and shall find it unnecessary to establish a High Court for a few years. We are told by the Prime Minister that anybody who talks about finance in connexion with the establishment of this Court is a "miserable" individual, but I venture to say that the question of finance will have to be faced by the Government very resolutely in the near future. The payment of the sugar bonus alone will cost the Commonwealth £350,000 a year, an additional £75,000 annually must be added for the maintenance of this Court, whilst the Inter-State Commission, if created, will cost still another £10,000 annually. Then the expense connected with the office of High Commissioner in London will probably represent another £10,000. It is

Mr. Joseph Cook.

high time, therefore, that we considered this matter of finance, quite regardless of whether, for so doing, we are dubbed "miserable individuals" by the Prime Minister. By that means we shall make the people more contented with the Federation into which they have entered. I openly confess that the time will come when a High Court will be needed. That time, however, is not yet. Questions may arise connected with the riparian rights of the different States, and the Inter-State Commission, but that tribunal has not yet been created. When we have overcome the troubles incidental to the birth throes of our Federal Constitution it will be quite time enough for us to consider the creation of the High Court. That, I submit, is not political immorality; it is simple political expediency. We ought to consider the Constitution from a practical stand-point rather than to strain it in the direction of setting up every arm and attribute which it may eventually require.

Mr. L. E. GROOM (Darling Downs).—I rise to support the Bill in its present form. Unfortunately I have not had the privilege of hearing the speeches which were delivered upon it during the two preceding days, but upon listening to the debate this afternoon, I was struck with the fact that history is repeating itself. One might almost imagine that he was hearing a repetition of the arguments which were advanced at the time of the establishment of the Dominion Court of Canada. The same reasons which are being advanced now were brought forward in that case. It was urged by some that there was no need for the creation of that tribunal, as no important constitutional questions had arisen. Others again contended that the States Courts of the Dominion had done magnificently, and that it could well afford to defer the establishment of the High Court. The argument as to the great cost that would be involved in carrying out the provisions of the Constitution was also advanced.

Mr. GLYNN.—The arguments turned out to be well founded in the case of Canada.

Mr. L. E. GROOM.—I am glad that the Dominion of Canada saw fit to establish its High Court. That Court has grown in power, dignity, and influence.

Mr. WILKS.—No one doubts that the Australian Court will grow, if it is once given a start.

Mr. L. E. GROOM.—Its growth will be a reflex of the growth of the liberties of the Australian people. I believe it is absolutely imperative, under the terms of the Constitution, that we should establish this Court. It has been said that the Prime Minister has endeavoured to play upon the use of the word "shall" in our Constitution. But I would point out that that word emphasizes the commands of our people. We have to look at the whole of the terms of our Constitution, and having done so, to ask ourselves what is the plan that was put before the people. But we are told that no elaborate argument was employed upon the platform in reference to the use of the word "shall." Yet the honorable member who urged that, admits he was aware that the creation of the High Court was part of the Federal scheme. I would further say—as was pointed out by the honorable member for South Australia, Sir Langdon Bonython—that the less populous States were assured that they could enter the Federal Union with perfect safety, because their rights would be protected by the High Court, which would be established to interpret the Constitution. That was the very basis of the Federal scheme. It was an attempt to reconcile the national and States rights. Even at the present time it is being urged that this Parliament is endeavouring to use powers which, under the Constitution, it does not possess. We are told that many of our statutes contain provisions which are absolutely contrary to the Constitution, and it is alleged that we are delaying the establishment of the High Court, simply because we desire to arrogate to ourselves powers which we have no right to exercise.

Mr. WILKS.—We have a tribunal to which we can go now.

Mr. L. E. GROOM.—I will deal with that matter presently. In the smaller States complaints are being made that the Constitution is being violated, and that there is no tribunal in existence to decide the point. What tribunal is there to decide upon the validity of the Electoral Act, or upon the question of the right of an individual who has been refused the registration of his vote? In such circumstances he would require to obtain a mandamus to compel the electoral officer to put his name on the roll. Upon one of the most important powers which the citizens possess, namely, that of the exercise of the franchise, there is no legal tribunal in

Australia which can compel any officer to the performance of his duty. Therefore we should have some such tribunal constituted. We know that it is the duty of the High Court to interpret our Constitution fairly, and that the Supreme Court of the United States has equitably held the balance as between the States and the national powers. At the same time, where a reasonable construction justified it, it has not hesitated to give to the national Parliament all those powers which are absolutely necessary to the proper discharge of its functions. The Constitution itself is a mere sheet of paper. The value of the American Constitution lies in the fact that, notwithstanding the varying circumstances which the people had to face, it was able to adapt itself to their conditions. But what is the living voice of their Constitution? Undoubtedly it is the Supreme Court. I say that in the Commonwealth we have need for a similar institution. Honorable members have not denied that the Constitution contains clauses which direct that the judicial power shall be vested in somebody.

Mr. McCAY.—For the time being.

Mr. L. E. GROOM.—It is recognised that the Commonwealth has legislative, executive, and judicial functions. We are told that there is no mandate that the judicial powers shall be vested in the High Court. In this connexion I wish to refer to one high authority, namely, the honorable and learned member for Bendigo, who, in his speech upon the Inter-State Commission Bill, interpreted the words of section 101—

There shall be an Inter-State Commission, with such powers of adjudication and administration as the Parliament deems necessary, &c.,

as constituting a mandate for the establishment of that tribunal. I cannot understand why he cannot see that the same reasoning which is applicable to that Commission is also applicable to the High Court itself. We are told by some honorable members that, because no time limitation is imposed under the Constitution, Parliament can indefinitely postpone the creation of a High Court. I say that the only interpretation which can be placed upon the fact that no limitation as to time has been imposed is that which has been put upon it by the Prime Minister. He used the words "political exigencies," and declared that, under the Constitution, so soon as matters such as the Tariff had been dealt with, Parliament was bound to fulfil the

whole Federal scheme. Others again urge that there is no necessity for the creation of the High Court, because the States Courts could be made to fulfil all its duties. The honorable member for Parramatta has said that, up to the present time, no important constitutional questions have arisen, quite oblivious of the fact that there have been cases connected with the power of the Commonwealth to tax State property, and with the right of a State Government to tax the incomes of Federal officers. The important principle underlying the latter question is, as was pointed out during the course of the arguments used by counsel, that the power to tax implies the power to destroy. The same principle applies to the Federal Parliament. The power to tax State incomes would also imply a power practically to destroy State agencies. It strikes at the very foundation of our powers and privileges, and surely it is a most important constitutional question. What more important constitutional question could we have than that of breaking Federal Customs seals on ships upon the high seas. That matter has been decided by the Victorian Full Court. It has been held by that Court that in such circumstances the breaking of the Federal Customs seals on board a British vessel is an infringement of the law, and renders the master of the vessel liable to be fined. In New South Wales it was decided by the State Court that the master of a foreign vessel coming into port with broken seals was liable to be fined for this offence. These are very important constitutional matters. In the one case it was held that the Commonwealth had power practically to fine a person who was not a British subject for a breach of the Commonwealth laws, while in the other it was held that a fine could be inflicted upon a man who, while being a British subject, was not domiciled here. There are many other important cases which might be cited. Take the case which occurred in Western Australia a few days ago. The Punishment of Offences Act says that the judicial powers of the Commonwealth in regard to inferior courts shall be exercised only by a stipendiary, a special, or a police magistrate. And yet in Western Australia two justices of the peace convicted a certain person, and a Supreme Court Judge there held that he had no jurisdiction to entertain an appeal from that decision. We are told that there is no necessity for this Court, but I am showing that many important

Mr. L. E. Groom.

constitutional questions are coming up for decision, and that in order that we may have these matters satisfactorily determined, it is absolutely essential that we should at once constitute one of the very best tribunals that we can obtain. We are told now that the States Courts are doing magnificent work, and that we, as a Commonwealth, might very well agree to accept their decisions. But some of them are not wholly satisfactory. Even if a decision suited the Commonwealth it might not suit the individual on the other side.

Mr. GLYNN.—There will always be one party who is not suited.

Mr. L. E. GROOM.—Exactly. I am only showing that these constitutional questions are coming up for decision from time to time, and that the States Courts are being called upon to determine them. A most unsatisfactory feature of the present position is that even when a vital constitutional question is settled in the Supreme Court of one of the States, there is no guarantee that it will be binding upon the Commonwealth as a whole. The decision of a State Court is binding only in the State in which it is given. I know from experience that lawyers who are in practice in one State are unable to regard a decision given in another State with any degree of certainty, and cannot advise their clients to take action upon that determination. They feel that the Court of Queensland is not bound by the decision of the Supreme Court of New South Wales, nor is the latter Court bound by the decision of the Queensland tribunal. Thus, if we are to utilize our States Courts as we have been doing, we shall require to have the same question raised in each State in order to secure uniformity, or else have the matter determined by some action taken on appeal to the Privy Council. We know, however, that under the procedure adopted in some of the States Courts, those tribunals are courts of final appeal. For instance, we have been told that the decision given by Chief Justice Madden affecting the validity of the Customs Act was final. It was only when a subsequent case involving the same point arose, and was referred to the Full Court, that the decision given by the Chief Justice was overruled. If we desire to secure uniformity of decision, it is absolutely necessary that we should establish the High Court. We have been told that we can constitute a sort of floating

court of Chief Justices. That, however, is not the scheme contemplated by the Constitution.

Mr. CAMERON.—It would do for the present.

Mr. L. E. GROOM.—No; because such a Court would be unconstitutional.

Mr. McCAY. — No one seriously proposes it

Mr. L. E. GROOM.—I am glad to hear that the proposal has been withdrawn. It was suggested by the honorable and learned member for South Australia, Mr. Glynn. It has been put forward, however, by the Premier of Queensland, who says that such a Court should be constituted.

Mr. McCAY.—He has not a vote in this House.

Mr. L. E. GROOM.—That is true; but he holds an important position in the community, and with perfect honesty, no doubt, he is endeavouring to influence public opinion on the subject. He has voiced that suggestion, which has been freely discussed by the public, and it is right that we should have the matter settled, so that we may know where we stand. If the suggestion is wrong, let us give reasons in this House for our opposition to it. I did not hear the speech delivered last night by the honorable and learned member for Indi, but I have come to the same conclusion as he has, that if we are going to constitute a Court, we must carry out the provisions of the Constitution, which have been enacted for the due administration of justice. The Constitution provides for the appointment of Judges with a certain tenure of office. They are to be removable only in a certain way, and are to be paid out of the funds of the Commonwealth. Could we apply those conditions to a floating court of Chief Justices, or create a court of appeal which would not be the High Court? Such a thing is not contemplated by the Constitution. The Constitution contemplates the High Court itself as the court of appeal. If we establish the High Court, as I hope we shall, we should constitute it in a way that will cause it to command the respect and the confidence of the whole of the people of Australia. For reasons which I shall show, it is important that we should create it at this time to deal with constitutional questions. At the very outset there will be applied to the Constitution itself certain rules of interpretation or construction with respect to the powers of the

States and the Commonwealth, and those decisions will establish very important precedents. The Privy Council, assuming it to be the only court of appeal that we have, and the highest Court in the realm, may, by reason of its want of touch with Australian feeling and history, give a construction to the Constitution which will be absolutely out of sympathy with our national hopes and aspirations. There may be an appeal to the Privy Council in certain circumstances, and we must admit that in some instances that right of appeal has been attended with good results to us. For example, there was the case of *Chung Toy v. Musgrove*. The Victorian Court held that an alien who was refused admission into this State had a right to bring an action for damages. An appeal to the Privy Council practically upheld the right of the Executive to exclude aliens. That was a very useful decision to us—that we have the right to control our citizenship by our own Executive acts, and that an alien cannot bring an action for damages against us. It meant, really, that there was a wrong without a remedy.

Mr. GLYNN.—The Court said it was a case for international remonstrance.

Mr. L. E. GROOM.—That may be, but before any case goes to the Privy Council, the highest tribunal that Australia can establish should first have an opportunity of hearing that matter, and of coming to a decision on the arguments laid before it. That decision would probably be the true interpretation of Australian feeling. It comes rather as a surprise to me to find that so many honorable members are opposed to the establishment of the High Court. I have casually picked up the first volume of the Commonwealth Statutes, to see to what extent our existing legislation recognises the existence of the High Court. I find that only last year we passed an Electoral Act, under which we deprived ourselves of the power to sit as a Court of Disputed Returns, and provided, in section 193, that—

The High Court shall be the Court of Disputed Returns, and shall have jurisdiction either to try the petition, or to refer it for trial to the Supreme Court of the State in which the election was held or return made.

Then there is a temporary provision that until the High Court is established, the State Court may deal with the matter. Thus the House from the first has kept

the High Court to the front. Next, I turned to the Property for Public Purposes Acquisition Act, and I find that in section 15, provision is made for bringing an action for compensation in the High Court. In section 245 of the Customs Act, it is provided that—

Customs prosecutions may be instituted in the name of the Minister by action, information or other appropriate proceeding—

- (a) In the High Court of Australia; or
- (b) In the Supreme Court of any State.

The right is also given to bring such cases in any other Court. The same procedure is followed in section 134 of the Excise Act, in regard to excise prosecutions. Any one glancing through our Statutes would gather that the intention of this Parliament was to keep the High Court well to the front, and that we were only passing this necessary machinery legislation in contemplation of the fact that we should shortly establish the High Court.

Mr. JOSEPH COOK.—What does the honorable and learned member mean by “shortly.”

Mr. L. E. GROOM.—As soon as we can get the necessary machinery measures through. I find that in the Punishment of Offences Act exactly the same provision is in force. It is there provided, pending the establishment of the High Court, that these offences may be prosecuted in the inferior tribunals.

Mr. JOSEPH COOK.—There is clearly an expression of opinion in them all that the High Court can wait.

Mr. L. E. GROOM.—Wait until this machinery has been passed so that it can be put in its proper position. Do these provisions suggest a High Court consisting merely of a few Chief Justices? Does not the provision in regard to a Judge sitting in the Court of Disputed Returns show that it was intended that we should have a single Judge sitting in the High Court? When we have passed the Arbitration and Conciliation Bill, as I hope we will, I trust that we shall further utilize the services of the Judges of the High Court, and that the Arbitration Court will be presided over by one of those Judges. We are told that the High Court would put us to very great expense, but I think the Attorney-General has shown that it is intended to utilize the existing States' machinery as far as possible, and that the only additional expense involved, so far as

administrative matters are concerned, will be in the establishment of a central registry. That will require a comparatively small number of officers. Perhaps, for some time to come in Victoria, these duties may be fulfilled by the officers here. As regards the Judges, their salaries must be an additional expense, but I hope that the remuneration which we shall fix will be sufficient to command the services of the best men. The Attorney-General was right in saying that the result of the establishment of the High Court would be a reduction in certain directions of the number of Justices of the Supreme Courts. What has happened in Queensland? Only last session it was decided that the salaries of future Chief Justices of that State should be reduced by £1,000 per annum. The salary of the present Chief Justice has not been touched, for the whole of the Judges in the Commonwealth have existing rights which cannot be interfered with. As soon as the present Judges retire on their pensions, or cease to occupy the Bench, reductions will undoubtedly be made. We were told before Federation was established that the transfer of the administration of certain Departments to the Commonwealth, and the substitution of one central authority for the various State authorities, would of necessity bring about economy in State expenditure, and we know that economy and retrenchment are now being practised by the States. The sneer has been cast at those who are supporting the Bill that we are being guided too much by American precedent. If we are being so guided, we are copying an excellent model. Let us consider what the Supreme Court of the United States has done for that Constitution. Willoughby, in his *History of the Supreme Court of the United States*, says—

The Supreme Court is 100 years old, and during this time, but one change in the field of its jurisdiction, and none in the nature of its powers has been found necessary. Its very form has remained without substantial change since its creation by the Judiciary Act of 1789. For a century this Court has performed with exactness all the duties required of it. Since its inception it has been the firm supporter of that instrument which created it. Scarcely ever has it been out of touch with the people. Its bar has numbered among its members men of the highest intellect: Webster, Marshall, Pinckney, West. Its Justices have been men whose greatness the world has recognised, and whom the United States has been proud to call her own. To-day the Supreme Court stands the highest judicial tribunal in the world's history.

Mr. JOSEPH COOK.—Is he a lawyer?

Mr. DEAKIN.—He is a Professor of History in the University of Philadelphia.

Mr. L. E. GROOM.—I will quote another authority—a passage from Landon's *The Constitutional History and Government of the United States*—

The Court expounds the Constitution in the language of its own age, holding fast to the old words and power, but expanding them to keep pace with the expansion of our own country, our people, our enterprises, industries, and civilization . . . It is plain now that we are largely indebted to the Court for our continued existence as a nation, and for the harmony, stability, excellence and success of our Federal system.

Those are the words of an authority of no mean standing. If we follow the example of a Court which, for more than a century, has so successfully interpreted the parchment deed which comprises the Constitution of America as to harmonize its provisions with the gradual expansion of a vast nation like the people of the United States, we shall follow a very good precedent. I believe that in Australia we shall in time produce a Court of equal ability. Of the American Judiciary it has been well said—

It is a power which has no guards, palaces, or treasures, no arms but truth and wisdom, and no splendour but its justice and the publicity of its judgments.

In Australia we have a Bar of which we may be proud, and we have had Judges of whom we may be proud. And I believe that under the aspirations of our fuller national life, our lawyers will rise to still greater heights, so that the Judges of the High Court will be men of whom Australia will be proud.

Mr. A. PATERSON (Capricornia).—Honestly speaking, I should prefer to keep my seat on the present occasion, but the all-compelling power of conscience, to which reference was made by the honorable and learned member for Indi last night, urges me to say a word or two. Being a mere layman, I do not intend to make an exhibition of myself by attempting to argue with the legal members of the House as to the meaning and scope of a verb, or the significance and intention of an adverb. Nor shall I express any opinion as to what provisions of the Constitution are mandatory and what merely optional. But I wish for a little information, and I should like the Attorney-General to give it to me. If the Government advocate the immediate establishment of the High Court upon the ground that it

is required by a mandatory provision of the Constitution, I should like to know why they have not paid the same respect to section 65, which says that—

Until the Parliament otherwise provides, the Ministers of State shall not exceed seven in number, and shall hold such offices as the Parliament prescribes, or in the absence of provision, as the Governor-General directs.

But, instead of seven, we have nine Ministers, and, so far as I remember, the appointment of two additional so-called honorary Ministers was never brought before the House at all, but was done by Executive act. If the Government can play fast and loose with a provision of the Constitution, surely Parliament has a right to choose its time for the performance of a duty in regard to which the Constitution is mandatory. I have had very great pleasure in listening to the debate. It has been an inspiration and an education to me, and I feel almost ashamed to follow the brilliant and eloquent debaters whom we have heard. I owe a debt of gratitude to them for the masterly way in which the subject has been handled from all points. But I am not satisfied that the Government and those who support the measure have made out a good case for its urgency, and that, after all, is the main point. We all agree as to the necessity for the ultimate establishment of the High Court; but some of us contend that its immediate establishment is not necessary. The Government themselves exercised discretion in the matter. Parliament had been sitting nine or ten months before it was brought forward at all, and then, instead of nailing their colors to the mast, as they should have done if they considered the Constitution mandatory upon the point, Ministers allowed the Bill to disappear without taking it to a division. I do not blame them for that action, because I believe that it has saved the country £60,000, and that if we wait a little longer we shall save another £60,000. One of the strongest advocates for the Bill says that there is no power under the Constitution to compel us to pass the measure, save the still small voice of conscience. I am considerably relieved by that statement. If only my conscience stands in the way, I can get over the difficulty. Men do not pay income tax, as some unfortunate people have been doing during the last few days, because their consciences compel them to do so, but because they are afraid of the bailiff, though tender

consciences sometimes prompt people to remit so-called "conscience money" to the Minister for Trade and Customs. But the conscience argument must not be pushed too far. I have heard it applied in defence of the betrayal of his Master by the apostate Judas. He was paid his price—30 pieces of silver—and his conscience compelled him to carry out his contract. That argument, however, is unfortunate, and the example not one to be followed. Can we justify the committal of a crime in order to carry out the provisions of the Constitution? I consider it is no less than a crime to pile up expenditure which is not proved to be necessary. Every man knows that the financial difficulties which have been experienced throughout Australia, from the Gulf of Carpentaria to Warrnambool, have been very serious, and that the strain which has in consequence been imposed upon the community will continue until our crops for next season are assured. In the meantime there is a large amount of distress in Australia, and it will be difficult to explain to the electors why the Government should at this time, above all others, incur large expense in establishing a court that is not required. Who wants it, anyhow? The only private suitors will be the banks, mortgage companies, financial institutions, and great trading concerns. The representatives of these interests petitioned the Federal Convention not to deprive them of the right of appeal to the Privy Council, and it is certain that if the High Court were appointed to-morrow these litigants would carry their appeals direct to the Privy Council. In the course of the magnificent speech delivered by the honorable and learned member for Indi, to which I listened with a great deal of pleasure, he cast a serious slight upon the Privy Council; but we need not wonder at that, because his experience of that body may not have been quite so fortunate as he expected. If the Bill now before us is of an urgent character, it must also have been of pressing importance when it was introduced last session; and after the way in which the Government failed to persevere with it then, I do not understand why they should make such a fuss about it now. I think we should wait until the machinery is required before we attempt to provide it. With regard to the economic aspect of the question, what are we to think, of the Attorney-General, who

referred to the enormous expenditure upon the Supreme Courts of Australia, and then proposed to relieve the burdens of the people by calling upon them to pay another £30,000 per annum. There is no analogy between the case of the United States and our own. The American people constitute an independent republic, and they have no Privy Council to which they can appeal. On the other hand, we have close ties with the mother country, and enjoy the right of appeal to the Privy Council. I think that the most effective shot fired against the Bill was that which was discharged by the Attorney-General himself. When the honorable and learned member for Bendigo stated that public opinion was opposed to the establishment of the High Court at the present time—in which view I thoroughly agree—the Attorney-General interjected that public opinion needed to be educated. I think that gives away the whole case for the Bill. If we agree that the public mind requires to be educated upon the subject of the creation of the High Court, then we have a very strong reason for postponing the further consideration of the Bill. It will take a great deal of education to make the electors whom I represent recognise the necessity for any such expenditure as that now proposed. I wish to make only one more observation, regarding a far more important matter than the mandate which is said to be contained in the Constitution. Whilst I feel lost in admiration of the power and skill and patriotism of the framers of the Constitution, I could have wished that they had included in it some provision under which no Member of Parliament could be appointed to a position upon the High Court Bench.

Mr. DEAKIN (Ballarat — Attorney-General).—It is due to honorable members that I should avoid detaining them any longer than may be absolutely necessary, and I shall therefore refrain from making any formal reply. Let me confine my remarks to one or two matters to which I desire to call attention before the vote is taken. I do not see the honorable and learned member for Indi in his place, but I received from him very early this morning a letter, in which he requested that if he were not present at the opening of our sitting to-day, I should call attention to a misconception of the

arguments which he was privileged to present to honorable members last night. He writes—

As stated by me last night, I have no doubt whatever that section 71 of the Constitution creates a definite mandate upon Parliament to proceed to organize and equip the High Court in any event whether it creates or invests other Courts or not; that it would be and is contrary to the clear spirit and intention of the Constitution that any other Court should be authorized to exercise any Judicial power without the existence of the High Court. In other words, the judicial power is according to plain constitutional intention, either to be exercised by and under the supervision of the High Court or not at all.

I also stated that the point had never yet been raised how far that intention would be insisted on by the Courts, and it is just here that my anxiety arises, lest my views, as a lawyer, and my reasons as a legislator may have been mingled in expression.

Mr. JOSEPH COOK.—I rise to a point of order. Is it in order for an honorable member to make two speeches in the House on the same subject—the one regularly and the other by means of a letter? I submit that the letter of the honorable and learned member for Indi is not merely an explanation, but is an elaboration of his arguments, and that therefore the Attorney-General is not in order in reading it.

Mr. SPEAKER.—I have no hesitation in ruling that the reading of this letter by the Attorney-General as part of his reply is perfectly in accordance with the standing orders.

Mr. DEAKIN.—I might have expressed the honorable and learned member's views in my own words, but I thought it better to adhere to his own. His letter continues—

I think the House should be told before the Bill goes to a vote, and I should be glad if you would do it in your reply, that it is my opinion a court of law would, in accordance with established practice and precedent, struggle and strive if reasonably possible to uphold the validity of any Act of Parliament, and would strain so to construe section 71 as to enable Parliament if that construction be at all possible to confer jurisdiction on the State Courts even though no High Court be established. Of course the Courts in deciding the question would be confronted with the serious consideration presented by the manifest intention of the clause as above indicated, and with the principles enunciated in *Martin v. Hunter* quoted by me last evening. But still the canons of construction adopted by both English and American tribunals would tend to give every fair chance to uphold the investiture of State Courts even though no High Court be organised, on the ground that the exercise of Judicial power may be severed and distributed subject to the express limitation of the Constitution.

This result would be, I repeat, quite opposed to what was intended, and we as a Parliament ought to feel bound by the intention and to act on it. But the House must understand my view as a lawyer also, that if the Parliament refuses to act on it, the disposition of the Courts in the first instance will be to uphold the validity of the Act if they can, and to follow the view taken by Parliament, though they may feel eventually coerced by the intention to hold otherwise.

The honorable and learned member found himself very seriously misconstrued upon this point, and he thought it only just to honorable members who might have been affected by his arguments that he should state exactly the limitation by which he found himself bound—the limitation which the Prime Minister, who was quite unaware of this letter, expressed to-day in almost identical terms. I regret the absence of the honorable member for Gippsland, whose attention I wish to call to a financial comparison instituted by him that cannot be sustained. He pointed out that the estimate of the cost of the Commonwealth officially supplied before the referendum, and criticized from nearly every platform during the Federal campaign, fixed that cost at a maximum of £300,000. He then proceeded to quote on the other side as evidence that the estimate had been already exceeded, the loss which he stated would result from the action of Parliament in granting a rebate of £2 per ton upon white-grown sugar. The honorable member in adding this amount to the cost of the Commonwealth, quite ignored the fact that the £300,000 estimate, as its details show, related simply to the cost of the machinery of the Constitution, and to nothing else. It in no way pretended to foreshadow the probable cost of any policy that Parliament might choose to follow in regard to black labour or white labour, the transcontinental railway, public works, old-age pensions, or the hundred-and-one other enterprises in which this Parliament might engage.

Mr. WILKINSON.—That estimate of the cost of federation was made before Queensland had consented to join.

Mr. DEAKIN.—Yes, the £300,000. Items such as I have indicated cannot be taken into account in any comparison of the actual with the estimated cost of the Commonwealth, because the estimate was made with regard to the cost of working the Commonwealth, and had no reference to any matter arising out of possible policies pursued by Parliament. If the comparison adopted

by the honorable member is to be employed, the revenue which has been derived by the Commonwealth and the savings it has effected must also be taken into account, and we shall be at once launched upon an unending sea of financial controversy. I would, therefore, suggest to the honorable member that the comparison which he instituted was one which, on further consideration, he will not attempt to sustain. The honorable member for Capricornia, whose apt and humorous criticisms we were pleased to hear, has directed my attention to section 67 of the Constitution, but he has unfortunately overlooked section 64, which prescribes that Ministers of State shall be also members of the Federal Executive Council. There are only seven Queen's Ministers of State for the Commonwealth. The other two gentlemen who have so generously and handsomely lent their valued assistance to the Government, are Federal Executive Councillors—to whose number there is no limit—but they are not the Queen's Ministers of State for the Commonwealth; so that there has been no breach of the section to which the honorable member has been good enough to call attention. He also wishes to know where any indication has been given that the High Court is required. I may inform the honorable member that, beginning in Queensland, he will find it expressed in the chief metropolitan organ of that State, also in the greatest provincial newspaper in Queensland, namely, the *Toowoomba Chronicle*, a recent issue of which contains the very best analysis of this measure I have seen published. Both the leading Sydney newspapers, and many newspapers published in the country districts of New South Wales, support the Bill, and, in Tasmania, the *Launceston Daily Telegraph* recently published the keenest critical article upon the Bill that I have read. In South Australia, an attitude generally favorable to the Court has been taken up by the daily paper which has the greatest circulation in that State, and the same applies to Western Australia. In fact, everywhere except in Victoria, the High Court has found staunch advocates.

MR. CROUCH.—The *Geelong Advertiser* favours the Bill.

MR. DEAKIN.—That, in itself, should be regarded as conclusive evidence as to the necessity for passing the measure. The only thing required to clinch it is the support of the *Ballarat Courier*. There is one

error which I wish to correct. The President of the Victorian Reform League, Mr. Palmer, is reported in one of the newspapers to have quoted me as having spoken of the Judges of the States Courts as being "tainted with local prejudice." I felt sure that I did not use any such words, and after having undergone the pain and suffering of reading through the official report of my speech, I find that no such words occur. No intention was further from my thoughts than to pass such an imputation upon the Judges. I made none directly or indirectly. What I did point out was that cases in which the interests of the States were directly involved could not be properly remitted to such Courts. One of the closest and most able attacks upon the Bill proceeded from the honorable and learned member for Bendigo, who is also a vigilant student of contemporary legal proceedings. I am the more surprised, therefore, to find that the list of cases which he presented to the House as representing the amount of litigation in which the Commonwealth was engaged, or in which Federal legislation was directly affected, before the Supreme Courts of the States was by no means complete. That list contains 22 cases. Even if it were complete, it would tell a tale in favour of the view which I have advocated, rather than of that for which the honorable and learned member is contending. According to him, in the first year there were four cases, in the second, ten, and in the four or five months of the present year there have been eight. It is undeniable, therefore, that Federal litigation is being rapidly multiplied. But in addition to the 22 cases which have been mentioned, I have been able, since the honorable and learned member gave the House the benefit of his list, to add 24 more, all of which have come before the States Supreme Courts, four in Chambers, and the remainder before the Full Court or a Supreme Court in some form or other. Of these I find that four occurred in the first year, ten in the second, and the balance in the portion of this year which has already expired. There are other cases of which I know, not included in this list.

SIR JOHN QUICK.—How many Full Court cases are there?

MR. DEAKIN.—I see there was a case that came before the Full Court of Tasmania, which my honorable and learned friend has not mentioned, and another

which came before the Full Court in Queensland. What do these figures show taken together? That there were six cases in 1901, twenty in 1902, and that there have been eighteen in the four months of the present year. Yet honorable members criticise this Bill on the assumption that only twenty cases have been tried since the inception of the Commonwealth. I would further point out that there have been scores of cases heard in the minor Courts, and in addition to these a number of others now in progress, but which have not yet reached the Full Courts. I could compile a much longer list if I chose, but merely mention these facts to combat the statement that cases arising out of Federal legislation do not exist in a great number. I hold that they do exist in a great number, and are multiplying with rapidity. I have but one comment to add, and that I owe to a leading member of the Victorian Bar. This gentleman has pointed out to me that honorable members appear to overlook the important results certain to be realized in the fulfilment of the Federal movement so far as it makes towards unity by the operation of an Australian Court of Appeal. At the present time there is a great divergence amongst the laws passed by the several States, and the greatest ignorance prevails on the part of the people of one State regarding the form and character of the legislation enacted by neighbouring States upon important matters. If these laws are challenged in any respect before a local tribunal, the case arouses no more than local interest, and no news of it passes beyond the borders of the State in which it is tried. Consequently the public never hear of it. On the other hand, if appeals are taken from the Supreme Courts to the Privy Council, what echoes from the proceedings of that body find their way to this country? Only professional men note the result and apply it in their own particular States. An Australian tribunal would assist the education of the people in regard to the operation of the laws under which they live, when studied in the light of the contrasts which exist in the various States. When an Australian tribunal is created, and all such matters are considered within the sight and hearing of the people, the divergences at present existing will be brought under notice, and many of them will disappear. A Federal Court would contribute

in no inconsiderable measure to Australian unity of State law, and this would prove in the future an invaluable factor in securing uniformity of legal interpretation within the bounds of the Commonwealth.

Question—That the Bill be now read a second time—put. The House divided.

Ayes	...	...	28
Noes	...	...	19
Majority	...	...	9

AYES.

Bamford, F. W.	Kirwan, J. W.
Barton, Sir E.	Mahon, H.
Bonython, Sir J. L.	Mauger, S.
Chanter, J. M.	O'Malley, K.
Cook, J. H.	Phillips, P.
Deakin, A.	Ronald, J. B.
Ewing, T. T.	Solomon, E.
Fisher, A.	Spence, W. G.
Forrest, Sir J.	Turner, Sir G.
Fowler, J. M.	Watson, J. C.
Fuller, G. W.	Wilkinson, J.
Fysh, Sir P. O.	
Groom, L. E.	
Isaacs, I. A.	
Kingston, C. C.	

Tellers.

Crouch, R. A.
Chapman, A.

NOES.

Braddon, Sir E.	Paterson, A.
Cameron, N.	Quick, Sir J.
Cooke, S. W.	Salmon, C. C.
Glynn, P. McM.	Thomson, D.
Groom, A. C.	Tudor, F.
Hartnoll, W.	Wilks, W. H.
Higgins, H. B.	Willis, H.
Hughes, W. M.	
Kennedy, T.	
McCay, J. W.	

Tellers.

Conroy, A. H.
Manifold, J. C.

PAIRS.

For.	Against.
Clarke, F.	McColl, J. H.
Cruikshank, G. A.	Thomas, J. H.
Harper, R.	Skene, T.
Lyne, Sir W. J.	Smith, S.
Sawers, W. B. S. C.	McLean, F. E.
McEacharn, Sir M. D.	McLean, A.
Solomon, V. L.	Batchelor, E. L.
Page, J.	McDonald, C.
Edwards, G. B.	Cook, J.
Smith, E.	Poynton, A.
Edwards, R.	McMillan, Sir W.
Watkins, D.	Brown, T.

Question so resolved in the affirmative.
Bill read a second time.

In Committee:

Clause 1 (Short title).

Mr. GLYNN (South Australia).—It would be as well if the Attorney-General would now consent to have progress reported, because several important matters can be settled on this clause.

Mr. DEAKIN.—On the title? Surely not.

Mr. GLYNN.—I think they can be.

Mr. DEAKIN.—It is a very inconvenient way of settling them, but I will agree to report progress if the honorable and learned member wishes.

Progress reported.

ADJOURNMENT.

CASE OF MR. GOLDRING: ORDER OF BUSINESS.

Motion (by Sir EDMUND BARTON) proposed—

That the House do now adjourn.

Mr. HIGGINS (Northern Melbourne).—May I ask the Prime Minister if he has received further information yet with respect to the case of Mr. Goldring, in Sydney? Have the Government yet taken steps to enable justice to be done?

Mr. DEAKIN (Ballarat — Attorney-General).—I am unfortunately not yet in receipt of all the particulars, for which I have telegraphed to the Customs Department in Sydney. But I received to-day a petition from Mr. Goldring himself, in which he sets out that certain of his goods and his books have been seized by the Department in Sydney, and in which he asks the Government to appoint a nominal defendant in order that he may proceed against us under the powers conferred by the Claims against the Commonwealth Act. I have to-day signed a minute, which will be presented to the Executive Council at its next meeting, appointing a defendant, so that Mr. Goldring will now have no difficulty.

Mr. HIGGINS.—Was there any delay in appointing a nominal defendant?

Mr. DEAKIN.—No; I received the petition to-day, and signed the minute at once.

Mr. EWING (Richmond).—I desire to ask the Prime Minister when he intends to proceed with the Bills relating to sugar rebates and bonuses, the second readings of which were moved this afternoon?

Sir EDMUND BARTON (Hunter—Minister for External Affairs).—For reasons connected with finance, which will be understood by most honorable members, the Treasurer is anxious to get those two sugar Bills disposed of as soon as possible. We shall go on with them on Tuesday, because it is of great importance to have both

of them dealt with in both Houses before the end of the month. After that the Judiciary Bill will be dealt with.

Question resolved in the affirmative.

House adjourned at 10.20 p.m.

Senate.

Friday, 12 June, 1903.

The PRESIDENT took the chair at 10.30 a.m., and read prayers.

POSTMASTER PAYNE.

Senator PEARCE asked the Postmaster-General, *upon notice*—

1. In the case of Mr. Payne, postmaster, Subiaco, Western Australia, who is to be transferred to Bonnievale, what is the length of service of that officer as postmaster on the coastal district?

2. What is the length of service of officers of similar grade in the coastal district, and what is the length of service on the coast?

3. Does the Commissioner lay down any rule in determining transfers of officers between coastal and inland districts?

4. If so, has this rule been observed in Mr. Payne's case?

Senator DRAKE.—The answer to the honorable senator's questions is as follows:—

The necessary information is being obtained, and answers will be furnished as soon as possible.

PUBLIC SERVICE REGULATION 41.

Senator MCGREGOR (South Australia).—I move—

That, in the opinion of the Senate, regulation 41 under the Public Service Act should be amended.

It will be remembered that when the Public Service Bill was before the Senate an amendment was moved to give public servants absolute political freedom, and that both Ministers of the Crown gave definite promises that in the administration of the law no drastic step would be taken to prevent public servants from doing what ought to be recognised as their public duty. But regulation 41, in a very definite manner, completely gags or stifles any political aspirations on their part. It is as follows:—

Officers are expressly forbidden to publicly discuss or in any way promote political movements. They are further forbidden to use for political purposes information gained by them in the course of duty.

I think that every one will agree with the latter part of the regulation, which says that no officer shall use any information which he has gained in the execution of his duty for the purpose of making political capital against probably the Minister in whose Department he is employed; but a time may come when a very large proportion of the population may be public servants. We have under consideration a proposal by Senator Pearce to make the tobacco industry a Commonwealth monopoly. If it is adopted, all persons engaged in the industry will become public servants, and the same regulation will apply to them. At this stage of the civilization of the world, are we justified in seeking to prevent men and women who probably have as much interest in the welfare of the country as have others from expressing their opinions and taking part in political movements so long as it does not interfere with the proper execution of their public duties? I do not think we are. I hold that the time has arrived when public servants should be put in exactly the same position as other citizens. I dare say there are representatives of the people who would like a public servant to be a mere automaton, to be moved about at the will of his superior officer, and the Minister under whose direction he labours; but I believe that those representatives of the people are very few, and I hope that they will become fewer until they entirely disappear. In face of the promises and protestations which were made in the Senate, it is a very singular thing to me to find the words "political movements" in this regulation. Why, sir, a public servant must not join any association which in any way exercises an influence in politics. There was a time in the history of social and industrial associations when politics and religion were tabooed, but that time has passed away, and almost every institution, no matter what its character may be, now recognises that the constitutional way of bringing about such alterations as it considers are in the interests of the people, is through the medium of the ballot-box. Very often we hear those who advocate the maintenance of good order and good government state that everything should be done in a constitutional manner, and that everything that is not done in that way is tantamount to violence, rebellion, or revolution. If we require the people of the Commonwealth to

carry out all reforms in a constitutional manner, we should give every citizen perfect liberty to associate himself with the social and political movements which have for their object the betterment of the people and the alteration of the laws in any direction which may be desired. But if a public officer is expressly forbidden to publicly discuss or in any way promote a political movement, then he has no interest in the Commonwealth, and can in no way affect its legislation, and consequently has no constitutional power. He might have a son or a daughter or a wife possessing rights which he did not possess. I do not think that any man should be placed in a position in which he would possess less power to bring about constitutional reform than any member of his family. Under a regulation of this description a public officer cannot join the Freemasons, because in certain directions they take an interest in political movements. He has no right to join the Victorian Economic League, because it is of a political character. He has no right to join the Victorian Alliance or a Temperance Alliance in any State, because it takes an interest in political movements. He cannot join the Australian Natives Association which, to my mind, and justly so, is becoming one of the strongest political institutions in Australia. I may tell Senator Fraser that under this regulation a public officer has no right to join an Orange Lodge because it takes an active interest in politics. In fact, a public officer is placed in such a position that he cannot join any of these organizations. Although we had the distinct promise of two Ministers of the Crown that no action of that kind was ever intended, yet it is clearly contemplated. What will be the position of a public servant when he reads the regulation, which is as binding upon him as is the Act itself? He will at once close up like an oyster and become a dead member of society so far as the politics of the Commonwealth are concerned. I have no intention to labour the question. I have endeavoured to state the matter as plainly as I could, and I hope that honorable senators will recognise the position in which the Commissioner is endeavouring to place public servants. It may be argued that it is not to the advantage of a public servant to take a practical interest in public questions, but that is a matter which should be left to his discretion. No impediment should be placed in

his way. If he considers that it is his duty to discuss either political or municipal questions, then, so long as he does not violate the second portion of this regulation, he ought to be allowed to express his opinions. Any regulation which debars a public officer from expressing his opinions as a citizen does an injustice to him. It is monstrous that, at the beginning of the twentieth century, it should be stated in a regulation of the Commonwealth that a public officer is expressly forbidden to publicly discuss or in any way to promote a political movement. I hope that the good sense of the Senate will be sufficiently strong to give public officers entire political liberty, subject always to the restriction which is imposed upon them by the second portion of the regulation.

Senator DRAKE (Queensland—Postmaster-General).—It is quite correct, as stated by Senator McGregor, that an amendment was moved on the Public Service Bill in the following terms :—

Nothing in this Act shall in any way prevent an officer becoming a member of any properly-constituted society or political association.

That amendment was discussed, and was eventually defeated by a majority of one vote. In glancing through the debate I do not find that any promise whatever was given as to the regulation that would be made.

Senator DE LARGIE.—Oh, yes.

Senator DRAKE.—Perhaps the honorable senator can point out where a promise of the kind was given by the Government. I cannot find it. The regulation that has been framed accords with the view that was taken, at all events by myself, in the course of the debate. Senator McGregor, in proposing this motion, has given some instances which he considers may be regarded as the results of such a regulation as has been framed. He quotes, perhaps legitimately, extreme cases. But he did not adhere to the words of the regulation. He spoke of "taking an interest in politics." There is nothing in the regulation to debar a public servant from taking an interest in politics, or even from becoming a member of a political association.

Senator MCGREGOR.—Would he not be promoting an association by becoming a member of it?

Senator DRAKE.—That is extremely doubtful. I do not think that the honorable senator is justified in assuming always that

there will be a stupid and perverse administration of the Act. He cannot point to any facts whatever to lead the Senate to believe that the administration of any regulations made under the Public Service Act will be conducted in such a way. He referred to the national monopoly of tobacco in a State factory. Is there anything in the regulation that would affect employes in a factory of the kind, or prevent them becoming members of such an association as the Freemasons or the Economic Reform League alluded to by the honorable senator? Fairly read, the regulation must be taken to mean that a man who is occupying a position in the public service must not take a prominent part in politics.

Senator MCGREGOR.—It does not say so.

Senator DRAKE.—I have it here, and will read it—

Officers are expressly forbidden to publicly discuss or in any way promote political movements.

Senator MCGREGOR.—That is emphatic enough.

Senator DRAKE.—If it is fair for the honorable senator to take extreme instances of what might occur under a stupid and perverse administration, is it not justifiable for us to take into consideration what might happen if we had no regulation on the subject? What might occur in connexion with the Post and Telegraph Department appeals more particularly to me because the circumstances are more familiar to my mind. We must look at it from both points of view. I am afraid that some honorable senators look at how a rule of this kind is likely to operate in one direction, forgetting that it will work impartially both ways. How would it be if a postmaster or a telegraph master in a country town were president, or secretary, or chairman of a conservative political association? How would honorable senators like that?

Senator MCGREGOR.—He would have a perfect right to occupy such a position.

Senator DRAKE.—Would honorable senators think it a satisfactory state of affairs to have such an officer, holding a confidential position of that character, taking an active part in political controversies at a general election?

Senator MCGREGOR.—Certainly.

Senator DRAKE.—The honorable senator says "Certainly."

Senator PEARCE.—He would not be compelled to do so.

Senator DRAKE.—But what happens? We will take the case of a justice of the peace. My Department is sometimes asked to allow an officer to be made a justice of the peace. In extreme cases, in remote parts of the country where there would be some difficulty in constituting a bench otherwise, we have consented to this being done. But always with great reluctance—not because there is anything derogatory in a man occupying the position of a justice of the peace, or anything wrong in going upon a bench. What we say is that an officer occupying the position of a post and telegraph master should not be forced into a situation where he might have to impose a check upon himself if he had information in his possession that had come to him confidentially. Is not that a correct view to take?

Senator MCGREGOR.—We do not object to that portion of the regulation.

Senator DRAKE.—If it is desirable that we should not place postmasters in such positions for the reason I have given, it is desirable also that such officers should not be put in situations where there might be a conflict between their interests as members of a particular organization and their duty as confidential officers of a public Department.

Senator DAWSON.—But this regulation debars the whole service.

Senator DRAKE.—I am quoting admittedly extreme instances.

Senator MCGREGOR.—We do not say that the regulation should be struck out, but that it should be amended.

Senator DRAKE.—Amended in such a way as to allow an officer of a Department to be an active officer of political organization. And that is what I say would, in my opinion, be injurious to the public service. Take another aspect of the matter, and one that will occur to the memories of some honorable senators. It is a constant occurrence for me, as Postmaster-General, to receive applications from people for the transfer of post-offices from the premises of persons who are in business. The reason is not that anything is alleged against the honour or integrity of the persons engaged in business, and having the post-offices upon their premises, but that it is not desirable that a man in business should have the handling of the correspondence of other persons, who,

perhaps, are engaged in similar businesses in the same town.

Senator PEARCE.—That is the case of a private shopkeeper being a postal official.

Senator DRAKE.—Quite so. Perhaps this difficulty has been brought home to Senator McGregor, as it has been brought home to nearly every member of Parliament. In cases of the kind there is nothing alleged against the person in question, but it is held that it is contrary to the public interest that a man who in a private ex-official occupation may become immersed in business should have his interest in business brought into conflict with his interest as an officer of the Department.

Senator DAWSON.—That is a different case.

Senator DRAKE.—It is a case which I am adducing to compare with those which Senator McGregor quoted in support of his motion for the alteration of this regulation. Honorable senators themselves would object to post and telegraph masters being engaged in a perfectly innocent occupation on the ground that it is undesirable that there should be a possible conflict of interests.

Senator DAWSON.—The objection of a trader is that his debtor may be an officer of the Postal Department.

Senator DRAKE.—No; the objection is that it is not desirable in a township where there are a number of persons trading that the correspondence of those traders should pass through the hands of one of them. There is nothing alleged against the person in question, but it is said that the practice is undesirable. On exactly the same principle, we say that it is not desirable that a man who is placed in an official position, say, a post and telegraph master, should take an active part in politics. We say that if he is the secretary or president, or a prominent member of a political association, while he may be perfectly honest, and there may be no probable case in which he would improperly use any information that came into his possession, such things shake the public confidence in the administration. The first time a postmaster was seen taking an active part in politics, there would be a feeling that eventually matters that came within his knowledge in the course of his occupation were not as safe as they would be in the hands of a man who was taking no active part in politics. That is the reason why I object to

doing away with a rule of this kind in the public service. I think there is hardly a public service in any civilized community that has not a similar regulation. I do not know whether a reference will be made to the United States, as furnishing a contrary instance where persons who occupy positions in the public service do interest themselves considerably in political movements. But what does the practice lead to? Officials identifying themselves with a particular party have to sink or swim with that party.

Senator PEARCE.—Does the honorable and learned senator say that that is the result of not having a regulation of this kind? He cannot have read the political history of the United States.

Senator DRAKE.—When one party goes out of office and another party comes in, wholesale changes are made in the Public Departments in the United States. I am not saying that the absence of a regulation of this kind requires that any such principle of administration should be adopted. But I do say that if officers of the public service interest themselves in political parties, and take sides in political controversies, it will be the beginning of a state of things leading up ultimately to the principle of the "spoils to the victors." In the interests of the public servants themselves it is desirable that they should not identify themselves either with one side or the other in party politics. This regulation, if not exactly word for word the same as the regulations that have existed in the States of the Commonwealth, is practically on the same lines. Every State in the Commonwealth has had a regulation of a similar character; that is to say, the general principle has been adopted that officers in the service of the Departments of the States shall not take a prominent part in politics. I shall just quote for the information of honorable senators the regulations in force in the public services of the various States—

New South Wales: In order that officers of all ranks may be enabled to render loyal and efficient service to the Government, they are expressly forbidden to take part in any political affairs otherwise than by recording their votes.

Victoria: In order that officers of all ranks may be enabled to render efficient and loyal service to the Government, they are expressly forbidden to take part in any political affairs, otherwise than by recording their votes for the election of Members of Parliament.

Queensland: Officers of all ranks are to refrain from taking any part in political affairs, otherwise than by the exercise of the franchise.

South Australia: Officers are hereby expressly required and enjoined not to take part in political affairs otherwise than by the exercise of the franchise.

Western Australia: Public servants are expressly forbidden from taking part in any political affairs otherwise than by the exercise of the franchise. Any public servant who uses for political purposes information gained by him in the course of duty shall be summarily dismissed.

Senator STYLES.—Has the honorable and learned senator any record of a ruling on the subject in connexion with the Railway Department of Victoria, or does he conclude that the Victorian regulation he has quoted applies to the whole of the public servants of that State?

Senator DRAKE.—I am not referring to the interpretation of the rule. I have quoted it from the regulations made under the Public Service Act of Victoria.

Senator STYLES.—I remind the honorable and learned senator that that rule does not apply to the railway service of Victoria.

Senator DRAKE.—I did not say that it does.

Senator STYLES.—The Railway Department in Victoria comprises by far the greater number of State employes.

Senator DRAKE.—How can that affect the question? We are now dealing with a regulation under the Commonwealth Public Service Act, which certainly does not apply to railway employes.

Senator STYLES.—I desired to know whether the honorable and learned senator thought that the Victorian rule, as quoted, applied to the Victorian Railway Department?

Senator DRAKE.—I presume not. Senator Styles knows better than I do what is the law in Victoria. Possibly the Public Service Act does not apply to railway officers in Victoria. It does not in Queensland, I know.

Senator DONSON.—The important question is: who are included under the term "officers" used in this regulation.

Senator DRAKE.—All officers under the Commonwealth Public Service Act. Of course there are no railway employes included, because the Commonwealth has none. The officers concerned in this particular regulation under the Public Service Act of the Commonwealth are substantially persons occupying similar positions to those occupied by the officers affected by the regulations I have quoted under the Public Service Acts of the various States.

Senator BEST.—Does the word “officers” include every public servant of the Commonwealth?

Senator DRAKE.—There are one or two trifling exemptions under the Public Service Act, but, generally speaking, the word as used here, includes all the employes of the Commonwealth, and the honorable and learned senator will find that a definition of the word “officer” is given in the Act. How do the State regulations which I have quoted compare with the regulation under consideration now? The regulation under the Commonwealth Public Service Act says—

Officers are expressly forbidden to publicly discuss or in any way promote political movements.

The latter part of the regulation is not, I believe, in any way challenged. That regulation framed by the Public Service Commissioner of the Commonwealth is really a modification of the regulations existing in most of the States. That is to say that in some of the States the regulations in force have been of a more stringent character than the one which we are now discussing.

Senator MCGREGOR.—No, they have not.

Senator DRAKE.—That may be a matter of opinion, but I think they are, and this regulation appears to me to carry out the feeling expressed in the debate which took place in the Senate, that a man should not be debarred from being a member of a political association, but that he must not associate himself with politics in such a way as to interfere with the proper discharge of his duties as an officer of a Department. I have no desire to labour the matter, but I repeat that in considering a regulation of this kind we should consider it as one which is to be fairly administered, and it is no argument against such a regulation to suggest possible cases which might occur under stupid and perverse administration. The administration of every public Department is subject to the control of Parliament, and it is not to be assumed that any one would endeavour to put a strained interpretation upon a regulation to deprive any public servant of political rights and privileges which are justly his. I think that not only in the interests of the public, who are concerned in the efficient working of the public Departments, but in the interests of the public servants themselves, it is desirable that there should be a regulation which will

prevent them from identifying themselves with party political movements.

Senator STYLES (Victoria).—I intend to support the motion. When Senator Drake was referring to the regulations enforced in the various States I asked him, by interjection, if the Victorian regulation to which he referred applied to the Victorian Railway Department. The honorable and learned senator said he thought not. I knew it did not, but I desired to make it quite clear to honorable senators that it did not apply to the whole of the State servants of Victoria, and that the bulk of those State servants belong to the Railway Department, and were formerly under a Commissioner who allowed the officers and men of his Department, when off duty, to do just what they thought fit in the matter. The regulation of the Railway Department of Victoria is very similar to the regulation which has been quoted, and which reads—

Officers are expressly forbidden to publicly discuss or in any way promote political movements.

I waited upon Commissioner Mathieson, who at the time was the only officer having authority in such matters, to ask his interpretation of the regulation. His interpretation was that the officers of the Department were forbidden to publicly discuss or to in any way promote political movements, in their working hours and on the railway premises.

Senator PEARCE.—That is not the present interpretation.

Senator STYLES.—Commissioner Mathieson said that outside of the railway premises, and in their own time, railway servants were at liberty to do what they thought fit.

Senator DE LARGIE.—There was no railway strike as a result of that regulation.

Senator STYLES.—I wish to know whether Senator Drake believes that any regulations which he, the Senate, or any other body is able to frame, will prevent the public servants taking part in political matters.

Senator DRAKE.—Of course it will not.

Senator STYLES.—It cannot possibly prevent them. What it may do is to prevent them taking part in political matters when on duty, and on Government premises.

Senator DE LARGIE.—It may gag them, but it cannot keep them from thinking.

Senator STYLES.—It cannot prevent them from acting either, because there are many ways in which they can take action.

Of course, the superior civil servants will adjourn to the club to talk over political matters there with their friends.

Senator PEARCE.—The regulation will never be put in force against them.

Senator DOBSON.—It is being enforced against a superior civil servant now in Victoria.

Senator STYLES.—Senator Dobson refers to the case of a school teacher who is charged with publicly making a speech upon political matters, and not with going to a club to talk over such matters with his friends.

Senator DOBSON.—Nobody objects to that.

Senator STYLES.—Of course, nobody objects to superior civil servants talking politics with their friends at a club. But the objection is taken to men getting up in public and making remarks upon political questions. I remind honorable senators that the State does not buy a man's political conscience and his soul. The State pays him for his labour, and, if it gets value for the wages paid him, why should it attempt to control him in other matters? If a man works eight hours a day for me for certain wages, it is of no consequence to me what he says about me so long as he does his work properly, and gives me value for the money which I pay him. It seems to me that we should satisfy ourselves that State employes earn the money they are paid, and if we desire to go further and prevent them from interfering in politics, I think we can only do so by locking them all up. We cannot prevent them from interfering in politics.

Senator PEARCE.—A Coercion Bill is the natural concomitant of such a regulation as this.

Senator STYLES.—There is scarcely a man amongst them who does not belong to some society, league, or association of some kind. I can understand that a Government officer should not be allowed to go on the public platform and deliver a long harangue against those who employ him, but I cannot understand why we should attempt to influence his political opinions, or why, if he expresses himself in a proper manner as a man ought to do, we should interfere with him at all. In my opinion, the regulation should read in this way—

Officers are expressly forbidden to use for political purposes information gained by them in the course of duty.

It seems to me that if officers do that kind of thing, sacking is too good for them. They should not be permitted to use information gained in the course of official duty for any purpose other than that for which they are paid to use it. Where that offence is committed they should be dealt with severely, and if they are not so dealt with, the officer in charge of the Department in which the offence takes place fails in his duty.

Senator STANFORTH SMITH (Western Australia).—I think it should be laid down as a broad principle that the employes of the people collectively should not be placed in a different position politically from the employes of individuals. Logically, if we declare that the people collectively shall not allow their employes to take part in political movements, we must also declare that people employed by individuals shall not be allowed to take part in such movements. To do that would be practically to gag the whole community, and to substitute despotism for democracy. I think it should be laid down as a Commonwealth policy that the employes of the people collectively should be treated in the same way as the employes of individuals. In fact, I would go further, and say that the Commonwealth should be a model employer. I stated, during the debate upon the Public Service Bill, that in my opinion the Government should set an example as model employers. If we go so far as to say that Government employes shall not take part in any political meeting, or otherwise publicly discuss political affairs, we take from them a very great right and privilege which should be enjoyed by every man. Should that right or privilege be taken away, the next step might be to deprive them of their parliamentary vote, as already has been practically done in one of the States. We must be very careful before we reject the proposition of Senator McGregor, because the liberty of the subject ought to be the dearest possession of an Australian. It must be remembered that to prevent civil servants from publicly discussing political questions will not stop them from discussing such questions in private, thus probably giving rise to secret meetings and cabals, and tending to bring about a condition of affairs infinitely worse than that which the framers of the regulation are trying to avert. The Postmaster-General said that without this regulation we should find ourselves in

the position of the United States, so far as the public servants are concerned. My own opinion is that the regulation, so far from preventing, would create the conditions which are found in America. A regulation of the kind interferes with the liberty of a large body of people, and there is a danger that, as in America, we may go farther and deprive the civil servants not only of their right to vote but also of their positions. A very important principle is involved in this question. Shall we, as a Commonwealth representing the people collectively, give our employés treatment different from that meted out to employés of private individuals? If a private employé may take part in public political meetings, the people, that is, the Commonwealth, should allow their employés the same right. The Commonwealth, which represents the people banded together in a community, has no right to say to the public servants—"You shall not have a political conscience, but shall be deprived of the liberty of expressing your political views in public places." If the regulation be passed one brother, who happens to be in private employ, will be at perfect liberty to take part in any political movement, while another brother, who is a servant of the State, will be deprived of his rights as a citizen. Senator McGregor is asking for the public servants the same right which we ourselves demand, and which every private employé demands; and to take away that right from any section of the community would be a blot on our legislation.

Senator DE LARGIE (Western Australia).—I am pleased that so early in the session an opportunity is afforded of discussing what I cannot help regarding as a very unfair regulation under the Public Service Act. I express that opinion in the face of the explicit promises we had, not only from the Postmaster-General, but from Senator O'Connor, when the Public Service Bill was before the Senate. If it had not been for those clear promises it is probable there would not have been so much anxiety on the part of Senator McGregor to have this matter thoroughly thrashed out now. A great deal has happened since the question of the public service was last before the Senate. Recently there has been brought about in the public service of Victoria the very thing which it is now sought to prevent—that is, interference by the heads of Departments with men

in their rights as citizens. Events have occurred in Victoria which I dare say very few honorable senators expected to witness when the subject was last discussed by us. A great deal has been said as to the part a civil servant may take in politics. I quite agree that it would be very unseemly for a civil servant to take any very prominent part in politics, such as that instanced by the Postmaster-General. It would disgust every man in the community if a public servant, in his position as president of a political association, revealed secrets or information obtained by him in the course of his official duties. I am quite satisfied, however, that no public servant would ever think of doing anything of the sort.

Senator FRASER.—It has often been done.

Senator DE LARGIE.—Then, it must have been done in secret.

Senator FRASER.—Human nature is human nature.

Senator DE LARGIE.—If official information has been revealed under such circumstances I must grant that Senator Fraser knows a great deal more about the secrets of politics than I do. I am a mere apprentice in political life and, possibly the knowledge which has come to Senator Fraser was obtained in a way impossible to me. I am not in any way connected with secret societies, political, or otherwise. My object throughout has been to have all political or trades-union organizations conducted in a thoroughly open and public manner. As a trades-union leader, I have consistently opposed any proceedings of a secret character being introduced in Australia. In Western Australia I opposed the creation of a branch of the Knights of Labour, regarding all such private organizations as undesirable in the labour movement. We in Australia consider that we are blessed with greater privileges and liberties under our Constitution than are enjoyed in the country which gave rise to the Knights of Labour. In order to fully appreciate the meaning of the proposed regulation, we must have regard to the position of the public servants in Victoria at the present time. Does any honorable senator think that, because the railway servants of that State were recently licked into submission, or, rather, surrendered the position they had taken up, everything is satisfactory in the Railway Department? I can assure honorable senators that quite an opposite state of affairs exists, and that the whole of

the Railway Department is in a seething state of revolution and discontent.

Senator FRASER.—Does the honorable senator warrant the word “revolution”?

Senator DE LARGIE.—I say that the Victorian railway employes are discontented with the present state of affairs, and that that discontent may break forth before very long in a way that will wake up some of the would-be political “josses” of Victoria. No logical argument has been adduced in favour of the regulation. We cannot prevent the public servants from thinking politics or from casting their votes.

Senator PLAYFORD.—Nobody desires to do that.

Senator DE LARGIE.—Then it is for nothing that we have to thank the framers of the regulation. Surely it is better to allow Government employes to form organizations and work in the open light than to drive them into secret combinations? In my opinion we are now sitting on the safety-valve, and we ought to regard as a sort of warning the sad state of affairs in Servia as announced in this morning's press. It is all very well for honorable senators to laugh, but King Alexander and his Ministers, who this morning are shorter by their heads' length, no doubt laughed a few months ago as the Postmaster-General is laughing now.

Senator DRAKE.—Does the honorable senator know what the Servian regulation is on this subject?

Senator DELARGIE.—I do not pretend to be intimate with the civil service regulations of Servia, but I know that the authorities there have been sitting on the safety-valve in the same way as the political heads in the State of Victoria are now doing. If events similar to those in Servia occurred in Victoria, need any one be surprised?

Senator FRASER.—Does the honorable senator countenance that sort of thing?

Senator DE LARGIE.—I countenance nothing of the kind. Perhaps Senator Fraser countenances more of that sort of thing than I do. All I countenance is done in the open; I go into no secret societies. I hold that the regulation is not only unfair and uncalled for, but is *ultra vires*, there being nothing in the Public Service Act which gives the Commissioner or the Postmaster-General power to frame a regulation of the kind.

Senator DRAKE.—I did not frame the regulation.

Senator DE LARGIE.—I say that neither the Postmaster-General nor the Commissioner has a right to frame a regulation of the kind under the Act.

Senator DRAKE.—Did anybody ever say I had a right to frame the regulation?

Senator DE LARGIE.—No, but I say neither the Government nor the Commissioner has any such power; and, that being so, I think that the regulation ought to be omitted or improved in the direction indicated by Senator McGregor. No such regulation is needed, and there is no reason why it should be framed, or, at any rate, framed in such an objectionable manner. Recently, in Victoria, a policeman, in his own time and in his private clothes, attended a public meeting addressed by Mr. Tom Mann at Ballarat, and for this audacity he has been called to account by the precious head of the State Government. These are just the beginnings of tyranny we wish to nip in the bud. Attention has already been called to the school teacher who sinned in that he drew attention to the fact that farmers' children, who have to get up at all hours of the morning in order to milk cows and do other work, attended school in such a state of physical weariness that they were practically unable to receive their lessons. This expression of opinion by a teacher, to which attention was called on the initiative of the supporters of the Kyabram movement in his locality, is used by the precious Irvine-Bent Government as an argument against the public servants. If this sort of thing is allowed to go on, we shall have the most ridiculous position evolved. In Western Australia, railway employes have even contested parliamentary seats, without any detriment to the service.

Senator PEARCE.—The Western Australian railways pay better than those of Victoria.

Senator DE LARGIE.—It is quite true that the Western Australian railways are superior to the Bent-ridden railways of Victoria. When the regulation referred to by Senator Styles was in force under Commissioner Mathieson, no harm was done to the receipts of the Victorian Railway Department. It was not until a tyrant was placed at the head of the Railway Department that trouble arose; and some remedy is required in the direction indicated by Senator McGregor.

because the Government may increase the number of its employes, and by every such increase the citizen rights of the people would be further restricted. The whole tendency of the age is to increase the opportunities for using the franchise. But the tendency of this regulation is to restrict rather than to extend the opportunities for the exercise of the franchise. I hope that it will be amended so that public officers may be allowed that reasonable amount of political liberty to which they are justly entitled. I think it will be generally admitted that the Government merely buy the labour of an engine-driver or a carpenter or a blacksmith, and that when his work is finished he should be at liberty to dispose of his leisure as he pleases. No Public Service Commissioner should be allowed to exercise any control over the actions of a public officer in his leisure. I wish to recall a few of the promises which were made by Ministers when this question was being considered in the Senate. When Senator Keating said that he was in favour of civil servants being allowed to join any association of either a political or trades union character, Senator Drake interjected these words—

Hear, hear; and they never have been barred.

Senator DRAKE.—Why not read the statement of Senator Keating to which I said “Hear, hear.”

Senator DE LARGIE.—It is as follows :—

I am entirely in accord with the principle of the amendment, but there is nothing in the Bill which denies to civil servants the right to band themselves together, to associate as members of a civil service association, or to join one or the other of the many political or semi-political organizations, or the national or semi-national organizations, which permeate the length and breadth of the Commonwealth.

Senator DRAKE.—And I said “Hear, hear,” to that.

Senator DE LARGIE.—There is no provision in the Public Service Act to prevent a civil servant from joining an association of that kind, and therefore why should this regulation exist? When my amendment was before the Senate—and it was only defeated by fourteen to thirteen—some honorable senators who supported the Government declared that if any attempt had been made to prevent a public officer from having his full political rights they would have supported the attitude which

I assumed. On page 9367, Senator O'Connor said—

If a man is a member of a political association he may attend its meetings and take part in its work; but undoubtedly he would not be allowed to take such a prominent part in its proceedings as to be identified with them as a high official of the association, in such a way as to cause the public to suspect his fairness in the carrying out of his public duty. That is the position at the present time, and is it to be continued? At the present time the head of a Department would not interfere with a man who was merely a member of an association.

I hold that under this regulation the head of a Department can interfere with any officer who in any way promotes a political movement of any kind, and that, therefore, it is quite contrary to the promise which was given by the representatives of the Government here.

Senator DRAKE.—I do not consider it is. If there was no regulation, what would the head of a Department have to do?

Senator DE LARGIE.—The faculty of speech is given to a man to express his thoughts, and I take it that Senator O'Connor expressed the thought of the Government when he used those words. I hope that the Government will stand by the promise which was given here by their representatives, and repeal the objectionable portion of the regulation. I consider that the prestige of the civil service will not suffer by taking that course, nor will the prestige of the Government suffer by standing to the promise which was given to the Senate in their name.

Senator WALKER (New South Wales).

—Senator McGregor and the supporters of this motion seem to forget that every man knows exactly the conditions upon which he joins the civil service. A position in the civil service carries certain advantages and certain disadvantages. One disadvantage is that an officer is supposed not to take a prominent part in any party movement. The same rule exists in other institutions. I was in a banking institution for 26 years, and the servants were never supposed to take an active part in politics, nor did we. We merely exercised our vote. The moment we grumbled we were told, “Very well, if you do not like the conditions you can resign.” It must be remembered that public officers are not the servants of one section of the community, but the servants of the whole community. If a man enters into an engagement with his eyes open, it is absurd for him afterwards to find

fault with the conditions of his employment. In all the States, I believe, public officers have full liberty to form civil service associations.

Senator DAWSON.—Do not civil servants have to comply with conditions made after they joined the service?

Senator WALKER.—Every man when he joins the civil service understands that he becomes the servant of the whole community, and that he must not ally himself with a section of the community for political purposes.

Senator DAWSON.—I understood the honorable senator to say that they joined the service under regulations then existing?

Senator WALKER.—The general condition is that civil servants are not supposed to take an active part in any public movement of a party character. A hospital movement is not a movement of a party character. Nor is an association to relieve distress a movement of a party character.

Senator PEARCE.—What about a temperance society?

Senator WALKER.—It is not a party movement.

Senator PEARCE.—Ask the licensed victuallers!

Senator WALKER.—I think all men ought to be temperate. With regard to the second portion of the regulation, Senator Drake has shown very clearly that if an officer took an active part in a political movement he might, perhaps quite unintentionally, use information which he had obtained in his official capacity. In the institution to which I had the honour to belong, we could not become justices of the peace without the approval of the board, and for the very good reason that we might be called upon to adjudicate on matters affecting our constituents. We only accepted the position on the distinct understanding that we should not be called upon to do more than witness the signing of deeds. I have been a justice of the peace for Queensland, for I do not like to say how many years. I have never sat on the bench, but I have often witnessed the signing of deeds for the convenience of the public. Now that we have adult suffrage, civil servants through their wives, sons, and daughters possess a considerable amount of indirect political influence. I regret that railway employes are not brought under the provisions of the Public Service Acts. I may be old fashioned in my views, but I think

it is a monstrous thing that a whole community should be disturbed because a section of the Government employes wish to do something or other. I consider that Senator Drake made a very good point in his reference to the United States. Senator McGregor is trying to introduce the thin edge of the wedge, and, after a time, I suppose every one is to belong to the socialistic movement. I am not one of those who think that everything should be owned by the State. I am in favour of individualism. A civil servant has many advantages. He has permanency of employment. In good or bad times he draws his salary. If he goes into a political movement outside his office hours it will probably interfere with his proper attention to duty during office hours. How can he serve two masters? He had better serve one master faithfully. We have good instruction on that point. I am afraid that there is a tendency nowadays—I do not say especially in the Senate—merely to look to those whose votes we wish to get. In every State there are many Members of Parliament who when they address the House to which they belong, have in view the election which is to take place a few months later. I do not think that we are very much better than our neighbours in that respect; I do not say that we are any worse. I have as strong an objection as Senator De Largie to secret societies. I have never belonged to a secret society, and I do not intend to do so. I am not one of those who think that secret societies should necessarily exist. Perhaps in the middle ages they did a certain amount of good, but in these days everything should be done in an open manner. We know that trades unionists will not allow men who do not belong to their associations to go peaceably to their work. That is an interference with the liberty of the subject. I believe that I speak the mind of the Senate when I say that we should do all we can legitimately to make public officers comfortable in their positions as long as they give faithful service. I do not believe in stinting pay. I believe in paying a man well if he does his work properly. I am in perfect sympathy with those who wish to get a fair day's wage for a fair day's work.

Senator MCGREGOR.—The honorable member did not support the minimum wage clause.

Senator WALKER.—Certainly not, because it is really making the so-called minimum the maximum in many cases. I hope that we shall very soon be able to come to a determination on this question.

Senator FRASER (Victoria).—I intend to vote against the motion. I do not mean to suggest that the regulation might not well be slightly altered. I do not think that any objection can be taken to the wording of the regulation which is in force in New South Wales, Victoria, Queensland, South Australia, and even Western Australia. The corresponding regulation in New South Wales reads as follows :—

In order that officers of all ranks may be enabled to render loyal and efficient service to the Government, they are expressly forbidden to take part in any political affairs otherwise than by recording their votes.

No one, I think, would wish our regulation to be framed in stronger terms. Practically the same regulation is in force in Victoria, Queensland, and South Australia. The only ground on which honorable senators desire an amendment of this regulation is that it prohibits a civil servant from publicly discussing, or in any way promoting, political movements. I admit that that is capable of an extreme interpretation. It might be urged that a man, in joining an association, was promoting it. I will not say that a Minister of the Crown might not, at some time, take that view. But it is not a common-sense reading of the regulation.

Senator MCGREGOR.—Oh, yes, it is.

Senator FRASER.—I say that it is not; but if it will please the labour corner to have the word "promoting" altered, I shall not object. I should prefer to substitute either the Victorian, the Queensland, or the South Australian regulation. But to allow the civil servants of the country to take an active part in politics is a most dangerous principle indeed. When persons join the civil service they know perfectly well that they ought not to take a prominent part in politics. Their own common-sense tells them that they ought not to take the pay of the public and at the same time dictate to the Government. A man is not compelled to join the civil service, but when he takes a position under the Crown it is perfectly well understood that it is not optional for him to take part in politics. I do not say that a railway station-master ought not to be allowed to

speak to two or three individuals and express his own opinion. But when a public servant gets on a platform and denounces in extreme language the Government which he is serving, expressing views highly derogatory to Ministers of the Crown, that public servant should be dismissed. There is the case of a school teacher who got upon a public platform and denounced Ministers in vile language.

Senator HIGGS.—A grand speech—it was a lovely speech.

Senator FRASER.—If Senator Higgs had to face the Queensland electors within the next few months he might not be so brave. When a teacher or any other officer gets on a public platform at a public meeting, and denounces his own Ministers, he is not fit to be a public servant.

Senator PEARCE.—It was not at a public meeting, but at a teachers' conference.

Senator FRASER.—It was at a public meeting, where the press was represented. I will admit, for the sake of argument—not that it is true—that there might be sweating in the public service, but would that justify an officer in denouncing Ministers of the Crown? What kind of a public service should we have if such conduct were tolerated? We shall have open revolt, anarchy, revolution.

Senator HIGGS.—That would be terrible, wouldn't it?

Senator FRASER.—It would be.

Senator HIGGS.—It has done a lot of good in times gone by.

Senator FRASER.—We are speaking of a country where there is every possible toleration given to and allowance made for civil servants and others.

Senator HIGGS.—Where is the toleration on the honorable senator's part?

Senator FRASER.—There is toleration to join any society any one likes so long as it is not anarchical or revolutionary. I joined a certain society some years ago, and will give a history of my action. I was a very innocent youth from Canada, and knew no more about the Orange institution than the man in the moon. But in the Legislative Assembly in Victoria some twenty years ago, or thereabouts, I supported a very old political friend of mine, the late Sir James Patterson, by seconding his motion censuring members who signed a treasonable address against my Queen and country. The words to which I took exception then, and as I would now,

referred to the British Crown as "the hoof of foreign despotism." Senator HIGGS laughs. I want to put him in a hole if I can. I want to make him take sides, and then I will fix him. Let him not sit on a rail. A man must either be for the King or against the King. I am for the King. I soon found what kind of opposition I had to face in this country. But I should take the same course again under the same circumstances. There is no objection to any man joining institutions or societies so long as they are not revolutionary.

Senator DAWSON.—So long as they are secret.

Senator FRASER.—There is no harm in secret meetings. There are numbers of secret meetings which do good service. But what we are now taking exception to is the open action of certain civil servants, not what they do in secret meetings. The regulations in force in some of the States cannot be taken exception to. I cannot go to the length advised by Senator McGregor and others, who would have them struck out altogether. Objection has been taken to a policeman having been found fault with because he attended Tom Mann's meetings. Does the labour corner support Tom Mann?

Senator DE LARGIE.—Certainly; why not?

Senator FRASER.—He has openly stated that he wishes to drive all the capital out of Australia. Do they support that? It does not suit them to say so. They will only take the parts of Tom Mann's utterances that suit them.

Senator MCGREGOR.—Did the honorable senator hear him say that?

Senator FRASER.—Do the labour representatives denounce Tom Mann for using those expressions? If they are not for Tom Mann, they must be against him. They cannot get the benefit of all the evil work he does without taking the responsibility.

Senator Sir JOSIAH SYMON.—I thought they paid him.

Senator FRASER.—They pay him £600 a year for calling us all rascals, and for denouncing nearly everything that makes a country great—denouncing religion, I think, amongst other things.

Senator DAWSON.—Oh, no.

Senator FRASER.—Oh, yes. I have not got his speeches by heart, but that is near enough.

Senator O'KEEFE.—There is not a more religious man in Victoria than Tom Mann.

Senator PEARCE.—It is very brave of the honorable senator to denounce Tom Mann here, where he can make no reply.

Senator FRASER.—It is time public men did speak out when the labour section are trying to force on matters to a point that will be ruinous to the country. If we support Tom Mann, we shall soon be driven back to the position of blackfellows, with not even an opossum rug around us.

The PRESIDENT.—Does the honorable senator think that the discussion of Mr. Tom Mann's views is relevant?

Senator FRASER.—I only wanted to better the opportunity. I am not afraid of my views; I never was, and never shall be. If they secure the favour of the public I am pleased; if they do not, I am quite as well pleased.

Senator HIGGS.—If the honorable senator had to stand for election this year he would not say so.

Senator FRASER.—Will the honorable senator retire for Queensland if I retire for Victoria? There is a challenge for him. It is said that a perfect corollary to this regulation would be a Coercion Bill. If any one goes down to the Police Court to-day he will find coercion institutions being carried on. Every police magistrate is a coercionist. Every Judge is a coercion Judge. The two men who are to be hanged in New South Wales in a day or two will be coerced. There is a great difference, however, between coercing people and not allowing them to do wrong. We only want to coerce people who do wrong into doing what is right. Coercion is punishment. But my honorable friends in the labour corner want to say that if a civil servant is coerced into doing right, a wrong is done to him. They are fortunate in living in a time when there is a vast amount of freedom. If they look back a few centuries, they will be able to draw comparisons that make present times seem very advantageous. I shall vote against the motion.

Senator BEST (Victoria).—I hope we shall return to a calm consideration of the question, apart from the violent controversial features which have been introduced in the course of the debate. When this question was originally before the Senate, in the consideration of the Public Service Bill, a clause was moved by Senator De Largie to the effect that nothing in the Act should

prevent officers from becoming members of any properly-constituted society or political association. While that was rejected by one vote, it seemed to be the general consensus of opinion that there should be no administration of the Public Service Act which would prevent any public servant from being a member of such a society for the purpose of preserving his rights of citizenship. While there may have been a disinclination to place it in so many words upon the statute-book, the general idea certainly was that the administration of the Act should operate in that direction. That view has been confirmed by Senator Drake himself. The honorable and learned senator says that it would be an unreasonable administration of the Act to prevent a man being merely a private member of such an association.

Senator PEARCE.—Ministers are only the creatures of a day.

Senator BEST.—What I desire to point out is that while there has been an objection taken to Senator McGregor's motion, the Minister himself largely admits that a fair administration of the Public Service Act, and of this particular regulation, would permit a public servant to belong to any reasonably-constituted political society or association. But what the Minister has most properly condemned is the active participation of public servants in public affairs of a political character. There appears to be on the part of Senator McGregor, and those supporting him, an admission that it is not altogether desirable that public servants should on the public platform actively or prominently support political movements. Of course, if anything of that kind is done it strikes at the root of discipline, and necessarily involves most serious complications. We have to consider how we can do what is reasonable and fair to the public servants of the Commonwealth. The public servants have to look to Parliament for redress of their grievances. We are therefore not justified in preventing them endeavouring amongst themselves to secure what is conceded to every other section of the community, namely, legitimate combination for the purpose of promoting legitimate rights. Having regard to the fact that Parliament is master of the public servants, and that they have to organize for the purpose of securing justice at the hands of Parliament, it is hardly reasonable for us to attempt to enforce

a regulation which, on the face of it, would prevent any such action on their part. In my view, a reasonable interpretation of the desire of honorable senators would be given by an alteration of the motion submitted by Senator McGregor in this direction. The motion is to the effect—

That in the opinion of the Senate, regulation 41 under the Public Service Act should be amended.

I would add these words—

by inserting after the word "way" the words "to publicly."

So that the regulation would then read—

Officers are expressly forbidden to publicly discuss, or in any way to publicly promote, political movements.

The latter part of the regulation we all approve. I certainly agree with those who have said that it is most undesirable that public servants should go upon a public platform possibly for the purpose of deliberately, actively, and prominently opposing principles of public policy submitted by the Ministers at the head of their Departments or by the Government generally.

Senator PLAYFORD.—Or by the leader of the Opposition.

Senator BEST.—Or by the leader of the Opposition, as the case may be. There can be no doubt that any public advocacy of particular political principles by public servants will necessarily involve serious complications, but while we should be opposed to any such active interference by public servants, we are not justified in depriving them of reasonable freedom in the exercise of their rights of citizenship. I suggest that in the exercise of those rights, and for the promotion of their own interests, they are justified in combining. The regulation in its present form is, I think, unduly extreme and drastic. While I agree that officers of the Public Service should be forbidden to publicly discuss political subjects, it is going very far to say, in the words of this regulation, "or in any way promote political movements." That, in my opinion, would deprive them of their reasonable rights, and those rights must be considered, having due regard to their relationship to Parliament. It would prevent them uniting for the purpose of securing redress of grievances, and as Parliament is their master, organization is, I think, the way in which they should seek redress of grievances. We are not justified, therefore,

in doing anything which will prevent such organization. I move—

That the following words be added to the motion :—" by inserting after the word ' way ' in such regulation the words ' to publicly. '"

Senator BARRETT (Victoria).—No one listening to the debate can complain that it has not been an animated one. In view of some of the statements made, I feel that, as a representative of the State of Victoria, I should clearly express my opinion of this motion. If the statement is true, as assumed by Senator Walker, that there is something looming in the distance which will perhaps prevent us freely expressing our opinions, it might be injudicious for me to express mine. But whether it be injudicious in that sense or not, I intend to publicly express what I think upon this matter, without fear, favour, or affection. If my views are found not to be in accord with those of a majority of the people of this State, then so much the worse for me. Notwithstanding that, I shall on the floor of this chamber state what I believe to be the right course to adopt. This is a question upon which, as Senator Fraser has said, we ought to take sides, and I am going to take this side: I do not consider it just on any occasion to restrict the voting power or the citizen rights of any person whatever.

Senator DOBSON.—We are not asked to do so.

Senator BARRETT.—Holding that view, I say in the first place that I shall support the motion which has been moved by Senator McGregor. I think it is right that the honorable senator should have taken the earliest opportunity afforded him to initiate a discussion upon this question, in view of the statements made and promises implied during the discussion of the clause moved by Senator De Largie when we were discussing the Public Service Bill. This regulation seems to me to show the danger of regulations under any Act of Parliament. My mind is perfectly clear, as to the discussion which took place on the Public Service Bill. The impression I formed at the time was distinctly that the Government would not in any way unduly restrict civil servants in claiming their political rights. I intend to direct the attention of honorable senators to what was said by Senator O'Connor on that occasion. I suppose that, in speaking at the time, the honorable and learned senator was in some way voicing the opinion of

the Government as well as his own, though I find that, lawyer-like, the honorable and learned senator managed in some parts of the speech he made to introduce remarks which appear to confound some of the clearest statements he made in other parts of the same speech.

Senator WALKER.—Why lawyer-like?

Senator BARRETT.—The honorable senator must know that lawyers very often use language for the purpose of concealing their real meaning, and I suppose that when the lawyer becomes the politician, as the result of his peculiar training, it is very often impossible for a layman to grasp what he really means. I advise honorable senators to study the whole of Senator O'Connor's speech, but I quote only the first part of it. At page 9366 the honorable and learned senator is reported to have spoken as follows :—

Senator McGregor seems to me to have adopted a tone which, with all respect to him, is altogether extravagant upon this question. It is assumed that those opposing the introduction of this clause are opposed to the civil servants belonging to political associations, and exercising the right of combination for political purposes, or exercising their right as citizens to influence elections. But nobody dreams for one moment of placing any obstacle of that kind in their way. There were times when a man who was a member of the Public Service found it very difficult, if not impossible, to give effect to his political opinions. But that kind of administration has gone for ever. In any Government which is carried on under the control of Parliament, under the eye of the press and the influence of public opinion, such administration can no longer exist and can never return. That is an emphatic statement by Senator O'Connor upon this question. I must be fair to the honorable and learned senator, and say that in later portions of the speech he seems to deny the clear position he takes up in the portion I have quoted. It seems to me that some members of the Commonwealth Parliament desire in this particular matter that we should promote what I may call panic regulations for the public service. I hold that no public servant should be under any restriction whatever so far as his political opinions are concerned, and that when he enters the service the whole of his political rights should be preserved to him. The fact that a man is working for the State should not debar him from freely expressing his views or from exercising the franchise. There is, however, another phase of the question with which to some extent I sympathize. It would be wrong for a civil servant to stand on a public

platform and take sides in a heated political controversy. At the same time I have no sympathy with regulations which deny political rights to any section of the community. I believe that when the people of Victoria realize what they have done, or what the State Government have done in their name, they will in a short time be ashamed of the position they have created, and that the laws recently enacted will be repealed. A few years ago similar restrictions were placed on the members of the police force in the same State, and these men were deprived of their vote on the ground that it would be dangerous to give them the political rights enjoyed by other sections of the community. For many years these policemen were deprived of the franchise, but the time came when a more enlightened public opinion declared in their favour, and to-day they stand in exactly the same position as their fellow citizens. The fact that a police officer went to a public meeting when off duty, to listen to a certain lecture, caused him to be called before a board to explain his conduct.

Senator DRAKE.—The regulation has nothing to do with the police.

Senator BARRETT.—But the incident shows what the effect of the regulation might be. What has been the result of the panic legislation in Victoria? I read the other day that the Premier of Queensland is thinking of introducing similar legislation in that State, and if that be done the time may come when, even in this Parliament, it may be urged that these restrictions should be placed on Commonwealth officers. That is a proposal of a sort to which I could never agree, but which I should do my best to defeat. Every senator ought to speak and also vote on the motion submitted by Senator McGregor. Taking the consensus of opinion registered on the previous occasion, and knowing that to some extent the Government have departed from the position they then took up, I believe a majority of the Senate will support the motion. The regulation is too drastic, and, in the interests of the Commonwealth, ought to be amended.

Senator DOBSON (Tasmania).—I do not think any reasonable objection can be taken to the regulation as it stands. If it be found hereafter that it goes a little too far, or that we can more clearly define what we want, some amendment, such as that suggested by

Senator Best, may be accepted. What we do want is a loyal public service. Senator Smith says that he has always expressed the opinion that the State ought to be a model employer. My own opinion is that the State is and always has been a model employer.

Senator MCGREGOR.—Only in some of the States.

Senator DOBSON.—In all of the States, I believe, State employes have been treated with the utmost consideration. There are the Public Service Boards and Appeal Boards to give them justice, and then there are conciliation and other boards, the object of which is to put a stop to the unrest created by the Public Service and Appeal Boards. Then, under the Commonwealth there is a minimum wage of a far greater amount than is paid by any class of public institutions or public employers throughout Australia. The hours of work are short and the holidays long, and in every way the public servants have always been considered. If a question were to arise affecting the position of the public servants I believe that every member of every Legislature would go to the end of his tether in order to do justice to them, and grant everything that could reasonably be asked; indeed, most of us would probably, I am afraid, forget the taxpayers who have to "pay the piper." It is rather amusing to hear how some of the honorable senators who support the amendment give themselves away, and how Senator McGregor, and some who think with him, have tried by means of great exaggeration to impress upon us the importance of the amendment. Senator Styles had to admit that it would be objectionable for a public servant to mount the platform and make a long political speech.

Senator STYLES.—I said it would be objectionable for a public servant to make a long harangue against the Government.

Senator DOBSON.—What is the difference between a man who talks for an hour and perhaps says very little, and another man who talks for three minutes and, perhaps, utters sentences which are absolutely disloyal and unfair, and not in accordance with fact, and in which unconscious use may be made of confidential official knowledge? Senator Styles gives his whole case away when he admits that a public servant ought to be stopped under some circumstances from mounting a political platform and

making a long harangue. If the honorable senator can frame a regulation which will permit a public servant to go on the platform and make a short harangue I shall be very glad to see it. Then Senator De Largie also gives himself away. The honorable senator, out of that conscientiousness of his, which is altogether against the capitalist and in favour of the working man, admits that he would not like a civil servant to take a very prominent part in politics. I should like Senator De Largie, with the help of the labour corner, to suggest a regulation. Then Senator McGregor utterly gives himself away by dealing in the language of exaggeration. He has told the public through *Hansard* and the newspapers that we are taking away from the public servants all constitutional power.

Senator MCGREGOR.—I did not say anything of the kind.

Senator DOBSON.—I took down the words of the honorable senator, who led me to infer that if this regulation were allowed to stand it would practically deny the public servants any constitutional power.

Senator MCGREGOR.—No; I said we should be interfering with their constitutional rights.

Senator DOBSON.—Senator McGregor then went on to illustrate his argument by picturing a household consisting of a public servant, his wife, and son and daughter, each one of whom had a vote; and he contended that the family would, under this regulation, have absolutely more power than the head of the household. Does the honorable senator not see that the head of such a household would have very great power? Does the honorable senator not see that his illustration absolutely cuts the ground from under his feet? The head of the household would have the right to vote, and to attend the private meetings of his fellow workers in the civil service association, if he liked, and discuss in every possible way any questions affecting the public service, and to approach his employers in a loyal and proper way.

Senator MCGREGOR.—Not under this regulation.

Senator DOBSON.—Yes; under the regulation. Then the wife, and the son, and the daughter, could join the head of the household in fighting for an increase in his salary, for decreasing his hours, or for anything he liked to demand, and the wife, son, and daughter could become agitators

and mount the platform. It is absolutely idle for our friends in the labour corner to say that we are seeking to deprive any citizen of his just rights or his just liberties. As Senator Walker has pointed out, honorable senators seem to forget that while the State ought to be, and I contend is, a model employer, there ought to be obligations on the part of the employé. Is it not the very first obligation of the employé that his service should be loyal and efficient—that he should not play the traitor?

Senator MCGREGOR.—Who suggested anything to the contrary?

Senator DOBSON.—The honorable senators are suggesting something very like what I indicate. The whole speech of Senator De Largie seemed to be inspired by the anger and resentment he feels because the wicked strike which took place in Victoria utterly collapsed. It appears to me that honorable senators, in supporting that strike, were absolutely telling the railway employé's that they had a right to practically rebel against the authority of the Government.

Senator FRASER.—Some honorable senators attended the meetings of the strikers.

Senator DOBSON.—That is so, and I never felt more disgraced by anything that has been done by honorable senators. Senator De Largie mistakes discipline for tyranny. He talks about our wanting to play the tyrant over men when we are simply applying that discipline which is necessary in this world if we are to be without revolutions such as have been hinted at. It appears to me that even in this twentieth century, such events as the shocking assassinations in Servia show that everything must be based on discipline. If a public servant is not ready to submit himself to the most reasonable discipline of this regulation, let him leave the service.

Senator Sir JOSIAH SYMON (South Australia).—This regulation opens up a very important question, which is a great deal more far-reaching than perhaps at first sight appears, and upon which a great deal of difference of opinion may exist. I agree with Senator Best that we may very well examine this matter without importing into the discussion any undue heat, or without travelling beyond the limits of what is admittedly necessary and proper in relation to the position of the public servants—that is, the servants of the public, and, in

this case, of the Commonwealth—whether their position be high or low. I am rather inclined to the view that although perhaps some of the words of the regulation to which attention has been called, might have been more fully or perhaps better expressed, they sufficiently convey what is intended to be prevented. They sufficiently negative, I think, the rather broad interpretation or prohibition which some honorable senators find in them. I do not take the view they take as to the extensive application of the words “political movement.” It is quite natural, as Senator Pearce said, that the civil servants should take the view that the language used covers a wider field than was intended, and may be unnecessarily restrictive upon the exercise of their rights. Because they take that view we ought not at once to accept it. It is perfectly natural that all men in the civil service should seek to get, if they can, the same unrestricted right as others to further political movements, and ally themselves with whatever active political organization in the State they think fit. Undoubtedly, that is a natural thing, and no one has a right to reproach them and to remonstrate with them. But it all proceeds on what I conceive to be an erroneous assumption. Senator Smith said, as though it concluded the whole subject, that there was no reason why the servants of the whole of the people should be deprived of any right which the servants of any one of the people enjoyed. That struck me as a very taking but utterly fallacious argument to apply to this matter, and whatever we may do as regards this regulation—and possibly some parts of the language may be improved upon—we shall be making a great mistake if we proceed on that assumption. That is not the position at all. The position is that public officers are the servants of the people represented by the Executive Government. My servants are the servants of an individual, but the civil servants have no more right to intrigue either privately or publicly against, or to denounce publicly the Government, whose servants they are, than my servants have a right publicly or privately to intrigue against me, or to publicly denounce me. That is the parallel. There must be a limit of course, but the parallel which my honorable friend drew is quite a mistake, because it eliminates a fact. Just as my servants are not allowed to join movements against me, so the servants of the State must be under a

certain disability, when they enter its service, to prevent them from intriguing privately against their masters, the public, or publicly denouncing them. That is the principle underlying the regulation. Otherwise it ought to be swept away.

Senator BEST.—“Intriguing privately!” How can you possibly define a thing like that?

Senator Sir JOSIAH SYMON.—You cannot enter into the minds of men. You cannot pursue them into the innermost recesses of their closets or studies or club rooms. But still that is no reason why you should not, as far as possible try, whilst doing justice to their rights, to reach the principle as far as you can. That is what the regulation is intended to do. But what I wish to make clear is that any legislation of this kind rests fundamentally on that principle, that the civil servants must enjoy what are called their political rights subject to the disability that they are the servants of the people and of the Government of the people. We all admit that it would be absolutely outrageous to permit public servants to go on a platform and denounce the Executive Government, because if they were entitled to do the one they would be entitled to do the other. When my honorable friends talk in large language about the encroachment upon civil liberty and the rights of citizens, it is utterly inapplicable to this state of things, because we admit that there is a limit. Any member of the Senate, the humblest citizen who is not a Government servant, can get up a political agitation, mount a platform, and denounce the Ministry or a particular Minister. It would be a public scandal, it would be subversive of all the best principles of government if the public servants were permitted to do so.

Senator PEARCE.—On the other hand the honorable and learned senator will admit that a public servant has some right to take an interest in the country's affairs and to be allowed to express his opinions.

Senator Sir JOSIAH SYMON.—The public servant has a right, and I shall refer in a moment to what I consider to be the limits of that right. The regulation does three things. We are all anxious, I am sure, to conserve as far as possible and in every way consistent with their position the political rights of civil servants. No one wishes to encroach upon them one atom more than is necessary.

When we are told, and rightly told, that civil servants take the view that they are unnecessarily restricted, we must remember that they entered a service which gives them a great variety of privileges. They enjoy practically permanent employment during good behaviour; they enjoy certainties which the ordinary employé of an individual does not enjoy, and in return for these privileges they give up, and are bound to give up, certain portions of that common freedom—certain portions of those rights in connexion with public affairs which other citizens enjoy. They enter the service with their eyes open, they to receive certain privileges, and in return they are subject to certain disabilities. The only question is how far those disabilities extend. This regulation points to three, and no one offers adverse criticism about the third one, by which—

They are further forbidden to use for political purposes information gained by them in the course of duty.

Every one, I understand, agrees with that portion of the regulation. But allow me to point out to Senator Best that it will be nearly as difficult to enforce that part of the regulation as it will be to enforce what he pointed out as a blot, and to remedy which he proposes to insert the word “publicly”—to enforce their seclusion, so to speak, from all forms of private intrigue.

Senator BEST.—It is only a question of degree.

Senator Sir JOSIAH SYMON.—Yes. You can never reach a policy of perfection by a regulation of this kind. You have only to do the practical, and the impossibility of reaching the practical by putting in the word “publicly” is just as applicable to that part of the regulation as the other. If a man wishes fraudulently, or in violation of his duty to his employer, the State, or his duty to the Minister, to convey information from a public office to the leader of the Opposition, he will do it, and in nine times out of ten he will never be found out. You cannot pursue every man in whatever tortuous course or intrigue or anything of that kind he may adopt. You can only lay down a rule which will enable you to do it, if you can, when you can, and as far as you can. The first portion of this regulation is admittedly a good thing—

Officers are expressly forbidden to publicly discuss * * * political movements.

But the part on which the discussion has hinged is—

Or in any way promote political movements.

We have to consider what is sought to be forbidden. I take entirely the view of the Government upon this matter. Looking at the position of the Government; looking at the fact, as Senator Higgs said yesterday, that they have been unswervingly supported by my honorable friends on the left during the last two years; looking at the fact that they would not be likely to frame a regulation which would unduly encroach or do a wrong to public servants; then it is *prima facie* pretty plain that they used language which they believed hit at the mischief intended to be corrected, and would prevent injury to the Commonwealth. What is it that we want to prevent? In the passage which Senator Barrett quoted, Senator O'Connor has declared what we all assent to—that there is not the slightest objection to civil servants forming associations amongst themselves as they do, and advancing their own interests by an appeal to Parliament if they like, by swaying the election of a particular member, and assisting to secure the representation which they desire.

Senator O'KEEFE.—Would not the formation of such an association be the promotion of a political movement?

Senator Sir JOSIAH SYMON.—I think not. I do not think that that is what is meant by “political movements” in this regulation. It is not what the Government meant. It is for the purpose of defining the meaning more clearly that I intend to suggest the alteration of two or three words. I take the view that “promoting political movements” means, not movements amongst the civil servants for their own interests as civil servants, but political movements in the large sense, as ordinarily understood. This regulation would prevent them, I am sorry to say, from promoting that great cause of liberty and prosperity, free-trade. It would equally prevent them from promoting the interests of monopoly by associating themselves with a protectionist association. I am not going to discuss whether the Trades Hall Council is a political institution or not, but assuming that it is, the regulation would prevent them from joining a body such as that if organized, as has been alleged, for political purposes. Senator O'Connor in his speech showed that

no one contemplated, and no administration in the face of Parliament would attempt to administer this regulation so as to prevent the civil servants having an association amongst themselves for the purpose of furthering their own interests, just as the servants in the employment of any of us are entitled to band themselves together with a view of representing their interests, and securing an improvement in the terms of their employment, by asking for higher wages, by making representations to their employer, or even by retiring if they like. The power of striking in that sense—I am not justifying striking—would be open to them. The right of combination is sacred. Every body of men has a right to say whether they will work for particular wages or not. Therefore, the position of civil servants is absolutely analogous to that of the servants of a private individual in respect to the right to combine, to deputationize their employer, and to do everything they can for the improvement of the conditions of their service. But public servants, or the servants of a private individual, have no right to intrigue secretly against their employer, or secretly to promote a movement to his detriment, or to get up on a platform and denounce him. Dismissal would be the immediate result of that in the case of private employes, and so it should be in the other case. Therefore, the word “publicly” would not have the effect intended. It would not meet the case, because in point of fact it would emphasize the right to agitate secretly. I should infinitely prefer to allow public servants to associate publicly, for the reason that Senator Best gives, that you can follow them when they do things publicly; rather than I would allow them to do it privately and secretly. It is rather unfair to the civil servants to encourage them to combine secretly, and to forbid them to do so in the open eye of day. If there were any doubt as to this regulation being intended to cover arrangements made amongst themselves for their interests, I would suggest an amendment—to add after the word “movement” the words, “except among themselves.” That would prevent them from joining outside political organizations.

Senator PEARCE.—Has the honorable and learned senator thought about their position in joining the Australian Natives Association?

Senator Sir JOSIAH SYMON.—I am not considering that.

Senator MCGREGOR.—The honorable senator only thinks about the Trades Hall.

Senator Sir JOSIAH SYMON.—I am not thinking about that either. It is a doubtful institution, a little under a cloud at present. The insertion of the words I suggest would give the civil servants the most absolute freedom to associate publicly or privately. Why should they not have a newspaper if they please, and form a union among themselves to denounce their own grievances?

Senator PLAYFORD.—And denounce Ministers?

Senator Sir JOSIAH SYMON.—They can do as they like if they do it amongst themselves. If it is thought that there is a risk of their denouncing Ministers, all I can say is that the only remedy is to stop them even from organizing amongst themselves. But I do not desire to do that.

Senator PLAYFORD.—They might promote political movements amongst themselves.

Senator Sir JOSIAH SYMON.—My honorable friend is of the same opinion as I am with regard to these words. I think that the words “political movements” do not contemplate or include civil service associations, or arrangements amongst themselves to further their own interests.

Senator BEST.—The words Senator Symon suggests inserting do not carry out his idea.

Senator PLAYFORD.—The words “except among themselves” would mean that they could carry on political associations amongst themselves.

Senator Sir JOSIAH SYMON.—I, myself, do not wish to add the words I have mentioned, but, at the same time, I think that the words “political movements” do not include movements or agitations of civil servants among themselves for their own benefit. I am certain that they do not. The regulation is perfectly sufficient as it stands. All that I say is, that if any honorable senator thinks that the regulation would preclude civil servants—I do not think it would—from making these combinations amongst themselves in their own interests, let us add some words, if they can be suggested—I am not wedded to the words I have mentioned—to provide against such a contingency. My own view is that the regulation, as it stands, is perfectly sufficient, and, therefore, I shall support it.

The PRESIDENT.—Does the honorable and learned senator move an amendment or not?

Senator Sir JOSIAH SYMON.—No.

Senator MCGREGOR (South Australia).—I accept Senator Best's amendment, which will carry out all we desire; that is, to give civil servants the right to combine and carry on their own business in their own way.

Amendment agreed to.

Question, as amended, resolved in the affirmative.

STANDING ORDERS.

In Committee (Consideration resumed from 11th June, *vide* page 786):

Standing Order 273—

Motions—"That the Committee do now divide," "That the Chairman do report progress and ask leave to sit again," and "That the Chairman do now leave the chair," shall be moved without discussion, and be immediately put and determined, and no such motion shall be repeated within fifteen minutes of any of these motions having been negatived. Provided that the senator in charge of a Bill or resolution, or a Minister of the Crown may at any time move to report progress and ask leave to sit again.

Upon which Senator Higgs had moved, by way of amendment—

That the word "Motions" be omitted, with a view to insert in lieu thereof the words "A motion."

Senator HIGGS (Queensland).—I am in very great hope that after the intervening fifteen hours of calm, honorable senators will this afternoon admit the justice of the arguments which we advanced last evening. I desire to address another appeal to the keystone of the South Australian democratic arch, to act upon his own observation, that it does not matter very much whether a simple majority or a two-thirds majority is provided for. If at any time honorable senators are tired of a debate, and if there has been considerable iteration by an honorable senator, I am satisfied that we can get twelve out of eighteen, assuming that eighteen honorable senators are present, who will vote for the closure. And in a House of 24 senators I am sure we shall be able to get sixteen who will be willing to close up the other eight if it is necessary.

Senator DAWSON.—They have no right to close up any but the offending member.

Senator HIGGS.—I am presuming that the other eight will all be offending. I

should like honorable senators not to keep in view any lengthy observations which may have been made during last session, but to consider a case in which an honorable senator may move a motion which is distasteful to the majority of the members of the Senate. That majority may combine together to close up the debate as soon as the mover of the motion has concluded his remarks, and thus prevent any discussion upon the subject. The instance which I am about to relate, owing to the extraordinary advance of the spirit of militarism throughout the Commonwealth, and of what I may term the exaggerated idea of reverence on the part of the people for those whom we allow to be our Kings and Princes, may not be a very good one to quote just now, but I remind honorable senators of what Senator De Largie said in connexion with his motion dealing with the proprietors of the *Argus*, and the memory of King James. The honorable senator moved that the editor of the *Argus* should be brought to the Bar of the House for having been guilty of publishing in his paper certain disparaging statements regarding the memory of that King, who was held in such high esteem by his subjects. It will be remembered that Senator Stewart, himself a descendant of the Stuarts, followed the mover of the motion.

Senator FRASER.—Some of the Stuarts were not much good.

Senator HIGGS.—I ask the honorable senator not to be irreverent, because we have in this Parliament representatives of both the Tudors and the Stuarts. We have a Tudor in another place, and a Stewart in the Senate. Senator Stewart followed Senator De Largie, and honorable senators at that time were horrified that anybody should make such a proposition as to call the editor of a modern newspaper to the Bar of the Senate for having expressed sentiments disloyal to a King who had been dead for some time. An honorable senator rose and moved—"That the Senate do now divide."

Senator DAWSON.—Senator Sargood.

Senator HIGGS.—Senator Sargood did rise to move the motion, and made a brief speech in doing so, but he had to give way to somebody else, who moved the motion according to the standing orders. A similar motion may be moved in years to come, when possibly three or four senators may desire to follow the mover of the original

motion under consideration in order to give expression to their views. But if this motion is permitted they will not be allowed to say anything. They cannot get up and say—"Mr. Chairman, I desire to speak," because the Chairman will say—"You have no right to debate this question, it must be put to the vote without debate." The majority, having made up their minds, will close up the minority. I have no desire to be personal to any honorable senator, but I say that to vote for such a standing order as this is not in keeping with the reputation for liberality and the support of liberal principles which certain members of this Senate have borne in the past. I am sure that if they treat the matter seriously they will be prepared to concede the majority asked for by honorable senators in this corner. I speak of honorable senators in this corner, but I know that we have sympathizers on both the Ministerial and Opposition benches. Unfortunately they are not present, and an important matter of this kind is apparently to depend on one or two votes. I remind honorable senators that we are laying down a practice for all time. If after an experience of eighteen months or two years in the Senate we carry such a standing order as is now proposed, the arguments used to carry it now will be advanced later on if any attempt is made to alter it, and it will be said that our experience in the past has shown that the standing order is a wise one, that we have never had any trouble in connexion with it, that its power has never been, and is never likely to be abused, and that therefore we should not alter it. I briefly repeat what I think the most telling argument in favour of altering the standing order, apart from the consideration that the majority has no right at any time to stifle the voice of the minority, when the minority is giving expression to its views in a decent and orderly way.

Senator DRAKE.—As the Government were doing last session.

Senator HIGGS.—I really did think that Senator Drake was one of those who are willing to "let the dead past bury its dead," but every speaker who rises to support the alteration of this standing order is met by the honorable and learned senator with the interjection, "I cannot forget what you did last session to the Government." Now, where is the gratitude of the Barton Ministry, when they cherish remembrance of such

a trifling matter as that was at the time? I believe that the Ministry are treating Senator Fraser, who has often been in strong opposition to them, with greater consideration than they are treating honorable senators in this corner who supported them so handsomely, and so servilely as some persons would say, during last session. Senator Drake is apparently willing to avail himself of an opportunity to punish us by voting for a standing order of this kind. Let me say something which I have heard, and which I believe can be borne out by Senator Playford. Though this standing order has been in force for a very long time in the South Australian House of Assembly, no member of a Government in South Australia has ever been known to support it when the motion "That the House do now divide" has been proposed.

Senator PLAYFORD.—Not if anybody desired to speak. It was also an understood thing that, as a matter of honour, if a member had spoken, he would not vote for a motion which would shut up somebody else. That was an honorable understanding amongst us.

Senator HIGGS.—I ask honorable senators to consider the limitations referred to by Senator Playford. We have no experience of the South Australian practice, but evidently a practice has grown up in the South Australian House of Assembly of respecting the rights of the minority, and not only has no member of the Government ever supported a motion of this kind, but no private member, who may already have spoken, has been found voting for a motion which will close the mouth of another member. There is no proposal to embody any such practice as that in the standing order now proposed. It is proposed that a motion that the Senate do now divide shall be put without debate, and may be carried by a bare majority. Is that a fair thing in a Senate constituted as this is? I could understand a proposal of the kind in some other body but not in this, where, unlike the Legislative Assembly of a State, we represent States as States. I cannot see any good ground for the standing order; on the other hand, I see a great deal of harm that may be done.

Senator PEARCE.—It might be applied to representatives of Western Australia who wanted to discuss the question of a trans-continental railway.

Senator HIGGS.—That might be so, and we know that by some senators, especially those who represent Victoria, the proposed transcontinental railway is looked upon as a sort of “wild-cat” scheme. It is possible that the representatives of Western Australia might scarcely be able to think of anything else but this railway, owing to the pressure brought to bear upon them by their constituents.

Senator CLEMONS.—Do not say that!

Senator HIGGS.—If representatives do not voice the requirements of their constituents, they are not true to their trust. The subject of a transcontinental railway might prove insufferably dry to the representatives of other States.

Senator STYLES.—No.

Senator HIGGS.—Senator Styles is an expert, and no doubt would be interested, but to other senators the discussion of the question of cost of land, and of the passengers and products to be carried, might prove very dry.

Senator FRASER.—Did the honorable senator say “products”?

Senator HIGGS.—No doubt Senator Fraser desires to make out that the railway will serve only a barren country.

The CHAIRMAN.—There is no objection to the mention of the transcontinental railway as an illustration, but I ask the honorable senator not to go into details.

Senator HIGGS.—It is possible that six senators from another State might come here boiling over with indignation at what they consider the neglect of this Senate, and might give their arguments at great length, and in some cases repeat them. In such case an unkind, I will not say brutal, majority might call for an immediate division, and thus, in their own way, enhance the beautiful Federal sentiment of which we have heard so much.

Senator FRASER.—And save the country.

Senator HIGGS.—And save a few of the wealthy people of Victoria from a little taxation. Other subjects than that of the transcontinental railway might arise, but I do not wish to anticipate matters. Within a short period I might submit a motion, the discussion of which would be deprecated by some of the “right-thinking” persons in the Senate, and, as soon as I have made my observations, an honorable senator might rise and move an immediate division, and be supported by a majority. Is that the way to build up the great Australian nation?

Senator DOBSON.—Majority rule or nothing must build up the nation.

Senator HIGGS.—Free speech is also going to build up the Australian nation. I should like to remind honorable senators of Senator Fraser’s observation in reference to revolution and so forth.

Senator FRASER.—There is not complete freedom of speech in Australia; I could give many instances of where it has been stopped.

Senator HIGGS.—What we wish to protect is that freedom of speech which does not infringe on the freedom of speech of others. If I, or any other honorable senator, make a lengthy speech, is there any infringement on the right of another honorable senator to do the same?

Senator PLAYFORD.—If it is not done for the purpose of wasting time, there is no infringement.

Senator HIGGS.—Senator Playford knows that there is a limit to human endurance.

Senator WALKER.—On one occasion a Member of Parliament occupied nine hours in a speech.

Senator HIGGS.—That may be so, and it would be possible for any one to make a nine hours’ speech under the standing orders if the Chairman permitted. I submit, however, that there is hardly a human being who can make a speech of such length, and keep strictly to the terms of any resolution. A member of the New South Wales Legislature once spoke for a period of eight or nine hours, but he was assisted by the fact that his attention was called to the entrance to the chamber of honorable members from time to time, and took the opportunity to comment on the circumstances.

Senator PLAYFORD.—If the report of a select committee were under consideration, it would be open to an honorable member to read every word of the evidence. One Member of Parliament in New Zealand once spoke for seventeen hours.

Senator HIGGS.—A man who makes a speech of that duration must inflict lasting injury on his physical constitution.

Senator PEARCE.—There is an honorable senator who has earned a particular name for a performance of the kind.

Senator HIGGS.—Yes; “Jawbone Jones,” or some name of that sort; but I am sure no one would endeavour to earn a reputation deserving an epithet of the kind. Each of us has a desire to establish

a character in the public eye, and we are jealously careful in regard to our actions and conduct.

Senator WALKER (New South Wales).—We have listened to Senator Higgs with pleasure, but I do not think that gentleman always distinguishes between liberty and licence in speech. The address of nine hours to which reference has been made was, I consider, an example of undue licence. There is nothing more valuable than time, and nothing is more frequently wasted; and I think that the standing order should be accepted. We heard from Senator Dawson a very interesting reference to the application of the closure in the Queensland Parliament, and my sympathies are very largely with him. At the same time, that gentleman did not give the full particulars of the reasons for the action then taken. He did not tell us that day after day a certain minority had wasted a great deal of time; though no doubt the Chairman of Committees on that occasion was somewhat unscrupulous in his methods of rectifying what he thought a glaring and almost criminal course of conduct. From what Senator Higgs said, we may rely that in this Senate we are not likely to be inconsiderate to any minority who wish to express views, however fully, so long as they are relevant to the question before us. About two years ago I had the honour of moving "That the House do now divide," and found the opinion of the Committee decidedly against me. However, in my ignorance, I pressed the matter to a division, and had the pleasure of being gloriously defeated. That shows that the Senate has, in itself, its own protection. I believe we can rely on the good sense of a House like this to give any honorable senator, however much they may differ from him, a full opportunity of enunciating his views. I hope we shall proceed to a decision without further delay.

Senator DAWSON (Queensland).—I am afraid that in the interval between last night and this afternoon some one has got hold of Senator Walker, and, in vulgar parlance, has been "pulling his leg." The honorable senator has just told us that, to a very large extent, he sympathized with what I said about the incident in the Queensland Legislature, but he suggested that I had omitted to mention the circumstances that underlay the particular injustice of which I complained. Senator Walker

has led us to understand that the action taken by the majority in Queensland was only after days and days of waste of time and obstruction. But if anybody has so informed the honorable senator, he has been told an untruth, or, if he has looked up the records of the Queensland Parliament, he has misunderstood them. The action was taken on the very first sitting at which this particular Bill was considered; and, now that the matter has been re-opened, I should like to point out to honorable senators what is possible with a biased and vindictive majority. It is absurd to think that we are to be a Senate for all time, and that never, at any particular juncture, we are to have a biased and vindictive majority. We have no guarantee that the class of individuals who now occupy positions in the Senate is going to be continued for ever—that at a time of trouble, when feelings are warm and discussion heated, the natural prejudices of one class against another will never find expression in a vindictive use of the power of a majority, as given under the standing order. This standing order in Queensland was put into operation not only to apply the closure, but in order to get the majority of two-thirds necessary to carry the Bill. To this end the majority deliberately corrupted and prostituted the office of Chairman, and used the power thus obtained to suspend a sufficient number of the Opposition to leave a favorable majority of two-thirds. That shows how far a majority may go in order to carry out their vindictive will. When we know these facts, to ask us to trust to the sense of fair play is to ask what is impossible. So far from days and days being wasted in obstruction, the authority of the majority was put into operation at the very first sitting against a member who had never opened his mouth during the discussion. It was as an indignant protest against this gross and foul injustice that not only did Mr. Brown, who is the present leader of the Opposition in Queensland, and a number of his followers, leave the House, but afterwards Her Majesty's constitutional Opposition, led by the late Mr. Groom and his next in command, who is the present Postmaster-General in the Commonwealth, also retired, leaving the Government faced with empty benches.

Senator WALKER.—At what hour in the morning?

Senator DAWSON.—That was done on the following afternoon.

Senator DRAKE.—That was not done under a standing order of this kind.

Senator DAWSON.—It was done by a deliberate and vicious use of standing orders of the closure description. The honorable and learned gentleman knows that he stood in the chamber hour after hour and protested against the vicious use which was being made of a similar rule, which led to all that trouble, disturbance, and to ill-feeling which has not yet died out. The ill-feeling it created amongst honorable members on either side is not dead. The action we took created an ill-feeling against us. The action which was taken against us created an ill-feeling in myself. I feel so keenly the injustice which was then done that, if I live to be a centenarian, I shall never forgive the perpetrators of it. So long as I am able to crawl I shall use my strength in endeavouring to keep them out of any position of public honour, trust, or confidence. Such injustice makes men hesitate before they will consent to create a power which may be vindictively and viciously used. The least we are entitled to ask for and to receive is some reason from honorable senators which will appeal to any rational being why they desire this power to be granted. Is there any reason in the wide world why it should be granted? Have we had cited any case which would entitle the majority in the Chamber to exercise the power? All we have heard from Senator Drake is that we applied the rule last session, and that his experience of its application was disastrous. As he said, it was used in a most unjust and grossly unfair manner. If in his opinion its application has led to injustice or gross unfairness, surely that experience ought to be convincing proof to him that it ought to be eliminated from this code. If it is passed it will only mean a repetition of unfairness or injustice.

Senator DRAKE.—It was the improper use of the standing order to which I referred.

Senator DAWSON.—The honorable and learned senator has only quoted one instance where the Government have suffered from the use of the rule. I suppose it is not contemplated to have this standing order unless it is intended to be used.

Senator CHARLESTON.—When necessary.

Senator DAWSON.—That time is determined by the majority of the senators present. It was determined by the majority of the senators present on the occasion which Senator Drake complained about.

Senator DRAKE.—I did not agree with their judgment. I did not complain, I merely referred to a fact.

Senator DAWSON.—The honorable and learned senator said that the use of the rule was an injustice, and I think the words he used were "grossly unfair."

Senator DRAKE.—No; those are the honorable senator's words.

Senator DAWSON.—The honorable and learned senator said that the rule was used in a grossly unfair manner against the Government. He led us to understand that the only reason why he wishes to have a permanent rule of the kind is because, while we had a temporary rule, he and his Government once suffered unfairness and injustice from its use.

Senator DRAKE.—No. It was to show that the labour party abused it.

Senator DAWSON.—We are fighting for the abolition of the rule, because it is not likely to conduce to the maintenance of good relations among all sections in the Chamber. The more frequently it is used, the more frequently will the harmony of the Chamber be disturbed. On one occasion it may operate against us, and on another occasion it may operate against the Government. Its operation against us is not likely to put us in a condition of sweet reasonableness, nor is its operation against the Government likely to put them in that frame of mind—with the result that bad feeling will be engendered and maintained. It was first put in operation by the late Senator Sargood, because Senator De Largie, in the exercise of what he conceived to be his right, sought to bring to book an offender in the person of the proprietor of the *Argus*. A bare majority, not desiring to have that question ventilated, was enabled, under cover of the standing order, to stop all discussion. If it is a good thing for one side, it is a good thing for the other, and as soon as we got an opportunity to exercise this power we followed suit, with a result that Senator Drake and his party did not like. The same feeling will operate again. The majority has no right to ruthlessly trample, not merely on the rights of

the minority, but on the rights of an individual member. A senator is not sent in by the good-will of the majority here; he does not stop here by the good-will or the friendship of any member or any body of the Chamber. He is sent in here by another body, whose interests he represents. Every time you infringe upon the individual rights of a senator you infringe upon the rights of those who sent him here.

Senator CHARLESTON.—You must prevent him from interrupting the business.

Senator DAWSON.—I am not claiming that he should be allowed to interrupt the business. I do not urge that any senator or any body of men should be allowed to interrupt the business. We have standing orders to punish any senator who deliberately wastes time or obstructs business. The standing order which I am denouncing deals with quite a different position. If a senator deliberately sets himself to waste time and prevent business from being done, a motion may be moved that he be no further heard, and he can claim the protection of the Senate; and if it says "no," then he is punished. Under this rule, however, the guilty party escapes scot-free, and those who have not contributed to the offence are punished. If Senator Charleston can reconcile his ideas of fair play and justice with a proceeding of that kind, then God help his ideas and the people whose ideas he represents here.

Senator BARRETT (Victoria).—I have followed very closely the discussion on this standing order. I also think that relatively speaking there can be no standing order more important than this one. At the same time I cannot forget that wherever it has been applied it has created a good deal of disturbance, and frequently the minority against whom it has been exercised have proved to represent the majority of the people, and their action has been indorsed at the ballot-box. In the Victorian Parliament many years ago we had some experience of a standing order of this description. In the later seventies the McCulloch Government, who, I believe, held the record for occupancy of office, brought in a standing order to suppress the freedom of speech of certain members who believed that they were fighting in the interests of the country, and they were partly successful. Mr., now Sir, Graham Berry was leading the Opposition. They were fighting for liberal land laws, for protection, for all

those liberal statutes which have made Victoria what it is; but they were crushed for the time by the McCulloch Government under a standing order of a similar nature. When the Government appealed to the country, their forces, although they had commanded a big majority in the Parliament, were scattered in all directions, and Mr. Berry was returned to power with the greatest majority that has ever been given to a Premier in our State. We ought to be extremely careful to make this rule as elastic as possible. I am not prepared to accept the statement of what has happened in South Australia as a reason why the rule should be adopted in the Senate. We have heard too much of South Australia in connexion with our standing orders. Simply because South Australia has done this and that, we are told that the Commonwealth Parliament must follow upon the same lines. The testimony is that this standing order has never been put into operation in that State except under extreme and exceptional circumstances. For that reason let us err upon the other side, and give freedom of speech wherever we can.

Senator FRASER.—Freedom to kill time?

Senator BARRETT.—No; because that cannot be done. There is another standing order dealing with that.

Senator FRASER.—It is very difficult to enforce.

Senator BARRETT.—No. If a senator is guilty of tedious repetition the Chairman, who is constituted the judge of tedious repetition, can pull him up. But this standing order would close the whole debate. Senator Drake complains to some extent that this power was used against the Government last session. Senator Higgs admits that it should not have been used, but he says that as the standing order was used against his party, he was justified in using it against the Government.

Senator DRAKE.—Bad reasoning.

Senator BARRETT.—If this power was used unfairly against anybody last session, why give any party power to use it again? Would it not be better to err on the other side rather than restrict free speech? Let our standing orders be elastic. If it be shown that there is a desire to obstruct, let the standing orders we already have be put into operation. I shall vote for the amendment.

Senator FRASER (Victoria).—I cannot refrain from saying a word or two in reply

to Senator Dawson. The people of Queensland, who were the best judges of what took place in the Parliament of that State, have repeatedly, at general elections, returned the Governments who did what has been complained of.

Senator Sir RICHARD BAKER (South Australia).—The honorable senators in the corner in which the labour party generally sits seem to think that this standing order is levelled at them. It was not intended to apply to any party or group of senators.

Senator DAWSON.—We say that it only operates against a minority.

Senator Sir RICHARD BAKER.—I do not see why they should assume that they are always going to be in a minority.

Senator DAWSON.—We are generally.

Senator Sir RICHARD BAKER.—Senator Dawson said I think that a biased and vindictive majority would take advantage of the standing order. If there is a biased and vindictive majority it does not matter what standing orders we have. The majority can suspend the standing orders and do anything they like. The whole system under which we live requires that the majority shall rule. The terms of this standing order do not help a biased and vindictive majority, because they can do what they like without it.

Senator PEARCE.—It takes an absolute majority of the Senate to suspend a standing order.

Senator Sir RICHARD BAKER.—It can be done upon notice by a majority of those present. Therefore, sooner or later, by some means or other, if there is a majority which is biased, or vindictive, or both, or neither, they can do what they like.

Senator DAWSON.—No they cannot.

Senator Sir RICHARD BAKER.—They can suspend the standing orders if any standing orders are in their way.

Senator STYLES.—Any one senator can object to the suspension.

Senator Sir RICHARD BAKER.—Oh, no! Standing Order 439, which is the one under which we are working, says—

When a motion for the suspension of any standing or sessional order or orders appears on the notice-paper such motion may be carried by a majority of voices.

The whole system of government under which we live is based on the supposition that the depositary of power, whether the Governor-General, or Ministers, or the

Parliament, or individual members, will exercise that power in a fair manner, with proper consideration. If it were not so all government under our system would be impossible. That has been pointed out by Mr. Gladstone in most eloquent words, and undoubtedly it is the fact. I have lived under this standing order for the 36 or 37 years of my parliamentary life. During about 25 years I was a private member, and for ten or eleven years I was President of the Legislative Council of South Australia. During the whole of that period this standing order has hardly ever been abused. A practice has arisen—and I am sure that if we have this standing order a practice will arise in the Senate—which has been very properly described by Senator Higgs. The Government never vote for closing debate, and members who have spoken never vote for it. The rule is only used in those very rare instances when a number of members combine together to stop the whole conduct of public business. It is quite true that there is another Standing Order, No. 412, which enables the President or Chairman to prevent a member who is obviously “stonewalling” from continuing his speech. But that does not apply until there are five or six or half-a-dozen members who are anxious for some reason or another to block all business. It is all a matter of convenience. All these standing orders are matters of convenience. What is most convenient for the ordinary conduct of business? That is all we have to ask. If I thought for one moment that this standing order was going to lead to any injustice towards any party or group of senators, undoubtedly I should not vote for it. But I do not think so. It will have no such effect. I believe that it will, generally, be conducive to the good conduct of public business. There were two occasions during last session on which this standing order was carried into effect. I am sure that honorable senators, generally, regard those events as danger points to be avoided in the future, and not as precedents to be followed. It must be recollected that we were gathered from different States, had been used to different parliamentary practices, and that, perhaps, senators who have not been used to this standing order did not fully appreciate the effect of carrying certain motions. But this debate has shown by the speeches of honorable senators that in future they will not put this standing order

into operation unless very grave circumstances require it.

Senator DAWSON.—Suppose we are turned out and new senators come in?

Senator Sir RICHARD BAKER.—The new senators will be leavened by the old.

The CHAIRMAN.—And the standing order can be altered if necessary.

Senator Sir RICHARD BAKER.—It can be altered if it is found that it does not work well. If new senators come in they will, I feel sure, acquire that regard for the orderly conduct of the business and for minorities, and that forbearance towards others, which is so characteristic of this Senate, and I hope always will be. I am certain that those honorable senators who regard this standing order with such apprehension, are fighting a shadow. They have no real reason to be solicitous about it. If I agreed with them, undoubtedly I should vote for some modification of the standing order, but I feel sure that it has worked well in the past, that it will in the future, and that it is utterly impossible to provide by any standing order that the majority shall not ultimately rule.

Senator DAWSON (Queensland). — Senator Fraser has mentioned by way of reply to myself that the majority in Queensland, which I complained about as acting in a certain manner, had their action indorsed by the electors of that State.

Senator FRASER.—Several times over.

Senator DAWSON.—Let me draw attention to the fact that the only opportunity which the electors of Queensland have had of expressing their opinion one way or the other as between the other party and ourselves, was at the time of the Federal election, when we were returned triumphantly, and the others, including the Speaker who lent himself to the action taken against us on the occasion mentioned, were at the bottom of the poll. I have no intention of pitting my knowledge of these standing orders against that of Senator Baker, but I must differ from his interpretation of them, particularly when he attempts to draw a contrast between the meaning of one standing order and of another. Let me point out one significant remark that dropped from Senator Baker's lips. He spoke of his experience, extending over a number of years, of this standing order, and said that he had hardly ever known it to be abused. In the first place I emphasize what has already been pointed out, that a practice has grown up

in South Australia which has rendered this standing order perfectly innocent, and has robbed it of all its sting. There the Government never supports a motion under the standing order, and it is an understood thing that any member who has spoken in the debate does not vote for it. The matter is left to the determination of the other members of the House. But that is the practice only in South Australia, and this Senate is composed of members from the other States as well. Further, Senator Baker said that the power was hardly ever abused, but I say that if it was ever abused, that is a reason why it should not be given. We should not provide standing orders which will allow of abuse or injustice. On the contrary, our standing orders should be framed to prevent injustice and abuse.

Senator FRASER.—This standing order may stop a greater abuse.

Senator DAWSON.—That may be so. But surely there should be some sign that a greater abuse is likely to arise before we proceed to make provision against it? Surely the honorable senator is not anticipating that the Senate is going to be a disorderly House, and that it is therefore necessary to put drastic coercive powers in the hands of the majority? I direct attention to the fact that it is only in extraordinary emergencies that any Parliament seeks for drastic coercive powers. When the trouble arising has been dealt with, these drastic powers are dropped, and the ordinary powers of Parliament are held to be sufficient. What we are being asked to do now is to provide for drastic powers before there is even the suspicion that an offence will be committed. Even the Premier of Victoria, the other day when asking for the most extraordinary powers which a Premier in any British community has ever asked for, explained that he desired to pass them only during the continuance of a particular trouble, and that when that trouble had disappeared, he desired that the drastic powers for which he asked should also disappear. Senator Baker reminded us that a biased and vindictive majority could apply all the standing orders and could move their suspension.

Senator PLAYFORD. — And make new ones.

Senator DAWSON.—I shall consider that also. There is here either a misconception of

the true position or an evasion of it, because a motion to suspend the standing orders must be carried by an absolute majority of the whole Senate or two-thirds of the senators present. That is what Senator Higgs is now asking for. Again, notice of a motion for the suspension of the standing orders is given at one sitting, and the motion is moved at another. But under this standing order the objectionable motion may be moved at any moment during the discussion of any subject, and honorable senators may be away who would not think of granting a power of this description. Another important difference is that a motion for the suspension of the standing orders may be debated, whilst no discussion is allowed upon the motion moved under this standing order. A division is to be taken upon it without opportunity either for protest or approval. Surely there is a very great difference in the power given to a biased and vindictive majority in this case, as compared with the cases cited by Senators Baker and Playford. It is true that the majority can make new standing orders, but that cannot be done without opportunity for ample discussion, or without honorable senators having ample notice of what is proposed. If honorable senators cannot see the difference in these cases, I cannot waste my strength and my brains in an endeavour to point out what should be obvious.

Senator FERGUSON (Queensland).—A good deal has been said with regard to what has taken place in the Queensland Parliament, but my experience in Queensland leads me to say that if such a standing order as this was not in force there, the business of the country could not be carried on. If a two-thirds majority were required in the Queensland Parliament to carry such a motion as may be proposed under this standing order, the Parliament would be as badly off as if it had no such standing order, because at the present time there are about 24 members of the labour party in a House of 72 members. However, the standing order has never been used since the occasion to which reference has been made. The reason for that is that the members who were obstructors then are now out of the State Parliament, and we have them here. That is the strongest reason why we should be very careful to leave the proposed standing order as it is. If we do not, we may have here the same

obstruction as they had in the Queensland Parliament.

Senator HIGGS (Queensland).—I am uncertain whether Senator Ferguson's remarks apply to Senator Drake or Senator Dawson. I am satisfied they do not apply to me. I should like Senator Playford, after having heard the observations made by Senator Ferguson, to ask himself whether what I said last evening is not proved—that some of the drastic provisions in these standing orders to be considered later may have been prepared for our special benefit. Here an honorable senator says that the men who obstructed in Queensland are now out of the State Parliament, and we have them here. Senator Fraser has endeavoured to prove to the Senate that the majority who did an unkind thing in Queensland have been before the electors on two occasions, and that their action has been indorsed. If there is any weight in that argument there should be some weight in the argument which we use. I was not in the Queensland House at the time the eight members were suspended—I probably would have been suspended also if I had been present—but I can say that the men who voted against the gag and the closure in Queensland were returned at the top of the poll for the Senate, and the members of the party who applied the gag were left at the bottom. This discussion has been somewhat extended, because it has been necessary to bring under the notice of the Senate the practice prevailing in other Houses than the House of Assembly in South Australia. We shall commence to get tired of the continual mention of the South Australian House.

Senator PLAYFORD.—Does the honorable senator mean to say that we shall not behave ourselves as well here as members do in the House of Assembly in South Australia?

Senator HIGGS.—I consider such a question superfluous. The honorable senator has never seen anything in my conduct—and I say it with all modesty—that should bring me into trouble with any deliberative body. The standing order here proposed is in force in no other Parliament in the world. Senator Ferguson is mistaken in supposing that they have a standing order of this kind in the Queensland Parliament.

Senator FERGUSON.—I said a similar one.

Senator HIGGS.—There may be there a standing order limiting discussion. Notice may be given there of a motion that a Bill

must be through by ten o'clock on a certain night, and if that is carried, though several hours may be spent in discussing the first clause, when ten o'clock is reached all the clauses of the Bill must go through without debate. I am satisfied that there are some members of the Senate who think that drastic standing orders are required.

Senator WALKER.—Was not the honorable senator a member of the Standing Orders Committee?

Senator HIGGS.—I was; but I was a "pelican crying in the wilderness." I remind honorable senators that in these standing orders there is ample provision made for dealing with honorable senators who are disposed to obstruct. I refer to Standing Order 410, under which it is provided that no senator shall digress from the subject under discussion, and to Standing Order 412, under which the President or Chairman of Committees may call the attention of the Senate or of the Committee, as the case may be, to continued irrelevance or tedious repetition on the part of any honorable senator, and may direct that such senator shall discontinue his speech. I can see what some honorable senators are driving at. They desire to have a standing order of this kind to deal with honorable senators when they try to obstruct, but the standing orders to which I have referred will meet such a case most fully.

Senator FRASER.—That would be very ungenerous.

Senator HIGGS.—I consider that it would be a mild proceeding compared with closing the mouths of every other honorable senator because one had been guilty of tedious repetition or irrelevancy. While I do not agree with the methods provided for dealing with cases of disorder, I contend that Standing Order 428 gives ample power to punish the offender, and the offender alone. It has been stated that the standing order under discussion has not been abused during the term of the Federal Parliament; but that is the contention of men who, like the Postmaster-General, are suffering from a spirit of revenge, and have sworn a kind of political vendetta, and cannot see things in their proper light. Senator Baker has a knowledge of constitutional history, and of the struggle there has been for freedom of speech, and he tells us deliberately that the two occasions on which this standing order was used last session are danger points which

show us what is to be avoided in the future. Senator De Largie and Senator Stewart, when they submitted a motion under the standing order last session, however wrong they may have been—though I do not admit for a moment that they were wrong—took the responsibility for their utterances, and if the electors of Queensland or Western Australia like to take exception to their conduct, they can do so at the proper time. This is not a domestic Legislature like that of Victoria or Queensland, where each member is known to the people of those constituencies. This is a Senate composed of representatives of States which may be absolutely opposed to each other. What love is there between Victoria and New South Wales? What love is there between the leading morning newspapers of Melbourne and the leading morning newspapers of Sydney, which so largely guide public opinion? Members of a State Legislature know that their actions will be criticised by the whole people of the particular State. In this Senate, however, representatives of New South Wales care very little for the public opinion of Queensland; and I, and others who come from Queensland, freely criticise the two great newspapers, the *Age* and the *Argus*, for the reason, I suppose, that we do not care for the opinions expressed by those organs. Representatives of a State are liable to come into this Chamber and commit an injustice under such a standing order, whereas in a State Legislature the fact that the people are watching closely tends to prevent any such attempt. There is no standing order of the kind in force in the House of Representatives, and its presence amongst our rules I regard as a reflection on the Senate.

Senator DE LARGIE (Western Australia).—Many senators on the public platform speak admiringly of freedom of speech, but from the tone of some of their remarks this afternoon, they are not very ardent admirers of the doctrine. Senator Fraser has made use of an argument which I cannot allow to go unchallenged. That honorable senator stated that the Queensland Government, which applied the closure under circumstances already described, have since been returned again and again by the people:

Senator FRASER.—It was the people who turned the members out of the House on that occasion.

Senator DE LARGIE.—I dispute that assertion, because the people never got an opportunity, owing to the questionable electoral laws, of expressing their opinion at the ballot-box until the Federal elections. The fact that in Queensland only one supporter of the State Government was elected amongst the six senators is one of the best refutations of the statement that that Government was supported by the people. It must be borne in mind that this is a very small Chamber, and the likelihood of any very heated discussions or turmoil is remote. For my own part, I think that a little warmth imparted into our debates would prevent our degenerating into what Mr. King O'Malley would call a "dead house," and do us all a lot of good. My contention is that until necessity arises, no standing order of this kind should be passed, because it is a reflection on honorable senators, and on the character of the Senate. We can all understand the anxiety to catch the Speaker's eye in the limited time given to discussion in the House of Commons where there are nearly 700 members, but it was not until a few years ago that a standing order of the kind was introduced there; and comparing the two Houses, I have no anticipation of any necessity for a similar rule here. I am sure every one regrets that any action was ever taken under this standing order in this Senate during last session, and I dare say that those who voted for the closure then felt ashamed. But when the standing order had been used against the representatives of the labour party we did not see why we should be scrupulous about using the same weapon. We resented the use of the standing order, and at the first opportunity gave the other side an experience of its operation. A similar set of circumstances may arise at any time, and it would be better to have no such standing order, but to allow the fullest possible freedom of debate.

Senator O'KEEFE (Tasmania).—Perhaps the strongest argument in favour of the amendment was that used by Senator Baker, who, in effect, said that the two occasions on which the standing order was used last session point out the dangers which are to be avoided in the future. At all events, Senator Baker left the impression that he would not like to see similar instances of the use of the standing order in the future. Personally, I care very little whether we

fix a bare majority or a majority of two-thirds, because I have sufficient confidence in the good sense of senators to believe that the standing order will not be put into operation too frequently. It is my belief that those who voted for the application of this standing order last year regretted it afterwards; but here I would call attention to the fact that had a two-thirds majority been then provided for, the danger which Senator Baker says ought to be avoided would not have arisen, because there would not have been the required majority to vote in favour of the closure. Still, we cannot forget that this Senate is composed of 36 members, with an attendance ranging from 20 to 28; and if any senator made himself obnoxious by flagrant obstruction, a majority of two-thirds would be found to apply the closure. I shall support the amendment, because I believe we shall always be able to find the required majority when a case of real obstruction arises. The amendment is a reasonable one, and will bring this standing order into conformity with other standing orders.

Senator MCGREGOR (South Australia).

—I dare say there are some senators who consider that the action of those who support this amendment is objectionable. I, with others who come from South Australia, have worked under a similar rule. I confess that it was not applied except in very few cases. For many years the Parliament was a very happy family, with very few serious difficulties to contend with, and, consequently, the rule, although it is an objectionable one anywhere, might not have been very disastrous to public debate. In the Senate, however, there are conflicting interests to be represented—interests which affect different States. A time may come when a senator may speak at considerable length, and with great earnestness, in his endeavour to advance the interests of his State. The discussion may be wearisome to certain senators, who are opposed to the interests of that State, and may wish to take a vote. Although some representatives of that State, and some representatives of other States may be waiting for an opportunity to submit new points, yet a tired senator is enabled by this standing order to rise and move "That the Senate do now divide." If the motion is carried, it closes the mouths of those senators who were prepared to submit fresh

considerations. I think it would meet the views of all those who wish to have a standing order of this kind, if we said that the closure shall not be applied except by the vote of a majority of two-thirds of the senators present. It is not nearly so difficult to get a two-thirds majority here as it is to get an absolute majority. How could we get an absolute majority this afternoon? How are we to get an absolute majority at any time, seeing that a large number of senators never come in at all—or, if they do, stay for only five minutes? I have seen benches empty for hours. I am prepared to adopt the standing order with that modification, which I submit ought to be conceded in the interests of those senators who have suffered from the use of a similar rule in other places. The representatives of South Australia are getting their way in having a portion of their rule adopted, while the representatives of other States are getting their way in the rule not being made so drastic as the one which has operated against them in the past. I hope that the amendment will be carried.

Question—That the word “Motions” proposed to be omitted stand part of the standing order—put. The Committee divided.

Ayes	12
Noes	9

Majority	3
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AYES.

Baker, Sir R. C.	Playford, T.
Best, R. W.	Reid, R.
Charleston, D. M.	Symon, Sir J. H.
Dobson, H.	Walker, J. T.
Drake, J. G.	
Fraser, S.	<i>Teller.</i>
Macfarlane, J.	Clemons, J. S.

NOES.

Barrett, J. G.	Pearce, G. F.
Dawson, A.	Smith, M. S. C.
De Largie, H.	Styles, J.
Higgs, W. G.	<i>Teller.</i>
McGregor, G.	O'Keefe, D. J.

PAIRS.

<i>For.</i>	<i>Against.</i>
Glassey, T.	Ferguson, J.

Question so resolved in the affirmative.
Amendment negatived.

Senator STANFORTH SMITH (Western Australia)—I move—

That, after the word “divide,” line 1, the following words be inserted—“which motion shall not be carried unless by a majority of four.”

In the recent discussion it was doubted by certain honorable senators whether it was right to require the vote of a two-thirds majority; whether in certain circumstances it might not lead to a waste of time in discussing a motion. The amendment I now propose is a compromise which, I think, every one should be willing to accept. It will not be creditable to us if we say that it is necessary, in order to control business, to have as drastic a rule in relation to debate as is in force in any Parliament in the world. It is just as drastic a rule for curbing free discussion as is to be found in the code of any Parliament where there are racial feuds and religious differences. Let me give one illustration of its drastic nature. Supposing that at the next election, and this a very improbable eventuality, the people of Queensland should give a mandate to their three representatives to re-open the question of the kanaka traffic, to demand that kanakas shall be allowed to remain in the State, and to be imported. A majority of the senators are opposed to the introduction of any more kanakas into Queensland. Would it be right directly the first speech had been delivered for the majority to decide that the question be now put, and thus stifle the expression of the views of the Queensland people on an important subject? It has always been assumed that it will be the discussion of a motion by a member of the labour party which will have to be stifled. But the rule may operate quite the other way. If, as the result of the next election Queensland should send down three representatives in favour of the views which Senator Fraser holds, he may see the very rule for which he has voted being used to stifle discussion on such an important question as the employment of kanakas, and he may find himself absolutely debarred from expressing his own opinions. This rule is not in force in the Parliament of any State except South Australia. It does not follow that because it has worked well in that State it will work well in the Senate. There will be greater divergences of opinion on subjects in the Senate than in a State Parliament. Seeing that the rule is not in force in the House of Representatives, is it necessary to retain such a drastic rule in our standing orders? I hope that honorable senators will see their way to vote for my amendment, which, I repeat, is a very fair compromise.

Senator DRAKE (Queensland — Postmaster-General). — I cannot accept this amendment. Throughout the whole of the discussion no one has expressed an opinion in favour of a proposal of the kind. A majority of four would work very inequitably. In a full House, when an opportunity might be sought of using improperly the standing order, a majority of four might represent a number that would hardly be a check; whereas, when the numbers present were few, four would represent a considerable number. However, the matter has been fully discussed.

Senator HIGGS (Queensland). — Senator Smith's amendment is so reasonable that it is difficult to understand why the Postmaster-General does not accept it. What does it mean? In a Senate of 24, 14 senators could carry the motion against 10; in a Senate of 20, 12 could carry it against 8; and in a Senate of 16, 10 could carry it against 6. If it is necessary to have a standing order of this kind, and honorable senators are satisfied that no case of injustice is likely to occur, why are they afraid of the amendment? If honorable senators will not take notice of arguments coming from this corner, surely they will give way to the remarks of Senator Baker and of Senator McGregor. Senator McGregor tells us that his experience was that there were some exceptional cases in the South Australian Parliament when the standing order was used unjustly. Senator Baker stated that the standing order "was hardly ever abused" in South Australia. We have two witnesses telling us that there were instances of its abuse. We have also the striking observation of Senator Baker that the two instances in the Senate when the closure motion was carried, were "danger points" showing what ought to be avoided in the future. I hope that honorable senators will pay attention to that view. I do not like to make myself objectionable by rising so repeatedly, and I plead in excuse that I view the proposal as it stands as one that is likely to be used in a very unjust manner. The orderly conduct of our debates is sufficiently provided for by a dozen or more standing orders that we have adopted. We can imagine a case affecting senators from Queensland. There was, as honorable senators know, prior to the establishment of Federation, a strong agitation in Central and Northern Queensland for separation from the South. If that

State progresses as it is likely to do, before many years are passed we shall have there a very large population. The resources are so great that we may have at any time in Queensland a population approaching that of New South Wales or Victoria in numbers. I do not say that we shall have half-a-million in the north or in the centre, but we shall almost certainly have a sufficient number of people there to persuade the Commonwealth to grant them the rights and privileges of a new State—by which I mean representation in the Senate and House of Representatives. Possibly the representation here may only amount to three senators. What will the senators from Victoria or Western Australia—and there is a pretty liberal sort of representation from that State—care about the three senators from Central and Northern Queensland if they are modest and retiring members like those who already come from that great State? It is an unfortunate circumstance that there should be such opposition to this reasonable amendment. I thought that the good sense and justice of the Senate, which have been so much lauded, were keen enough to give way on the point, but I find that the "keen sense of justice," of which we have heard so much, is of a limited quantity this afternoon. I am sorry that some of those who voted in the last division have retired from the Chamber. I should have liked to make some remarks in their presence expressing my opinion of their conduct. I should have expressed it pretty clearly.

Senator DONSON. — Let us have the benefit of it.

Senator HIGGS. — I do not care to attack a man behind his back, but I should have liked to express my opinion about one of them—a senator who should come into this Chamber with bowed head and humble voice—coming amongst respectable men—men who have not been convicted of any crime—and voting in favour of the "gag." I am not going to allow that kind of thing to pass without the freest discussion. If honorable senators object to what I am saying, it is extremely bad taste on their part, particularly as they pay no attention to the highest constitutional authority in this Chamber.

Senator FRASER. — It may be very good judgment, though.

Senator HIGGS.—The honorable senator is a good judge of many things—of station properties and so forth.

Senator FRASER.—A fairly good judge of men.

Senator HIGGS. — He was, I suppose, when he took an interest in the Victorian railway strike, and helped to bring it to a close. This is an important proposal that ought to be considered without heat. It is most astonishing to find a member of the Government supporting this standing order—especially a man whose past experience of the injustices which Senator Dawson has described, should have led him to take a different line. Where is the democracy of this Chamber and of the Government—a Government which professes to represent the democratic instincts of the people better than any other Government that has ever held office in Australia? I believe that as a whole the Government does so, and that the majority of its members will not be found supporting a proposal like this. Is this the way we are going to “build up a great nation,” to use the phrase which the Prime Minister has employed so frequently? Is it by stifling discussion, and by refusing to note what the President of the Senate has said, that the two instances in which this standing order was applied are “danger points” showing what ought to be avoided? I ask Senator Drake to forgive this corner, and those honorable senators who were responsible for ruffling his feathers, if I may so express myself. We plead guilty and apologize, and having apologized, we ask the honorable and learned senator to abandon his vendetta, and give way. It is possible that I shall have a few more remarks to make when I have heard what is to be said in reply to those I have just made.

Progress reported.

Senate adjourned at 4.3 p.m.

House of Representatives.

Friday, 12 June, 1903.

Mr. SPEAKER took the chair at 10.30 a.m., and read prayers.

PRINTING COMMITTEE.

Report (No. 2) presented by Mr. EWING, read by the Clerk, and adopted.

3 K 2

WESTERN AUSTRALIAN TRANS-CONTINENTAL RAILWAY.

Mr. E. SOLOMON.—I wish to know if the Prime Minister has received an interim report respecting the Western Australian transcontinental railway, and, if so, whether it will be published?

Sir EDMUND BARTON.—I yesterday laid upon the table two interim reports from the engineers engaged upon the work.

TELEGRAPHIC DELAYS.

Sir LANGDON BONYTHON. — Is the Prime Minister in a position to make any definite statement as to the possibility of affording increased facilities for the transmission of telegraph messages between the Eastern States and Western Australia?

Sir EDMUND BARTON.—I have conferred with the Postmaster-General and with the general manager of the Eastern Extension Telegraph Company on the subject, and I think that an arrangement will be come to, whereby, by paying something more for the transmission of their telegrams by the cable instead of by the land line, the business people affected will be able to secure the facilities they require without prejudice to the revenue of any of the States concerned.

Mr. WATSON. — Is that a temporary arrangement only?

Sir EDMUND BARTON.—It is a temporary arrangement.

Mr. KIRWAN.—What about the improvement of the line?

Sir EDMUND BARTON.—That is a matter into which inquiry is being made, with a view to ascertaining whether the inconvenience which has arisen is due to the present position of the line, or to some other cause.

ACQUISITION OF DUTCH AND GERMAN NEW GUINEA.

Mr. KIRWAN (Kalgoorlie)—I move—

That, as the Commonwealth is undertaking the control of territory in New Guinea, with an exposed frontier of about 900 miles to German and Dutch territory, the Government should, in the opinion of this House, intimate to the Imperial authorities that it would be gratifying to the people of the Commonwealth if the Imperial Government availed themselves of any opportunity that might arise to secure, by exchange of territory or other peaceful means, Dutch and German New Guinea, or either, so as to lessen the danger to the peace of Australia through foreign powers controlling countries adjoining Commonwealth territory.

The object of this motion is to bring about the acquisition of the whole of New Guinea by Great Britain, and I think it is scarcely necessary for me to say much to commend it to the good sense of the House. Several honorable members who have spoken to me about it have expressed their approval of it, and I am sure that there are very few who will not at any rate favour the end which I have in view. No doubt some honorable members were not agreed as to the advisableness of the action which was taken by this Parliament in deciding to accept the control of British New Guinea, but now that that control has been undertaken by the Commonwealth, anything which can be done to further by peaceable means the vesting of the control of the whole island under one authority should, in my opinion, be undertaken. The position of affairs must be fairly well known to honorable members. New Guinea is at present controlled by three powers—Holland, Germany, and Britain. The territory under the control of the Netherlands Government forms the largest portion of the island, and embraces over 150,000 square miles, while Germany controls something like 70,000 square miles on the mainland, and about 20,000 square miles in the Bismarck Archipelago, which is virtually part of New Guinea. The British territory in New Guinea embraces about 90,000 square miles. The native population of the island is very considerable, but variously estimated, because it is almost impossible to arrive at a correct estimate of it. It is believed, however, that there are something like 350,000 natives in British New Guinea, about 115,000 in the German possessions on the mainland, and 200,000 in the Bismarck Archipelago, and about 200,000 in Dutch New Guinea. The white population in British New Guinea is about 500. The difficulties which the Commonwealth will have to face in administering our portion of New Guinea are, under the present circumstances, very considerable. The native tribes vary greatly in their manners and customs, and it is difficult for civilized races to properly understand their ideas, superstitions, and habits. But if the whole island were under one control, those difficulties would be no greater, because the problems which have to be dealt with in British New Guinea are much the same as those which have to be dealt with in the German and Dutch possessions.

Mr. Kirwan.

Undoubtedly, however, one administration would be beneficial to both the native and the white populations, and, in the interests of internal administration and good government, it is desirable that the island should be under the control of one power. Although we in this Parliament are all representatives of the British race, I think it may be said without egotism, that the control which would be productive of the best results, is that of the British, exercised through the Commonwealth. We know that Great Britain has been the most successful colonizing nation in the world. No other nation has spread itself over the globe as ours has, in India, in Africa, in Canada, in the United States, in South America, and in other places. It would, of course, be idle to deny that mistakes have been committed, and acts done by our people of which we have no reason to be proud, but taking everything into consideration, the British rule has been more successful, and more productive of good for humanity than that of any other nation which has attempted to colonize. Even in New Guinea to-day the benefits of British rule are observable when our operations there are compared with those of the Germans and the Dutch. We know that the administration of British New Guinea has been virtually starved for the want of sufficient revenue. Yet the results obtained there are undoubtedly more satisfactory than those which have been obtained in either German or Dutch New Guinea. A recent visitor, writing of his experiences there, says—

At Meruke, the Government station for the southern division of Dutch New Guinea, £78,000 was spent there alone in eight months. In German New Guinea the cost of government is greater than in the British portion, and yet neither can show anything like the same amount of good solid work.

Therefore, in the interests of the internal administration, of the natives, of the European population, and of the development of the island generally, it is advisable that the whole of New Guinea should be under the control of one power and that that power should be Great Britain. Beyond these considerations there is a far more important reason why the Commonwealth should endeavour to obtain control of the whole of New Guinea. We shall have a territory in that island with a frontier of 900 miles to the possessions of two foreign powers, Germany and Holland.

Mr. EWING.—Is not that frontier practically inaccessible?

Mr. KIRWAN.—A great portion of it is, but some parts of it on both the Dutch and German border lines are accessible to the residents on each side. If relations became strained between the powers controlling the island, international complications might be very easily brought about. There is always a risk of tribal raids from one territory to another, which might cause trouble of even alarming proportions. Besides that, there is the possibility of a valuable gold-field being discovered at any time. There is no doubt that valuable auriferous deposits exist in the island, and if a gold-field were discovered close to the border line, between British territory and that owned by Germany or Holland, it is easy to imagine that we might be dragged into a very serious quarrel. In connexion with the Klondyke gold-field some trouble occurred between Canada and the United States owing to the difficulty of delimiting the territories under the control of the respective Governments, and that trouble was increased by reason of the high value given to the land in the locality by the discovery of gold. There is at present in New Guinea one gold-field situated at Gira, very close to the border of German New Guinea, and others may be discovered in the near future. There are also difficulties attendant upon the navigation of some of the rivers. For instance, the Fly River flows partly between the Dutch and British territory, and the navigation of that stream is free to the subjects of Holland and Britain alike, except as regards warlike stores, and no duty is imposed upon goods conveyed into the island by that route. Here we have another possible source of complications in the future.

Mr. G. B. EDWARDS.—That is certain to lead to trouble.

Mr. KIRWAN.—In addition to the matters mentioned, we have to consider that there is always a danger of Great Britain being engaged in war with one or other of the powers interested in New Guinea, and of our being called upon to defend that portion of our boundary line which would be open to attack. The proposal contained in the resolution I have brought forward is that the Commonwealth should approach the Imperial authorities with the suggestion that by an exchange of territory

or other peaceful means, Great Britain should endeavour to acquire control over the whole island. It is not for this Parliament to suggest to Great Britain what territory should be given in exchange for the Dutch or German possessions in New Guinea, but any honorable member who has given the matter consideration must know that there is in Africa a large tract of land adjoining German territory which might form the subject of exchange, with great advantage, not merely to Great Britain, but to Germany. In the desire for expansion which seems so general amongst the nations of the world, a preference is naturally shown to proceed upon the lines of the consolidation of territory rather than the possession of dominions scattered all over the globe. For instance, Russia has been endeavouring to gradually consolidate her territory by extending her annexations towards China, and in the direction of Turkey and Persia. Other Powers also recognise that the consolidation of their territory must tend to lessen the chance of friction between the nations, and thereby make for the continuance of peace. The strongest reasons that can be advanced to justify the action of the Commonwealth in approaching the Imperial authorities in this matter are contained in the history of New Guinea itself. The British Government have consistently ignored the advice offered by Australian statesmen; otherwise we should not have been called upon to consider such a proposal as that now before the House. They have been urged over and over again to assume control of the whole island. As far back as 1874, the late Sir Henry Parkes, who was then Colonial Secretary of New South Wales, through the Governor of that State, made what seemed to be almost an appeal to the Imperial authorities to undertake the control and colonization of New Guinea. The appeal was sent to the Secretary of State for the Colonies, but was ignored, and, so far as Great Britain is concerned, nothing was heard of New Guinea for many years. In 1883, however, a very important step was taken by Sir Thomas McIlwraith, at that time Premier of Queensland. He undertook to annex New Guinea for reasons very clearly set forth. The first of these was—

That its possession would be of value to the Empire, and conduce especially to the peace and safety of Australia, the development of Australian trade, and the punishment of crime throughout the Pacific.

The second reason was—

That the establishment of a foreign power in the neighbourhood of Australia would be injurious to British and more particularly to Australian interests.

Sir Thomas Mcllwraith instructed Mr. Chester, who was then resident magistrate at Thursday Island, to proceed to New Guinea, and take possession of the whole of the territory not then under the control of the Netherlands Government. Mr. Chester carried out his instructions by hoisting the British flag, and formally proclaiming British control over the whole of that portion of New Guinea now held by Great Britain and Germany. The circumstances were duly reported to the Imperial Government, with a request by the Queensland Government for approval of the action taken by them. In this, Queensland was supported by the other Australian Governments, exception being taken only to the proposal that New Guinea should be annexed to Queensland, the other Australian Governments considering that it should be taken over and administered by Great Britain. The Council of the Royal Colonial Institute also appealed to the Imperial authorities to indorse the action of Sir Thomas Mcllwraith, but the British Government seemed strongly averse to doing anything of the kind, and after the negotiations had proceeded for some time they sent a despatch to the Queensland Government to the effect that Sir Thomas Mcllwraith's action was unwarranted, and could not receive Imperial sanction. That action on the part of the British authorities, I think it will be generally admitted, was a great blunder. They utterly failed to foresee the value of acquiring as much of New Guinea as they possibly could. In the following year, 1884, they made a rather feeble attempt to retrieve their error by despatching some war ships to the southern coast of New Guinea, and formally proclaiming a protectorate over that portion of the island, thus leaving quite unprotected the territory which was subsequently acquired by another power. A month later, Germany despatched some vessels to the northern coast of New Guinea, hoisted the national flag, and took possession of that part of it which now comes within the sphere of German influence. In 1887, a colonial conference was held in London, at which the question of the control of New Guinea was

considered. The Australian people, through their representatives, evinced dissatisfaction with the position occupied by Great Britain in that island. They endeavoured to induce the Imperial authorities to take possession of that portion of New Guinea which was then a British protectorate, and the representative of Queensland guaranteed the payment of £15,000 annually towards the expenses of its administration. But although that amount was guaranteed by Queensland, New South Wales and Victoria each pledged themselves to contribute £5,000 annually towards its payment, so that the expense of administering the affairs of British New Guinea was equally shared by Queensland, New South Wales, and Victoria. Subsequent to the arrangement which was made between the Australian authorities and the British Government, the latter formally annexed what is now known as British New Guinea. In taking possession of the portion of the island which is at present occupied by Germany, that nation undoubtedly acted in contravention of an agreement which at the time existed between itself and Great Britain. That understanding was to the effect that neither nation should take any step involving annexation of the still unoccupied portions of New Guinea without first opening up diplomatic negotiations on the question, but notwithstanding this agreement the Germans acted secretly. Strange as it may seem, no successful protest was made on behalf of the British authorities, but two years later the Imperial Government recognised the action of Germany by arranging that the boundaries between British and German New Guinea should be defined. In all that has been done in connexion with British New Guinea, the Imperial authorities have acted in defiance of the wishes of Australia. In the first place, when the late Sir Henry Parkes desired that the island should be colonized by Great Britain, his advice was ignored. Later on, when Sir Thomas Mcllwraith recommended that New Guinea or such portion of it as had been annexed by Queensland should belong to Britain, the Imperial authorities, in defiance of the wishes of the Australian Governments, repudiated the action of the Queensland authorities. A year later the British Government proclaimed a protectorate over the southern portion of the island instead of the whole of it which was not then under the control of a foreign power.

Mr. EWING.—The Germans did not touch New Guinea till Great Britain had proclaimed a protectorate over the southern portion of it.

Mr. KIRWAN.—The Germans proclaimed a protectorate over the northern portion of the island a month after similar action had been taken by Great Britain in regard to the southern portion.

Mr. L. E. GROOM.—When was the understanding made between Germany and Great Britain to which the honorable member has referred?

Mr. KIRWAN.—I do not know the date, but it is generally admitted by those who are in a position to offer an opinion upon the matter that the action of Germany was in defiance of an express understanding with Great Britain. Under these circumstances, I think that if such a resolution as I have submitted were adopted by this Parliament, it might receive more attention at the hands of the Imperial authorities than have previous representations from Australia concerning the annexation of New Guinea. Possibly it may be urged that the motion goes too far in suggesting an exchange of territory. But if we cannot obtain the object of the resolution—in other words, if we cannot secure either an exchange of territory or the control of the whole of New Guinea—we ought to endeavour to obtain the next best thing, namely, a preemption over German and Dutch New Guinea, or either. That is to say, if either Germany or Holland desires to part with the territory at present occupied by them in New Guinea, the British Government should receive the first offer of acquiring it. That is a common arrangement between nations, and possibly some agreement of the kind might be arrived at.

Sir EDMUND BARTON (Hunter—Minister for External Affairs).—I do not intend, like the honorable member who has just resumed his seat, to traverse the ground of what may have been past mistakes with reference to the acquisition of territory in the Pacific. Many of us, no doubt, entertain decided opinions that not only in the case of New Guinea, but in that of other portions of the Pacific, timely action in the past might have secured for the Empire territories which are valuable to-day either in a commercial sense or in the sense of being strategic positions by the possession of which its defence against aggression might be facilitated. But I have

to appeal to my honorable friend opposite not to press this motion for reasons which I will give, although I must confess that I am hampered in giving them. In this connexion I desire to say that in confidential correspondence which cannot—at any rate for the present—be laid before Parliament, the Government, since its assumption of office, have been untiring in urging the interests of the Commonwealth in the Pacific. It would please me very much if I were able, beyond giving my mere assurance, to lay before honorable members the evidences of that fact, because it would put an end to many complaints, which the confidential nature of that correspondence forbids me to answer. At the same time, the honorable member may rely that the Commonwealth Government are not asleep in regard to this important matter. I share the opinion that in 1883, when Mr. Chester made, perhaps, an irregular and technically informal annexation of New Guinea on behalf of the Queensland Government, it might have been well if the Government of the United Kingdom of that day had recognised the aspirations cherished by that State, which, as there is plenty of evidence to show, were shared in common by the rest of Australia. At the Conference which was held upon the subject of the control of British New Guinea at the beginning of 1883, and at which, it will be remembered, resolutions were adopted which led to the formal constitution of the Federal Council of Australia—as honorable members who choose to look up its proceedings and to read the papers placed before it will see—the position was clearly put before the British Government of the day. To that extent I am wholly with the honorable member, and the evidence which is available demonstrates that fact. But, speaking with all respect, it is true that the Minister, who was then at the head of the Colonial office, did not fully appreciate the importance of the acquisition of the territory which was suggested. Had he done so an annexation or a protectorate having due international force would then have taken place, and the question now under discussion would never have arisen. Unhappily that was not to be. But the honorable member may rely that any objection which I have to this motion being proceeded with does not arise from want of sympathy with him, but from reasons connected with what I have already put before the House, and which I think will

be sufficiently apparent to obviate any necessity on my part to make a fuller explanation. Of course we must recognise one great fact, that in urging the Imperial Government to acquire further territory in the Pacific, we are to a certain extent accepting a heavy responsibility for ourselves. The result of annexation in the case of British New Guinea has been already to lay upon us a burden of £20,000 a year. That, however, is only £5,000 per annum more than the sum which the three States originally concerned were paying prior to Federation. Should other annexations occur, they will probably not be made except upon the terms that, whatever burden may be undertaken by the Empire in respect of acquiring any territory that it might be possible within reason to acquire, the Commonwealth shall undertake the cost of administration. If the British Government, for instance, went so far as to saddle the Imperial funds with the acquisition of any greater portion of New Guinea than is already possessed by the Empire, the responsibility, and the responsibility for all time, of managing and paying for the management of the land so acquired would no doubt fall upon the Commonwealth, especially if such steps were taken at our instance. Therefore, I desire that honorable members who advocate these matters, as to which I, myself, am fairly keen, shall remember that when these acquisitions of territory are made we must look forward to the undertaking of a serious monetary responsibility on the part of the Commonwealth, and that the monetary responsibility will represent new expenditure, no matter what portion of the Commonwealth may be contiguous to the territory so annexed, and most benefited by the acquisition of it. But this is by the way. I rose specially for the purpose of suggesting to the honorable member for Kalgoorlie that, the matter having been brought fully before the House, it is desirable, even in the interests of the view that he holds and the purpose he favours, that nothing should be put on record in regard to it as the deliberate determination of this Parliament. The position in respect of these affairs should be allowed to remain as at present, upon the assurance of the Government that so far from being neglected, they are being dealt with in the best interests of the Commonwealth.

Mr. KIRWAN (Kalgoorlie).—In deference to the suggestion made by the Prime

Minister, I beg leave to withdraw my motion.

Motion, by leave, withdrawn.

COMMONWEALTH COINAGE.

Mr. G. B. EDWARDS (South Sydney).

—I move—

That the report of the Select Committee on Commonwealth Coinage brought up, and ordered by this House to be printed, on 4th April, 1902, be now adopted.

I think I may be excused for entertaining the belief that this subject is a very important one, and the hope that the House will approach its consideration with some determination to come to a conclusion upon it. To me it is a very practical matter. It is one in which I have taken a personal interest for some time, and I have the further excuse for the idea of its importance which I entertain, that the question of decimal coinage has been favorably considered for many years in the old country by business people of all shades of political opinion, by philosophers, and by publicists. Although the difficulties of making the desired change there have been so great, and the time of the Legislature has been so much occupied with other questions which demand its attention much more than do social and business reforms, it is generally acknowledged that there is a vast preponderance of opinion in the United Kingdom in favour of that change. The report to which we are inviting the attention of the House, proposes now to make a saving of some £35,000 per annum to the people of the Commonwealth, and, in doing so, to introduce a reform which, in itself, I believe will ultimately mean a saving of over £1,000,000 to the States and the people of this Federation. It will also be the means of facilitating the introduction of a still greater reform, which will yield even more beneficial results in the economical working of both the private and public affairs of the nation. I shall endeavour to prove that the adoption of the reform recommended by the Committee in regard to the money of the Commonwealth, would very much assist the acceptance of a similar reform in the mother country. The inquiry which was made by the order of this House was one of the most impartial with which I have ever had to do, or of which I have ever read. In the first place, the honorable members to whom it was intrusted held opinions which at the time were totally unknown

to each other. The House had only recently assembled, and it was impossible to arrive at any conclusion as to the views held by honorable members on such an abstruse subject as decimal coinage. The Committee was brought together in an almost haphazard fashion. It included some who had taken great interest in the question, and others who, while interested in it, had admittedly failed to give the subject any consideration. Having gone into it, however, it was found that the subject was a very engrossing one. I believe I am perfectly correct in saying that the whole of the members of the Committee became interested in it, and interested in the very best possible way. They became imbued with the desire to arrive at the truth of the matter, and to decide it in the best interests of the Commonwealth. I regret that the overtures which I made at the outset of the inquiry to secure the Treasurer as a member of the Committee did not meet with success. It had not been the practice in Victoria for Ministers of the State to take part in these inquiries, and for that reason the right honorable gentleman did not consider that he should become a member of it. In other States, however, Ministers take part in inquiries of this kind, and I am quite sure that if we had had the assistance of the Treasurer it would have vastly helped us in bringing up our report, and assisted us probably in carrying this matter to a legislative conclusion. I was hopeful that there would have been some reference to this subject in His Excellency the Governor-General's speech. Although the matter had not been dealt with in any way by the Government or in this House, it was supposed that the keen outlook which the Treasurer has always maintained—both in State and Federal politics—for possible means of effecting savings would induce to regard this question in a practical way. I therefore thought it was extremely probable that we should have some intimation in the Governor-General's speech that the subject would be considered in some definite form by this House during the present session. We did not have the assistance of the right honorable gentleman in pursuing our inquiry, but I am perfectly sure that we shall receive from him that valuable help which his knowledge and position will enable him to give us in our endeavour to obtain from it some result

which, if not in the full direction contemplated, will be attended, at all events, with profit to the community, and assist in introducing the decimal system. The evidence obtained by the Committee, and the report based upon it, were secured in the most impartial manner that the members could devise. So far as I know, not one case occurred in which evidence was invited from men who were known to take a strong view either on one side or the other. It is a peculiar circumstance that in every case in which evidence was invited we did not, in the first instance, know the view which would be expressed by the witness. In most cases requests to give evidence were sent to the holders of offices, and not to persons—to associations rather than to individuals. We endeavoured, as far as we could, to obtain the opinions of people who, by reason of their position, were qualified to speak of the opinion of the community. There were many difficulties in the way of obtaining the opinions of some of these representative bodies, by whom we desired to be guided. For instance, when we applied to the Chamber of Commerce in the capital of one of the large States to place their views before us, we were met by the fact that the Chamber was probably divided in its opinions, or had not had an opportunity of discussing the matter so as to come to a decision as to the views that should be advanced before the Committee. Consequently we experienced considerable difficulty in securing the attendance of representatives of these bodies, from whom I must confess the Legislature should look for some light and leading in this matter. We had replies, however, from many of these bodies, and on the whole, as I shall be able to prove, by an analysis of the evidence, they were decidedly in favour of the adoption of the decimal system of coinage for the Commonwealth. The question of the currency, we must admit, was practically a new subject in the politics of Australia when taken up by the Committee. Still it was not altogether new. We had some trouble in regard to currency in the early days of the colonies, but it was not of such a nature that its history would assist us. It was a subject which necessarily had slept here for many years, because our currency was provided for us by the Imperial Government, and was satisfactory within the limits of its system. The whole question had never

been a matter for legislative consideration, or one to which politicians had devoted more than a passing thought. Consequently we met with a very great confusion of ideas respecting the subject of the inquiry. As soon as it was said that we should consider the question of a Commonwealth coinage, many people went to the absurd length of attributing to the proposal another desire on the part of Australians to "cut the painter." That is a most ridiculous way of looking at the matter, but no doubt such opinions did exist. There were some slow conservative minds who looked upon the fact that the Commonwealth was considering the question of establishing a coinage of its own as suggesting some means of setting up a free and independent existence. Further than that, we were met with applications from persons whom, with no desire to say anything derogatory of them, I must describe as "cranks." We had applications from silver men, bi-metallists, and men believing in some form or other of State banks or paper money. We had to carefully steer clear of some of these idiosyncrasies, or the Committee would have been deluged with them. If anything of the kind did obtrude itself, we endeavoured to keep it out as much as we could, and there is very little evidence of it in our report. If we analyze the evidence we shall find that there is a preponderating body of fact and opinion sustaining the report. I chiefly value the opinions of the foreign residents of the Commonwealth, and I desire to call attention to the views expressed by some of them. These gentlemen—mostly foreign Consuls living in our midst—are not only practically acquainted with the decimal systems of currency which prevail in their own countries, but as merchants here have an intimate knowledge of the British system, and they have unanimously expressed the opinion that the Commonwealth should adopt the decimal system as the best on economic grounds, and as a forward movement in every respect. I will briefly quote the views of some of them, to show the tendency of their opinions upon the subject. Mr. Orlando Baker, the Consul for the United States, who resides in Sydney, concluded his evidence by saying—

If the world be progressive, it seems to me that it is only a matter of time when all nations will adopt the decimal system for counting money; and if Australia would maintain her reputation

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as a leader in progress, I think she will throw off the pounds, shillings, and pence system, and adopt a currency based upon the decimal system.

Monsieur G. Biard D'Aunet, Consul-General for France, said—

The Government of the Commonwealth could make a trial in this direction, and if the experiment succeeds, which appears probable, it would open the way to the reform of the British monetary system, which is desired in the general interests of international commerce.

Monsieur W. L. Bosschart, Consul-General for the Netherlands, replied to the question whether he thought the decimalization of money should precede the decimalization of weights and measures—

Yes. The two changes would really mean only one change of system, the blessings and boons of which would soon be recognised. I most sincerely recommend them for the good of Australia.

Mr. Stanford, Vice-Consul for the United States, residing in Melbourne, gave a description of the benefits of the decimal system. He said that the change is one which could be initiated at any moment without inconvenience, and would have no disturbing effect upon our trading relations with Great Britain. One gentleman, a merchant in the city, whose name I do not now recall, told the Committee that he was in Australia when the Austrian system of coinage, which was a heterogeneous one like our own, was changed to a decimal system. He said that there was a little friction at first, which lasted for a few months, but that after that time no one felt any great inconvenience, and before the end of the year every one was glad that the change had been made, and would not hear of returning to the old order of things. Similar evidence was given with regard to the introduction of the change in Italy. American witnesses when asked if there was any idea in America of improving the system, or of going back to some other, said that it was the natural and best system, and could not be improved, so that there is not the slightest idea of adopting any other, or of altering the existing system in any respect. Three of the witnesses examined before the Committee had no views to offer on the subject, two of them being called to give evidence of a technical character. Eight were opposed to any change, three were in favour of a change, but thought that the Commonwealth should await the action of England, and thirty-one were in

favour of the adoption of a decimal system. Of those thirty-one, seven favoured the adoption of any decimal system whatever, because they thought any decimal system better than the present. But the general opinion was that if we adopted the decimal system we ought to retain the sovereign as our standard. Thirteen witnesses held that view, while five advocated the adoption of the 10s. unit, and four others the adoption as the unit of a coin worth 4s. 2d.—the American dollar unit. Therefore the weight of evidence was in favour, not only of the adoption of the decimal system, but of the adoption of the decimal system which the Committee recommended. When the Committee had finished taking evidence there was considerable difference of opinion amongst its members as to what system should be recommended. The evidence was very carefully weighed, and a great deal of discussion, both formal and informal, took place before a decision was arrived at. Some of the witnesses, several of them trained men, reported very strongly in favour of a ten-shilling unit, with the retention of the sovereign as a coin of the value of two such units. Calculations could then be made in sums of ten shillings, and the unit would be divided into ten shillings, and each shilling into ten pennies. The shilling would therefore be retained at its present value and under its present nomenclature, but there would be a far greater disturbance in the bronze coinage than the Committee would like to see made. A great deal is to be said in favour of the adoption of the American dollar unit. There is on the other side of the world a very large nation, whose people are destined to become even still more numerous and powerful, and they have adopted the dollar worth 4s. 2d. as their unit. This coin must necessarily dominate more or less the American trade, while our trade with America, as the two peoples speak the same language, and have much in common, and for other reasons, must necessarily increase year by year.

Mr. O'MALLEY.—They have the dollar in Canada also.

Mr. G. B. EDWARDS.—Canada has been forced by its nearness to the United States to accept the coinage of that country, so that money coined in the United States passes current in Canada. The Committee had seriously to consider whether these facts would not justify the recommendation of the American dollar as the unit for our

coinage. The adoption of that unit would make no disturbance in the value of our half-penny coinage, and it is very desirable to make no change, inasmuch as stamps, tram-fares, and many small articles are largely bought for small copper coins. When we looked further into the matter, however, we found that, in view of the position of the British sovereign, the wide-world respect which it has won, its great history and traditions, there would inevitably be a strong resistance to its abolition here, and that the adoption of any other unit would greatly diminish the chance of getting a decimal system adopted in Great Britain. The Committee, therefore—rightly, I think—finally decided to recommend the sovereign as the unit, and to decimalize it down to its one-thousandth part. That would give the most workable money system the world has yet devised. Under that system, a florin would be the coin of account. I noticed in the minds of some of the members of the Committee that there was a disposition not to recognise the florin as the coin of account for fear of the popular prejudice against the adoption of a silver basis. But it will be seen that the basis recommended is not a silver, but a gold basis. In my opinion, it is inevitable that the florin—the tenth part of the pound—will become the coin of account. The honorable member for North Sydney has pointed out that the American dollar, which is the unit of the United States coinage, is hardly ever seen in that country, and that the half-dollar, because of its size and convenience, is the coin which is most carried. There are very good reasons for adopting as the coin of account the coin which is in general use in everyday transactions.

Mr. WATSON.—If the florin were chosen as the coin of account, very large figure columns would be required for account books.

Mr. G. B. EDWARDS.—Not such large figure columns as are required where the franc is the coin of account. A millionaire in France who counted his wealth by francs would be a mere nobody in Australia. The Committee, in recommending the adoption of the florin as the coin of account, took the happy mean between the American and the French systems. Another reason for the adoption of the florin is that it is the coin in general recognition in the Pacific, where we hope to see the influence of the Commonwealth become

dominant. It is the dollar of the Pacific. Our two-shilling piece is exported in large quantities to the islands, where it is used as the money of account, and also for the purposes of currency. Altogether, it will be seen that the florin, which was introduced, as honorable members are aware, as the first step in the decimalization of the English system, is probably the most convenient coin in the world, both as a unit of currency and as a unit of money account. A further argument in favour of the decimalization of the sovereign is to be found in the fact that quite recently the Peruvian Government adopted the British sovereign as the basis of their new coinage. In the last report of the Deputy-Master of the Mint, which we had not received prior to the drafting of the report now before honorable members, the following statement occurs:—

A law was passed on the 13th December, 1901, for the establishment of a gold standard, the unit to be the Peruvian gold pound, a coin 22 millimeters in diameter, weighing 7·988 grammes and eleven-twelfths fine, identical with the English sovereign. Silver and copper coins issued under the law of 14th February, 1863, and article 7 of the law of 30th December, 1872, are to be fractional parts of the pound at the rate of 10 sols to the pound. Gold is to be unlimited tender, silver being restricted to 100 sols and copper to 10 cents.

Further than that, I see that a similar coinage has been adopted in Ecuador. The point I wish to impress upon honorable members, is that if these countries, existing within what may be called the trade dominions of the United States, prefer to adopt the English sovereign and decimalize it, there must be some virtue in the system in favour of which the Committee have reported. I see that virtue displayed in three ways. First of all, we have the world-wide integrity of the British sovereign, and the world-wide knowledge and appreciation of it. It has been said that people far away in the East, in China and India, and in Egypt, put away sovereigns or hide them in the earth for years; and whatever may happen to disturb the values of currencies, the British sovereign is always worth its weight in gold. In the second place, the tenth part of the British sovereign is the most convenient, as the largest silver coin of account or currency, and when it is further decimalized by tenths and hundredths it furnishes coins which will answer all reasonable requirements. The lowest coin is something less in value than the farthing. Although we do not use farthings very much—and I

hope we shall never have occasion to do so—they are found to be of great value in the economics of the poor in the old country. Ecuador and Peru have shown themselves to be appreciative of the value of the sovereign by adopting it as the gold standard of their currency.

Mr. O'MALLEY.—They do most of their trade with Great Britain and Europe.

Mr. G. B. EDWARDS.—But the United States does a great trade with them, and as there is Monroism in trade as well as in politics they must look forward to doing a large trade with the United States. If, in the face of this fact, they favour the adoption of a different coinage, there must be some inherent advantage in the system adopted over that of the United States. There is a large profit to be derived from the legitimate issue of silver tokens of currency—I am not considering in this connexion what might be done by an unscrupulous Government. To obtain the profit that is to be legitimately made, we must coin money strongly differentiated from that of Great Britain, because it must be made so distinct from the coinage of Great Britain that it will not go back to the old country to be redeemed. We must take the responsibility of renewing the currency as it wears down, and also stand behind it if the circumstances of the world at any time demand that we should redeem it. Therefore if we want to get the profit, and it is just and reasonable that we should, we must distinguish our coins from those issued by the Imperial Government. This brings me to the question of the system which we should adopt. I think that it is generally conceded that the decimal system is the most natural and the best in the world, and there can be no better time than the present for adopting this system in the Commonwealth. The time for adopting a new coinage is at the beginning of our national career, and the decimal system is undoubtedly the best. If we start our coinage upon the same basis as that of England, we shall have very little opportunity of adopting anything else, unless Great Britain initiates the change. We could adopt the proposed new system without any fear of trade friction with Great Britain, and we might very well take the step contemplated in consideration of the profit likely to be derived, and in view of the advantages to be conferred upon

the nation. The reference to the Select Committee was extended, at the instance of the honorable member for South Australia, Mr. V. L. Solomon, to include gold within the scope of the inquiry. Personally I did not intend to include gold, because, as the inquiry has since proved, there was no necessity for us to enter into the existing relations with regard to the gold coinage. However, the Committee went into the question, and, as I have previously stated, decided to report in favour of the retention of the sovereign and of maintaining the existing relations between Australia and the Royal Mint in connexion with the branches of that establishment in our midst. Many other points with regard to gold cropped up. The branches of the Royal Mint in Australia are kept going by guarantees furnished by three of the States Governments; £15,000 is contributed by New South Wales, a like amount by Victoria, and £20,000 by Western Australia. This money is advanced by the States Treasurers to carry on the work of the Mint, and when the year's work is completed, the Mint authorities return any difference of receipts over expenditure to the States Government which has indemnified it. In Victoria, also in New South Wales, some slight profit is made, but in Western Australia there is a loss, and the net result is a loss to Australia. It is inevitable that under the Constitution the Commonwealth Government shall take the place of the States Governments in their relations with the Royal Mint. Then we have to consider the question whether the Mints could be so managed as to obviate loss to the Australian people. The loss incurred in the past has been something substantial, because it is only quite recently that any profit has been made. One of the points that seemed to demand some further inquiry was the large export of minted sovereigns to other parts of the world, notably to America, which, in some years, reaches £5,000,000. These sovereigns are exported to the United States, and on arrival are required by the law of that country to be put into the melting pot and reduced down to their original form of molten gold. This seems to be a piece of altogether unnecessary extravagance. In the coinage of sovereigns, every 100 ozs. of gold yields only 45 ozs. of coin, the other gold having to be re-melted and re-coined. This trouble might be well

compensated for in the case of sovereigns which are to have their legal life of eighteen or nineteen years, but it seems absurd to go to all the present labour and expense in order to send sovereigns to foreign countries where they are immediately melted down. I believe that the Mint authorities have recommended a form of gold bar, weighing about 10 ozs., for export purposes. In every piece of gold out of which sovereigns are stamped, there is a large quantity of waste in the interspaces between the discs. The weighing of the sovereigns by an automatic machine further reduces the coin ultimately produced. The sovereigns are automatically discharged, those which are too heavy or too light being separated from those which are of the proper weight. The proportion of coins which have to be returned to the melting pot and the waste, make up the large percentage. Improvements in machinery are reducing this proportion, but results so far have not reached any better average than 45 ozs. of coin for every 100 ozs. of gold. If we wish to obtain the profits that are derivable from a silver token coinage in our midst, Great Britain will probably tell us that we shall have to make good the inevitable depreciation of our gold currency. We have it on the authority of bankers, and other gentlemen of experience, that the condition of our gold coinage is anything but satisfactory; that, in fact, as much as 50 per cent. of the gold currency is below the limit of tolerance. I do not say that we should begin by restoring the present gold coinage to its proper condition, but some system should be agreed upon between ourselves and the authorities of the Royal Mint, for restoring the coins now in circulation to the limit of tolerance, and we should afterwards be charged with the average loss of gold. A large number of these gold coins do not go into ordinary circulation, because I believe that in one case alone hundreds of thousands of them are put into a vault in one of the banks and kept there as a sort of guarantee fund in connexion with the balance operations of the banks. In 1889 the British Government found its gold coinage in much the same condition as that of Australia at the present time, and it was then estimated that it would cost £650,000 to restore it to a satisfactory condition. I think we shall find that quite a relative proportion of that sum will be required to bring our gold coinage up to the

standard. From the details supplied by the Master of the Mint, it is apparent that, having once placed our gold coinage in a proper state, we can thereafter maintain it in a satisfactory condition for about £3,000 per annum. The Committee had also to consider whether it was desirable to establish one central Mint for the Commonwealth, in lieu of the three existing Mints, and whether we ought not to obtain our silver coins from Great Britain, at any rate at the beginning. The Committee finally decided in favour of obtaining the silver coinage from Great Britain, leaving the establishment of a central Mint open to further consideration hereafter. I think it is inevitable that the expense of maintaining the three Mints—none of which are working at their full capacity—must be considerably in excess of that required for the maintenance of one Mint capable of performing the whole of the work. I know it is said that these Mints—and particularly the one at Perth—are of great value to the gold producers.

Mr. FOWLER.—If one central Mint were established, the Western Australian gold would probably find its way to Great Britain. A great deal of it does now.

Mr. G. B. EDWARDS.—Yes, a great deal of it does now. But if sufficient gold were not supplied at the central Mint to enable it to undertake all the coinage which could profitably be undertaken, it would pay the Commonwealth better to purchase the requisite gold in Western Australia, and to incur the risk involved in transferring it to Melbourne or the Federal capital, or wherever the central Mint was established. In proof of that statement, I would invite the attention of honorable members to the cost involved in the production of the three Mints at present in existence relatively to the cost of the output of the Mint in Great Britain. I have no desire to touch upon details, but I wish to explain that in Great Britain the charges include many items which are not considered in the working expenses of the Australian Mints. For example, in the working expenditure upon our Mints, no charge is made for rent or interest upon the buildings occupied, the construction of which cost £60,000 or £70,000; whereas in Great Britain a sum of £12,000 is set down as a payment to the Board of Works for the use of the buildings and taxes—£10,000 evidently representing interest upon the construction of the buildings occupied by the

Mint, and the balance whatever taxation those institutions have to pay. In 1900, I find that in round figures the cost of the Mint in Great Britain was £84,160, whereas the cost of the three similar institutions in Australia was £47,019—a difference of £37,141. In Australia, the Mints produced approximately 13,000,000 gold pieces, whilst in Great Britain they produced 10,000,000. But in this connexion it must be remembered that Great Britain also produced 41,000,000 silver pieces, 51,000,000 copper pieces, 25,000,000 colonial coins, and supervised the minting of 54,000,000 coins, which were struck at what is known as the "Royal Mint," Birmingham. Honorable members, therefore, will see that, relatively to its cost, the Mint in Great Britain performs much more work than do the three Mints in Australia. Of course, the fact must be considered that the whole coinage in Australia is in gold, which is the most expensive form of coinage that can be undertaken. But even allowing for that fact, the difference is very much greater than it ought to be. It is necessarily caused by the smaller quantity of work which is done by each of the three Australian institutions compared with that which would be accomplished if one Mint only were in existence. In the first instance, the report of the Committee recommends that we should take advantage of the facilities offered to Canada and other British possessions to obtain their currency coins either at the Royal Mint or at one of the Birmingham institutions under the charge of the Royal Mint. According to the Deputy-Master of the Royal Mint, the Government of Canada has expressed the wish to erect a mint for the coinages which they require, which have hitherto been executed there, and which have not been very extensive. Honorable members will recollect that I account for the limited extent of the Canadian currency coined in Great Britain, by the fact that the American token coinage is current in Canada. The Deputy-Master adds—

They also desired to coin sovereigns, and in this case the new mint will have to be a branch of the Royal Mint.

I have since ascertained that Canada has already established a Mint for the coinage of gold, but I cannot find that any steps have been taken for the coinage of silver there. There is a vast difference of opinion amongst those who are considered experts

upon this question, as to the quantity of silver currency required for Commonwealth purposes. Mr. Coghlan, the Government Statistician of New South Wales, estimates it at something over £1,000,000; Mr. Von Arnheim, of the Royal Mint, Sydney, at £1,000,000; Senator Walker at £1,500,000; Mr. Henry Gyles Turner, who is well known in Melbourne, at £1,700,000; and other authorities at £2,000,000. Personally, I think the amount is in excess of £2,000,000, and I base my opinion upon the quantity of loose money which the Australian people carry in comparison with those elsewhere. Another test is to be found in the fact that the regulations under the German Imperial Act to prevent over-issue are based on 15 marks (15s.) per head. That would be equivalent to about £3,000,000 for the Commonwealth. In making that estimate as the basis of an Imperial Act, great care would naturally be taken to insure accuracy. If we assume that the amount required would be £2,000,000, I find, on the basis that 66 shillings may be minted out of every pound troy of silver—which was that fixed by Lord Liverpool's celebrated letter in 1815—we should require 606,060 lbs. troy weight of silver. This, at 2½s. per ounce—which is to-day's quotation for silver—would cost £731,059. If we allow the sum of £30,000 for the coinage of this silver, the cost will be increased to £761,059. That would cover both the cost of the silver and of the coinage. A coinage currency of £2,000,000 would, according to the figures of experts, represent more than 40,000,000 pieces of money. In Australia we can coin 5,000,000 pieces of gold for about £15,000, notwithstanding all the processes involved in coining, checking, weighing, and remelting it. Great Britain, however, coins 120,000,000 for an expenditure of about £84,000. About half of those 120,000,000 coins consist of three-penny and six-penny pieces. These are struck off almost as rapidly as are brass buttons and, of course, it necessarily follows that there are fewer rejected pieces as they come down in the scale of value. The rejected pieces of gold average about 15·31, those of Imperial silver 3·33, those of Colonial silver 1·55, and those of copper 1 per cent. The first issue of such a coinage, therefore, would provide the Commonwealth with £2,000,000, less the first cost, namely, £761,059. That would leave a gross profit of £1,238,941.

Mr. SPENCE.—Is that under the present system?

Mr. G. B. EDWARDS.—It does not make the slightest difference under which system it is. If we add to the gross profit I have mentioned, the net profit on bronze coin, which would be, approximately, £31,059, it will be seen that there would be a total profit on the adoption of this system of currency by the Commonwealth of £1,270,000. Although we have allowed £30,000 for coinage, we do not propose that we shall coin this ourselves. That estimate of cost was decided by reference to results obtained at the Royal Mint. If we employed others to carry out the work for us in the first instance—and I think that the Committee's proposal that we should do so is a wise one—we should have to allow for charges which the Royal Mint imposes for supervision or for the work of coining. We should have to allow for interest in respect of the silver advanced for coinage purposes, and for something in addition to the labour cost. If the work were done by Birmingham firms, for example, they would certainly require something more than the working cost of doing this minting for us. After careful consideration of the figures, I have put this down at £70,000. That leaves £1,200,000 as the original profit or seigniorage of the Commonwealth, which at 3 per cent. would give £36,000 per annum. When the Committee was considering if this large profit, or seigniorage, should be funded some of the conservative witnesses suggested that there was no necessity for the adoption of any such course. I think that Senator Walker, who may be considered a careful authority, expressed that opinion; but I do not feel satisfied that we can look forward complacently to the maintenance of the existing ratio of value between silver and gold. We have to look forward to possible upheavals in the relative values, and to trouble in regard to metallic coinage generally. The safest course would be to fund this difference, and use only the annual interest, which might be added at once to the consolidated revenue. In support of this suggestion, I would invite the attention of the House to a statement which appears at page 42 in the annual report of the Deputy Master and Comptroller of the Mint for 1901. I confess that I cannot clearly understand certain figures which are given there in regard to the coinage of silver at Calcutta and

Bombay. If the figures are as they appear to me to be, they show a profit of £4,500,000. That, however, I think, must be wrong.

Sir GEORGE TURNER.—Perhaps the honorable member has applied the wrong decimal.

Mr. G. B. EDWARDS.—No; the figures are plainly given, and I shall read them to the right honorable gentleman. The receipts of the Bombay Mint for 1900-1 were 32,779,064 rupees, that represents £3,277,906, while the expenditure was £128,072. At the Calcutta Mint the receipts for the same year amounted to 14,810,320 rupees, and the expenditure to 1,044,801 rupees. I cannot help thinking that those receipts were swollen by the sale of some silver coined in previous years. It is utterly impossible that such results should be shown on the extent of the work done. But I wish specially to point out the statement made by the Deputy Master, with regard to the profit derived from this coinage. He sets forth in a footnote that—

The net profit of the rupee coinage was transferred to the Gold Reserve Fund in the accounts of the Government of India.

This shows that they have taken care in India to guard against any possible dislocation of the currency by reason of an altered relative value between the two metals. I think the Commonwealth would act wisely if it adopted the same course. It must also be remembered that with a silver currency we should have to provide for the wear and tear of coin from year to year. My own opinion is that for many years after the establishment of the system it would not be necessary for us to take that matter into account in calculating what we were likely to obtain each year. I think the natural increment in the demand for our currency, if silver did not materially advance, would be sufficient to pay all losses experienced in the restoration of worn coin. In England in the year 1897-8, the loss in this respect was £28,563; in 1898-9, £55,313; in 1899-00, £27,457; in 1900-1, £31,129; and in 1901-2, £23,419. That gives an average of £33,000 per annum. The coin which we should issue, however, would be new; some twelve years would elapse before it would begin to wear to a point at which it would be necessary for us to renew it. After the lapse of some years we should probably require to expend £4,000 per

annum in the restoration of silver coinage. I have already referred to the probable expenditure of £3,000 per annum which we should be called upon to pay in making good the wear and tear in respect of gold coinage, so that we should have a total outlay of about £7,000 per annum in respect of coinage restoration. That would be about the average on the present figures of population and currency.

Mr. BAMFORD.—But it would not be incurred for twelve years after the introduction of the system.

Mr. G. B. EDWARDS.—That liability would not occur in respect of new coinage until that period had elapsed. The average life of silver coin is about thirteen years. The honorable member will recollect how often we used to see coins in a very good state of preservation which had gone all round the world, perhaps, and had been coined 50 or 60 years before. Mr. Wardell, the Bullion Master of the Mint, says in his evidence that the Commonwealth is not justified in commencing a coinage with this enormous seigniorage. He was cross-examined on that point, while other witnesses were approached in regard to it, and I think the Committee were quite satisfied that Mr. Wardell was over scrupulous, and rather pedantic, in this matter. In my opinion the Mint officials generally are extremely conservative. As England commenced with a proportionate ratio of thirteen to one, between gold and silver they consider that it would be radically wrong to commence with a different ratio. Other witnesses like Senator Walker informed us that with an honest Government behind it, that seigniorage was quite the proper thing. This profit is taken by Governments such as that of Great Britain, and utilized by them. Great Britain the year before last passed nearly £1,000,000, representing the profits derived from coinage, into the Exchequer. Last year a further addition of about £500,000 was made in this way, while the average for the last twelve or thirteen years has been something like £500,000 per annum. The profits show a tendency to grow larger, because the price of silver has been steadily coming down. I do not think there is any probability of the Government of the Commonwealth ever incurring the risk of an over issue of silver coin. An over issue of silver coin is one of those curses which always come back to roost, and every country that has over-issued

has experienced that result in a very bad form. If it is desired to guard against such a possibility, the lawyer's maxim of *ex abundanti cautela* ought to be adopted. A safeguard is offered to us in the principle which has been adopted by Germany. Under the German Imperial Act it is provided that the Mint authorities shall not issue token money except in exchange for gold; they issue it to the banks and other private institutions in exchange for gold. When a Mint issues its silver only in return for gold there can never be an over issue. The financial corporations will never apply for silver unless there is some special trade demand for such coinage; and if they have to purchase it with gold they will take only sufficient to satisfy their requirements when there is any danger of it dropping. If we fund the difference or seigniorage, and issue currency money only in exchange for gold, we shall not run any risk. With our English reputation behind us, and with the high standard of financial morality exhibited by the Governments of the States, there is no possibility of danger. The question of coining silver was considered years ago by politicians in these States. It was raised in the first instance, I think, by one of the Premiers of Victoria, and a correspondence was carried on by Premiers of New South Wales. The Treasurer himself took part in this correspondence. The price of silver dropped. At this time the Colonial Governments, having experienced an actual loss in the coinage of gold, could not understand why they should continue to coin it at a loss, while Great Britain was exhausting her energies in pouring out silver at a profit; they naturally demanded that some of the profits should come to them. The correspondence, which is interesting, will be found as addenda to the report. From the first the British Government recognised—as an honest British Government always will do—that it had no claim to the seigniorage which was made on the quantity of silver currency used in the Australian States. But they were confronted with many grave difficulties. They realized that they could not give each of the States the right to coin silver, and they had to consider which should be given that privilege. If it had been proposed to give it to Queensland, for example, Western Australia would naturally have objected, and if it had been suggested that it should be given to Victoria, New

South Wales would have opposed such a proposal. They remitted the question from time to time to Australian statesmen, and requested them to come to some agreement under which the colonies could establish one coinage system, and divide the profits amongst themselves. There was the further great difficulty of so distinguishing the coinage turned out in Australia from that coined in the mother-land that it would be possible to saddle the State issuing the coinage with the responsibility of restoring it as it wore out. That was the gravest difficulty of all, and it constitutes the chief reason why we should have a currency for the Commonwealth. It was thought that the difficulty might be met by having a mint mark; that we should be able to coin half-crowns, and place upon them some distinguishing mark by which it would be possible to tell that they had been coined in Australia. But honorable members will recognise that those marks would be obliterated in many instances; that the half-crowns, by the issue of which we had made 1s. 3d. per coin might be redeemed at 1s. or 1s. 2d. each in England, and that we might go on re-coining them and continually making 1s. 3d. per coin. The Imperial Government could not face a set of circumstances in which that would result. No way out of the difficulty could be seen, but when federation was approaching, the suggestion was made, that as the Commonwealth Parliament would have power to deal with questions of coinage and currency, the whole matter should be allowed to stand over for the consideration of the Legislature. The Federal Parliament has met, and honorable members are now invited by the report of the committee to consider whether we should not have the profits to be derived from the currency; if so why we should not have a system, and if we are to have a system, why it should not be a decimal one. Still the advantage of a profit I look upon as the very least of the advantages to be secured, though I regard it as a great lever in commanding attention to the importance of the subject when addressing popular audiences. But there is a great disturbance throughout the country because it is proposed to spend £30,000 upon establishing a necessary institution, and the public mind is similarly agitated whenever any other expenditure is talked of. Surely then an opportunity to save £30,000 by

any means by which it may be honestly and justly saved, should command attention. If only to increase the national sentiment we should have a coinage of our own. The sentiment of America, in many respects, centres more round the dollars and the dimes than round the stars and stripes, and a national coin, with a national emblem upon it, must contribute as much to national sentiment as does the national flag. The great advantage to be gained by the adoption of the decimal system is the saving of trouble which it brings about in every department of trade and commerce—in buying and selling, in calculating, in bookkeeping, in accountancy, in insurance, and in professional work. An instrument which produces the best results with less labour than is necessary to produce them in any other way must add to the national wealth, whether that instrument be an intellectual one like the differential calculus or a material one like a sewing machine. The decimal system of coinage is something partaking of the nature of both. It is a system by which we buy and sell, count, and regulate our affairs in the smallest space of time, with the least trouble, and with the least chance of error. The chances of error when the decimal system is employed are much fewer than under our present system, and the troubles of the Minister for Trade and Customs would have been much lessened if the merchants whom he has persecuted for their small mistakes had been allowed to utilize the decimal system. Various estimates have been made of the saving in the national education bill which would follow from the full adoption of the decimal system; but I am unable to deal now with the application of that system to weights and measures, because it was not part of the subject referred to the committee for investigation. In the opinion of some skilled experts, however, the full adoption of the decimal system in our schools would save two years' schooling in every child's career, while no skilled witness has estimated the saving to be less than one year. Surely such a saving would greatly reduce the education bill of the country, and would be still larger than the gains of seigniorage or the profits upon the first issue of the coinage. The chief reason for which I advocate the adoption of the decimal system is that it is a simple one, and will save one to two years' schooling to

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every child in the community. I do not know if honorable members have ever compared the simple arithmetic text-books which are used in the junior forms of our State schools with similar books used in America. If they have, they will know that, whereas in our text-books the children commence to deal first with questions of enumeration, and then go on to problems in figures, and, later, to the pence, shillings, and pounds tables, and so to problems in money, in the American books they deal first with questions of enumeration, and then go directly to the consideration of problems of money, because under the decimal system there is no difference between a money problem and a figure problem. In America a child proceeds from the enumeration of figures to problems involving money, and so on to other problems, right up to the highest scientific calculations. Having pointed out some of the advantages of the decimal system, I know that I shall be asked by many what objections can be raised to its adoption. I shall try to review a few of these objections, and endeavour to briefly answer them. The main objection is that the adoption of the decimal system would mean the disturbance of our present condition. Honorable members know what it means to alter the state of affairs to which people are accustomed. Objection on that score has been taken to every reform which has been advocated from the very dawn of civilization. What we are used to we regard as satisfactory. If we had always slept on boards, a board would be held to be as comfortable to us as a feather bed. But any one who brings his mind to bear upon the two systems must inevitably be led to the conclusion that the decimal system is the better. Then he must ask the question—"That being so, why should we not adopt it?" Here we are met with a further objection, which I hardly like to call the "Yes, Mr. Chamberlain" objection, but which is largely founded upon the idea which that phrase suggests—I refer to the opinion that in this, as in other matters, we should await and obey the dictation of the Imperial Government. Now, in a matter like this, which has nothing to do with our loyalty to Great Britain, an objection like that should have no effect. If a reform is good for us, all we have to ask ourselves is can we adopt it without any serious disadvantage to our trading relations with the mother country.

In support of my assertion that we can adopt the decimal system without any such disadvantage, I would point out that Canada has a coinage which differs more from the English currency than that of Australia would differ, and yet Canadian business men tell us that they experience no difficulty in trading with Great Britain. I, as an experienced business man, trading with the United States, know that there is less difficulty in dealing with invoices and statements coming from America, with the amounts set out according to the American monetary system, than there is in dealing with invoices and statements from Great Britain. One knows whether an American invoice is right or wrong merely by looking at it. There is no need to take up a pencil to make a calculation to ascertain its correctness. I cannot see any reason for anticipating obstacles to the freest and fullest trading between the Commonwealth and Great Britain if we adopt a currency slightly different from that of the old country.

MR. BAMFORD.—There is a possibility of England herself adopting the decimal system.

MR. G. B. EDWARDS.—I intend to refer to that. Very many people speak and write upon this subject without being able to fully understand the arguments advanced on each side, and the adoption of the system is frequently condemned for reasons which really show no objection to it at all. For instance, one of the writers in the daily press asks how, in England, would people understand a quotation of Australian butter at 25 cents per lb.; or, supposing we had adopted the decimal system, how would our people here understand a quotation of butter in England at 12½d. per lb.? The man who asks a question like that should ask himself another question—"How is it that business men who buy goods from the United States or from countries like Germany understand the quotations sent to them, and how is it that foreign merchants understand our quotations?" An American merchant never finds any difficulty in doing business with England, although the monetary systems of the two countries are different. Of course, a person who has nothing to do with trade, if he were suddenly asked what the price of a pair of gloves costing 3s. 6d. in English money would be in the American currency, would be puzzled by the question; but in actual trade relations there is no difficulty. What

we have most to fear is the friction which will be created amongst our own people by the change. An argument that used to be advanced against the decimal system as adopted in France, and which appeared, I think, in the first edition of the *Encyclopædia Britannica*, but has since been dropped, was embraced in the statement that, if an article were quoted at 1.25 francs per lb., a poor person who wished to purchase ½ lb. would be victimized, because, since there is no exact binary division of such a sum which could be expressed in the coinage, he would be compelled to pay about ¼d. more for the article than its exact price. The fallacy of such an objection has often been exposed and ridiculed. If an article were quoted in a Melbourne shop at 12½d. per yard, the person buying half-a-yard would probably be required to pay 6½d. for it. It is notorious that articles are frequently quoted in drapers' shops at prices like 1s. 11½d. a yard, for which, of course, the purchaser of half-a-yard must pay 1s. But prices will always accommodate themselves to the money system prevailing in the country, providing that that system offers anything like the necessary facilities, and the decimal system gives a greater variety of subdivisions than any other. The chief objections to the system were very ably expressed by Mr. Thodey, the commercial editor of the *Argus*, than whom I do not think any one more capable could be found to summarize the arguments for and against the proposed change. But some of the witnesses examined by the committee raised very strange objections. Mr. Wardell, for instance, asked a very strange question, which was repeated by others, and therefore requires an answer. He asked how the wife of a mechanic, unacquainted with the decimal system, could satisfactorily perform her marketing under that system? But what do French women and American women know about the decimal system in the abstract? In America the children solve these questions while they are at school, because they get toy money; and a practical experience of the coins used under the decimal system would soon teach any person, however uneducated, its possibilities. I might very well ask—What does the wife of an English mechanic know about the quarto-duodecimo-vicesimal system under which she does her marketing? Of course, she never even heard the term. People learn how to spend their money to

the best advantage by practical experience, and in that way they would soon learn to use the coins of a decimal system. A contributor to the *Sydney Daily Telegraph*, who is a very able writer upon commercial questions, objects to the proposals of the committee because they disturb the existing value of the penny, and that is without doubt the most serious drawback to the system now advocated. If, however, we desire to decimalize our monetary system we must disturb something. We might disturb a great deal, but we could not disturb much less than is proposed by the committee. No difference whatever is made until we get down below the sixpence. The present sovereign is maintained at its full value; the half-sovereign is preserved; the two-shilling piece is also to retain its present value under the name of florin; the shilling is preserved under the name of half-florin; and the sixpence under the name of a quarter florin. Below that the coins have to be altered, because they do not very closely approach the values of the coins which have to be substituted under the decimal divisions. After a very careful consideration of the interests of the poorer classes, and of the buying classes generally, it was decided to adopt the four-mil piece, which is only 4 per cent. less valuable than a penny. The same writer complains that the system proposed by the committee does not divide the coins evenly, one into the other; that, in fact, it does not provide for a binary division under which each coin would be exactly half the value of the one immediately above it. Theoretically that system is right, and one of the best witnesses who appeared before the Coinage Commission in England, Mr. Frederick Hendricks, proposed a system practically the same as that which we are now advocating, except that when he got below the florin in the silver coinage he proposed a 40-mil piece, a 20-mil piece, and a 10-mil piece, thus providing for the binary division of the smaller silver coins. In copper coins, he proposed four-mil, two-mil, and one-mil pieces. No doubt his system is the best for an ideal currency under which the sovereign is retained; but when it comes to be regarded practically, it must be seen that the 40-mil piece would not correspond with any coin in our present system. Although Mr. Hendricks' system is

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theoretically much better than that proposed by the committee, and would be the best to adopt if we had no history, and were dealing with a perfectly new set of circumstances, we think that the modifications proposed by us would make the new system more convenient of application in so far that it would prove less disturbing. So far as the smaller copper coins are concerned, it might perhaps be desirable to strike more than we have recommended. I acknowledge that, in this respect, some reconsideration is desirable. I do not think we shall require the one-cent piece for the purpose of currency; and if we do not coin it, except as a curiosity, we shall want a three-cent as well as a two-cent piece in order that we may be able to make up every variety of change in connexion with the use of ten-cent pieces. To adhere to the present system, in view of the fact that we have a favorable opportunity of adopting a better one, would be to place ourselves in a position similar to that which would have been occupied by Europe if it had continued to use the Roman numerals instead of adopting the Arabic system of notation. I think it was Macaulay who suggested that a great amount of interest might be caused by representing the present multiplication table in Roman numerals, and it would, no doubt, be very interesting to see an attempt made to multiply MDCCCXXXIV. by XIX. I cannot imagine how the Romans worked out their sums, because it seems impossible, without the use of the Arabic system, to carry out such calculations as we have to make. I have read a statement regarding a gentleman in China, who, by using numerals in the alphabet instead of the signs which have been availed of there for so many years, succeeded in teaching blind Chinese to read within a shorter space of time than that occupied under the old system by Chinamen in the full possession of their sight. Under the decimal system of coinage, we should be able to do more work with less energy and at less cost. It is said that we should await action on the part of England; but did we wait for England in regard to the ballot, or the adoption of the Real Property Act. If we wait for England to take action, and if I have the honour to remain a member of this House for so many years that I become its father, I dare say those who are then sitting here will see a tottering old man moving

an annual motion with regard to decimal coinage, and being met with the rejoinder—"Wait for action on the part of England." I do not think we should wait for England to take the initiative. We are not likely to gain any time by doing so, but, on the other hand, if we make a start in what we believe to be the right direction, we may give strenuous assistance to those who are advocating the adoption of the decimal system in the old country, and thus more rapidly bring about an Imperial reform. If the decimal system is ever adopted by Great Britain, it will be upon the lines advocated by this report. No other has been supported in Great Britain, and the only alternative to such a system would be something after the nature of the universal currency scheme, which was recommended at the Convention which met in Paris in 1867. After a very protracted discussion on that occasion, it was resolved to recommend the use of the French franc as a universal standard of currency. Of course this coin differed from the English sovereign and the American half-eagle, and the Convention necessarily came to nothing. When the subject was considered in America, Mr. Dunning, a gentleman who seems to know a good deal about the subject of coinage, suggested that the difference between the French 25-franc piece and the British sovereign, amounting exactly to 88-hundredths, should be met by the reduction of the English sovereign by 44-hundredths, and the increase of the French 25-franc piece by 44-hundredths, bringing each to the same value. I believe that he also suggested that the British sovereign might be changed to only half the extent indicated, and that the other half might be retained as seigniorage, such as is claimed in respect to the French 25-franc piece, but not in connexion with the British sovereign. Then it was proposed that the Americans should change their half-eagle to the extent necessary to bring the three systems into accord. Nothing was done, but if anything is ever done in the way of arriving at an international standard of currency, it will be in the direction of Mr. Dunning's suggestion, because it is useless to expect that the United States, with its possible 100,000,000 inhabitants in the near future, will give up its large currency to adopt any other system, or that the Latin races, with

hardly less people, will abandon theirs. If we follow the recommendation of the committee, and a universal currency is afterwards adopted, we shall suffer no more disability than if we adhere to the present coinage. I believe the committee have in their report afforded the House an opportunity of doing something practical, and that their recommendation is in the direction of progress, enlightenment, and economy. Therefore I have great pleasure in submitting it for the consideration of honorable members.

Mr. HUME COOK (Bourke).—I have great pleasure in seconding the motion for the adoption of the report of the select committee, of which I was a member. I think it is only fair to say that the members of the committee, and I think also honorable members generally, owe a great deal to the honorable member for South Sydney, for the care and patience he has displayed in connexion with this important subject. I do not know of any work which he has not read, or of any utterance which he has not studied, and he has brought the weight of his interest to the committee, and has helped it materially in its deliberations, and in arriving at the determination now placed before the House. To-day he has given further evidence of his knowledge and ability. The subject dealt with is one that is very difficult for most persons to follow, and in which no great interest can be worked up. Whilst, however, it is not likely that many people will become enthusiastic over the proposal, there are many practical considerations connected with it which deserve the attention of honorable members. Nearly all those who have studied the subject recommend the adoption of some form of decimal coinage, and it is very significant that at the present time that system has been adopted in every country of the world, except four, namely, the United Kingdom, South Africa, India, and Australia. Therefore we have the full strength of precedent to urge us on in the path of reform. I have not heard of any country which desires to abandon its decimal system; but, on the contrary, we are well aware that attempts have been made in Great Britain to substitute for that which is now in vogue the decimal system of currency. The first recommendation of the committee is that the seigniorage or profit resulting from coinage for the Commonwealth should belong to the Commonwealth.

When the present Treasurer filled the office of Treasurer of Victoria, I remember that he almost succeeded in inducing the Premiers of the different States to agree to a similar proposition, and I am, therefore, at a loss to understand why the coinage of silver has never been undertaken in this State. But even though the effort in that direction has hitherto failed, no one can question that sooner or later it must be successful. Consequently, I do not propose to direct my remarks to that branch of the subject. I take it for granted that the Government intends to obtain for the people of Australia any profit which may result from the coinage for the Commonwealth. Regarding the system of decimal coinage, I have previously observed that every country in the world, with the exception of about four, has adopted it. We have, therefore, an excellent lead, if we feel disposed to follow it. Those who have studied the question agree that so much can be said in favour of the system that there is no need for me to dwell upon its disadvantages, if it has any. The honorable member for South Sydney has ably combated most of the objections which are usually advanced against its adoption. This is not a matter which involves any international complications, and I do not see any reason why we should hesitate to adopt the system until some move in that direction is made in the United Kingdom. Unquestionably, by establishing it we should facilitate our international trade, besides effecting a considerable saving. It is, perhaps, worth while pointing out that, although the witnesses who appeared before the committee were drawn from all sections of society, the great majority of them supported this system. Those witnesses included bankers, financial editors, accountants, the representatives of chambers of commerce, of insurance institutes, and of the Trades Hall, and almost without exception they favoured the adoption of some system of decimal coinage. It is also worthy of notice that after giving the matter most careful consideration, the chief objection raised against it has been met by a recommendation in favour of decimalizing the sovereign. The committee always kept in view the fact that the bulk of our trade must be done with the Empire itself. By retaining the sovereign as the unit, and by decimalizing it, I feel that the chief objection which can

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be urged against the system has been overcome. It is all very well to say that we should wait until Great Britain has adopted this scheme, but I do not believe in any conservative delay. So many trivial objections weigh with those who have not studied the subject, that it is the duty of the Government to place it before the public in such a way that they can fully understand it. I am prepared to admit that to a certain extent it would be idle to decimalize our money unless simultaneously we are prepared to decimalize our weights and measures. Some of the witnesses examined by the committee thought it was not absolutely necessary to touch our system of weights and measures, and that we should deal with our money first. Personally, I think that the two are so intimately connected that a movement for the decimalization of money ought to carry with it the decimalization of weights and measures. One reform without the other will confer very little advantage upon us. Modern requirements demand that our methods of conducting our business should be as rapid as possible. In the United States the whole desideratum is to get through business quickly and accurately. By adopting a decimal system for weights and measures as well as for money, that country has facilitated its business in a way that the people of Australia can hardly realize. The saving of time in connexion with these two matters is so great that all minor difficulties can be set aside. I have nothing further to add at this stage. I believe that it is to the benefit of Australia and the trading community generally that the report should be adopted.

Sir GEORGE TURNER (Balaclava—Treasurer).—There is no doubt that this subject is one of the most difficult and intricate with which any body of men can be called upon to deal. I agree with the honorable member who has submitted the motion that it is a very interesting one, and I think I should be wanting in a sense of duty if I did not congratulate him upon the able manner in which he has placed it before the House. He has evidently bestowed upon it many years of consideration, and I must thank him for the great and honest enthusiasm which he has displayed in this connexion—an enthusiasm which, I venture to think, had a great deal of influence upon the other members of the committee. To some degree I am entirely in sympathy with him, though

I cannot see my way to go to the length of carrying out in their entirety the recommendations of the committee, especially so far as they relate to the adoption of a decimal system of coinage. I have come to that conclusion after reading the evidence. I have perused that testimony with very great interest, but I hope that, under similar circumstances, the secretary of any committee or commission will in future be directed to prepare an epitome of the evidence, so that persons interested may be spared the trouble of having to read a mass of questions and answers which have very little relation to the subject with which they are supposed to deal.

Mr. THOMSON.—There is an epitomized index.

Sir GEORGE TURNER.—That is not of much use. Concerning the question of the coinage of silver, I am entirely with the honorable member who acted as chairman of the committee. For many years that matter has been one of controversy between the Imperial authorities and the States Governments, and more especially the Government of Victoria. It has been urged time and again that the States should have the right to coin their own silver, but the utmost that the British Government would concede was to hand over to the States the profits made upon their coinage. The latter, however, did not care to accept that profit as a gift. Shortly before I vacated the office of Treasurer in this State, I practically succeeded in making an arrangement by which we should have obtained permission to coin our own silver. The various Premiers in conference assembled had agreed to the proposal. There were two Mints in Australia at the time, and one difficulty to be decided was whether the coinage should be undertaken by one or both of those establishments. But we should also have had to redeem our own worn coins, and that fact raised another difficulty. However, it was overcome by an arrangement to have a mark sunk deeply into our own coins so as to make them distinguishable from others. But the real reason urged by the British Government against conceding to the States the right to mint their own silver was that they might be tempted in time of necessity to over-issue, in order to gain the profit resulting therefrom. We replied pointing out that only a certain amount of silver could be used by the people, in addition to which we were

willing that the quantity should be restricted to that issued during the two or three previous years, and that it should be done under arrangement with the associated banks. Then Federation took place, and shortly afterwards I asked the Prime Minister to re-open negotiations with the Imperial authorities. Unfortunately, by some mischance a request by the Commission which was intended to elicit what the Imperial authorities were prepared to do in regard to the adoption of the decimal coinage system, became mixed up with the other matter, so that whilst those authorities dealt with one subject, they did not with the other, which I think was of far greater importance. Negotiations are now pending.

Mr. THOMSON.—For a silver and copper coinage?

Sir GEORGE TURNER.—We were chiefly directing our attention to the coinage of silver; the amount of copper coined was not very great. When we come to terms we shall probably be able to arrange for both a silver and copper coinage. At the outset, I felt strongly that we should carry out our own coinage work, but further inquiries and careful consideration have impelled me to the conclusion that it would be much wiser for us to request the Imperial authorities to do for us for some years, at all events, what they have done for Canada—that they should have our coins minted for us, allowing us any profit over and above the actual expenditure. That allowance should not be made as a grant to relieve us from the loss which we have suffered in connexion with the coinage of gold, but should be quite a separate transaction. My honorable friend has referred to the immense profits that are likely to be derived from the adoption of a Commonwealth system of coinage. The honorable member shows that they would be something like £1,250,000.

Mr. THOMSON.—That is not the amount mentioned in the committee's report.

Sir GEORGE TURNER.—At all events, it is said that it would be over £1,000,000. When I first saw that statement, I felt that we should be prepared to suffer almost any inconvenience in order to obtain so large a sum of money for the Commonwealth. But when we look carefully into the question, honorable members must see that we could not hope to obtain anything like that profit unless it represented

the earnings of a considerable number of years. Whether we had a system of decimal coinage, or adhered to the existing system, there would be no difference so far as that matter was concerned. The profit in either case would be exactly the same. The honorable member for South Sydney has referred to the cost of the three Mints in the States, and the question whether it is wise to maintain them all. That, however, is not a matter which we have at present to consider. No doubt attention will be given to it, but strong objections would be raised, particularly by Western Australia, where a branch of the Mint has only been established of recent years, to any proposal to close them. It was thought that it was only right that in a great gold-producing country like Western Australia, proper facilities should be given for the coinage of its gold, and that State would naturally object to the removal of the local branch. The changing of coins into bars is a very intricate matter to deal with. Doubtless millions of sovereigns, coined at great expense by us, are sent away and immediately melted down. My recollection of the evidence relating to this subject is that some objection was raised to the proposal that these bars should be merely marked. It was thought that bars marked in that way could not be dealt with so readily as coins, nor would they be acceptable to those who would have to take them. We have to consider whether that expense of minting cannot be saved. My recollection of the evidence, together with what the honorable member for South Sydney has told me, is that the coining of a sovereign costs about 1d. With regard to the proposed profit by minting the silver, I take it that it cannot be intended that we should request the British Government to immediately call in the whole of the existing coinage so as to enable us to issue new coins, and in that way secure the profit of £1,000,000 or £1,250,000, to which reference has been made. Our issues would have to go out as the old coinage was in due course called in. The evidence seems to show that the outstanding silver coinage represents something like £2,000,000, and that the annual silver issue is about £60,000. On that issue, the profit, we will say, would probably be about £30,000. Against that, however, we should have to provide for replacing old and worn coins by new ones. We should also have

to provide for any loss that might be incurred in renewing our gold issues, so that the profit would be reduced probably to £20,000 or £25,000. That, however, is a return that we might well seek to secure. We should be justly entitled to it, and if capitalized it might be useful for the purposes named by my honorable friend. In years to come, indeed, it might serve to assist in paying off our national debt. I do not agree with that portion of the report which says that the interest obtained from the fund should go into the consolidated revenue; as it is entirely a new source of revenue. The interest should be capitalized, and after the lapse of ten or fifteen years the fund would be so largely increased that it could be used to good purpose. I do not propose to deal further with the question of silver coinage. It is not one in which we are particularly interested at present; the main question is whether we should alter our existing system of coinage. In dealing with that matter we have to consider whether the undoubted advantages that would be derived from the change would not be counterbalanced by the greater disadvantages which, to my mind, would result from putting the system into operation, and which in the old country have prevented successive Chancellors of the Exchequer from carrying out the various proposals submitted to them. Perhaps it is fortunate for the committee that I was not associated with it, because the weight of evidence appears to me to be against the conclusions arrived at in regard to two subjects of the inquiry. I do not think that the decimalization of our coinage could properly take place before we had adopted the metric system in regard to weights and measures, while the other point on which I disagree with the findings of the committee is the question whether the Commonwealth should undertake this change before it has been brought into operation in the mother country. On both these points I differ from the finding of the committee, and I differ from it because of evidence which I have found in the committee's report. Theoretically I am somewhat in accord with the views of the honorable member for South Sydney, but I see such practical difficulties in the way of dealing with our coinage as proposed by the committee that I cannot support the report. I would be prepared to do so if I could, indeed, I should be prepared to go some distance in helping

the honorable member to carry out the object which he has had in view for many years past. What are the benefits which it is claimed would accompany the change? The chief ones are that it would simplify calculations, and lead to greater simplicity in book-keeping. These advantages, however, would apply only to a certain portion of the community, rather than to the great masses of the people.

Mr. G. B. EDWARDS.—They would apply to all classes.

Sir GEORGE TURNER.—I think not. The minority, a large minority no doubt, of the people are employed in directions which necessitate an elaborate system of book-keeping, and require them to enter into intricate calculations. Those people would certainly be benefited by the adoption of the system. It would simplify their work, and also lead to greater accuracy in their calculations. I occasionally use the decimal system when I have to work out percentages; but I think that the vast majority of the people find it just as easy to work under the present system of pounds, shillings, and pence. The primary object of coins, as has been pointed out, is not for the purpose of calculation, but for payment or exchange, and therefore we must dissociate those two matters. Whether we apply the decimal system to our coinage or not, those who desire to use it in working out their calculations will be at liberty to do so. They can make their payments under our existing system, even if they work out their calculations under the decimal system. Their accounts can be decimalized without difficulty.

Mr. G. B. EDWARDS.—Think in German and express in French.

Sir GEORGE TURNER.—It would be more difficult for the general body of the people to think in pounds shillings and pence, and to calculate at the same time under the new system which my honorable friend is so anxious to bring into operation. The committee propose to adopt nearly all the existing coins; but they suggest certain new ones, and that is where great confusion would undoubtedly arise. I deeply regret that the committee have found it absolutely necessary to recommend that that useful coin, the threepenny bit, should be abolished under their scheme. That coin would be reckoned as worth only 2 2-5d. We know what a serious loss that would mean to our

churches, and to other institutions which occasionally benefit, when we have 2,000 or 3,000 people gathered together, by contributions which generally average 3d. per head. As the Prime Minister reminds me, the change would also make a difference in the hospital collections. The honorable member for South Sydney omitted to point out that numerous Commissions have dealt with this matter in Great Britain. Those which sat prior to 1859 reported in favour of a change, but the only step which was ever taken in that direction was made in 1849, when the florin was introduced. The last Commission, which sat in 1859, took further evidence, and although they had the reports of previous Commissions before them, and investigated the subject fully, they reported against any alteration. That seems to be the last occasion upon which the matter was investigated in Great Britain, although different motions relating to it have been moved in the British Parliament.

Mr. THOMSON.—That was one Commission against several.

Sir GEORGE TURNER.—It was the last, and it had the benefit of all the evidence taken by other Commissions, in addition to the fresh evidence that was forthcoming. We are told that this question has been dealt with and changes made in the coinage of other countries; but the most striking feature of the matter is that all these countries have dealt with it in a different manner. We cannot reconcile the German, the French, and the American systems. They are on varying bases, and the evidence shows very conclusively that in every case the change was made because the many varying systems within the country rendered a uniform coinage absolutely necessary. The States of the German Empire had a varying coinage. Evidence given before the committee shows that the same state of affairs existed in Bavaria, while in Canada, under what was termed the Halifax coinage, 4s. worth of English money was worth 5s., while an English shilling was worth 1s. 3d. No doubt, the people of Canada were closely associated with the United States in business relations, and naturally they adopted the coinage system of that country. Let me say that among all the schemes I have seen I think the American is the best and the simplest. There can be no question as to its simplicity. If any change were made I should much prefer the

adoption of the United States of America's system to that proposed by the committee; but we cannot do away with the sovereign. In the United States they have 5, 10, 25, and 50 cent. pieces, while the dollar piece, which has been mentioned, is not very often used. They work out their calculations at so many dollars and so many cents, and the whole system is very simple. It has been well put by some of the witnesses, whose evidence I shall quote for the benefit of honorable members—because I do not expect that they will read the whole of the report—that the changes made in other countries were due to the fact that the existing systems were unsatisfactory, and because it was desired to standardize the confused currencies of those countries. If we could have a uniform coinage throughout the world, it would, undoubtedly, be an immense advantage, and although such a state of things may not come in our own time, I hope it will come eventually. It may be that the Western world will insist upon retaining its very simple system, and the Eastern world will have to devise some scheme for making its differing currencies uniform. But I do not know that that change can be looked for in the immediate future. It has been pointed out by the honorable member for South Sydney that an immense saving in the time taken to educate our young people would be gained by the adoption of the decimal system; but I venture to say that such a contention is without foundation, and that, instead of any saving, there would be a loss in that respect, if we adopted a decimal system.

Mr. G. B. EDWARDS.—The right honorable gentleman does not find that opinion stated in the evidence.

Sir GEORGE TURNER.—The evidence shows that in France and in America, people went on using the system to which they had formerly been accustomed for a generation after the change was made, and one witness stated that people would go on for three generations using an old system after the adoption of a new.

Mr. G. B. EDWARDS.—In their literature only.

Sir GEORGE TURNER.—And in their actual money transactions. Unless the decimal system is adopted by Great Britain as well as by Australia, our young people will have to be educated in both the present system and the decimal system. It is not the "Yes, Mr. Chamberlain," reason, or any

such absurdity, which induces me to object to a system which is different from that of Great Britain; my great objection to the change is that if our system is not the same as that of the old country, our children must unquestionably be taught two systems, the British and the Australian, so that they may be fitted to deal with both when they enter upon the business of life. Quite apart from any question of sentiment, or the advisability of making changes here before they are adopted in the old country, I think that the objection which I have just stated is a very strong one. In my opinion, the reason that an alteration would remove many inconveniences which are admitted on all hands, is not strong enough to counter-balance the inconveniences which a change of system at the present time would bring about.

Mr. PAGE.—How does Canada get over the difficulty?

Sir GEORGE TURNER.—I do not know; I think both systems are taught; but Canada was forced to adopt the decimal system because of her nearness to the United States, and the importance of her trade relations with that country.

Sir EDMUND BARTON.—One hardly sees a British coin in Canada. Nearly all the coins in use there are American.

Sir GEORGE TURNER.—Yes; but my point is that if Australia adopts the decimal system, and Great Britain does not, our children will have to learn both the British and the Australian systems to enable them to deal with the accounts which pass between the two countries.

Mr. THOMSON.—It is only necessary that they should know how to decimalize vulgar fractions.

Sir GEORGE TURNER.—It will still be necessary to use fractions, because in many cases it is easier to make calculations by using fractions than by using decimals. For instance, one witness points out that it is very easy to ascertain the seventh part of any sum by the use of fractions; but as the decimal equivalent of 1-7th is .142857 recurring, it would be very difficult to divide a sum into sevenths by the use of decimals.

Mr. THOMSON.—The great saving in the education of children to which the honorable member for South Sydney referred depends upon the adoption of the metric as well as the decimal system.

Sir GEORGE TURNER.—No doubt if both systems were adopted, and we had not to take account of any other, there would be a great saving; but if we are to continue our trade relations with Great Britain, and all the figures used in that country are arranged according to one system, while the figures used in Australia are arranged according to another, no time would be saved in the schooling of children, because they would have to be taught the two systems instead of one as at present. If we could induce the Imperial Government to adopt the decimal system, many of us would be prepared to advocate the change here, because the difficulties then resulting would be only such as could be eventually overcome. There was an extraordinary conflict of opinion on the part of the witnesses who were examined by the committee. Some of them referred to the present system as absolutely perfect, and seemed to think that to get rid of it would be to bring about the greatest misfortune that has occurred since the burning of the library at Alexandria. But the witness who made that statement had himself a pet scheme which he wanted the committee to adopt, in which the half-sovereign would be the unit of value. Every scheme brought forward was condemned by other witnesses as utterly unworkable. The witnesses ridiculed each other's proposals, and showed the weak spots in them. The great difficulty which the committee had to face was the need for retaining the pound for use in large transactions, and the penny for use in minor retail transactions. That seems impossible under any system of decimal coinage. At the best there must be a difference of 4 per cent., which, of course, would amount to a good deal in a great bulk of transactions. In all probability the difficulty would not arise in large transactions, but only in small retail transactions.

Mr. WATSON.—How often would it affect the purchases of a housekeeper? If she bought so many yards of any material, she would not lose 4 per cent. on every yard. At most she would lose only on the fractional price of the last yard.

Sir GEORGE TURNER.—The loss would occur chiefly in transactions like the buying of stamps, the purchase of tram tickets, papers, and in petty matters like that. Somebody must lose, and, of course, some one will gain. The loss to the Post-office would be considerable, but no doubt the public, as they would

not have to make it good directly out of their own pockets, would not trouble much about it. The Treasurer for the time being would be blamed for a decrease in the revenue, and that would be all. I admit that the difficulties which a change would create would in time gradually disappear. I should be in favour of the change if I could see that it is practicable at the present time, and could be made without injuriously affecting our people. The witnesses who spoke in favour of the decimal system were to a large extent citizens of countries which have adopted that system, and they had therefore been brought up in familiarity with it. Mr. Bray very fairly stated that it was not right to expect him to give an impartial opinion upon the subject, because he was naturally imbued with the idea that the system in vogue in his own country, and with which he had always been familiar, was the best to be adopted. Other witnesses were probably in the same position. A great many of those who were witnesses before the committee were people who desired to air their peculiar views. I was surprised at the want of evidence from representative commercial men. It is not the fault of the committee that that evidence was not obtained. They tried to obtain it, but they complain in their report that they had very few responses from quarters from which they expected a great deal of assistance. All manner of units were suggested for the coinage—£1, 10s., 5s., 2s., 1d., $\frac{1}{2}$ d., 25s., and 20s. 10d. The last was evidently suggested so that $\frac{1}{2}$ d. might be the exact one-thousandth part of £1. The position of the British Government is that there is no general demand for a change, and that it is hardly right to make a change which would so largely affect the whole people until they had expressed the opinion that they desired it.

Mr. G. B. EDWARDS.—Did the masses call out for a reform of the calendar? Did they not rather object to it?

Sir GEORGE TURNER.—At any rate, there is no popular demand for a change in the coinage system. The honorable member for South Sydney has stated that only a few commercial men came forward to express their views against a change, but, no doubt, if public interest on the subject had been aroused, more objections would have been offered to the proposal than opinions expressed in favour of it. The people do not want the change. There has

been no agitation for it. The honorable member for Bourke and the honorable member for South Sydney tell us that we should not wait for the example of the old country: that we did not hesitate to make changes in regard to the franchise, and to adopt the Torrens title system, long before the old country did anything in the same direction. But those were changes which affect only ourselves; they do not interfere with our relations to the old country. I have looked at this matter impartially, and I cannot get away from the fact that, if we make a change compulsory upon the whole population, it will create immense inconvenience and annoyance, and a certain amount of loss, for some portion of the community. The only benefit that I can see to be derived would be that the merchants would be able to make their calculations with, perhaps, more accuracy and with less labour. The change, however, would be a great hardship to the public generally; they would be puzzled and annoyed by it. It is all very well to ridicule the idea of a mechanic's wife being at a disadvantage in her marketing through having to adopt a new coinage, but the trouble which a change would create in small transactions such as hers would be very considerable. People are accustomed to see prices expressed in the value of certain coins, and if the coinage is altered, it means great inconvenience to them, and some loss either to the shop-keeper or to the purchaser.

Mr. BAMFORD.—That will always apply to the change.

Sir GEORGE TURNER.—I am prepared to go the length of advocating the adoption of a new system if the public evince a strong desire for it, and if we can, at the same time, secure uniformity with Britain and the other parts of the Empire.

Mr. PAGE.—The artisan's wife would fancy herself a millionaire under the new system.

Sir GEORGE TURNER.—She would find it very difficult to calculate in decimals.

Mr. THOMSON.—There would be no need for that.

Sir GEORGE TURNER.—Then the people in the shops would have to do the calculating.

Mr. G. B. EDWARDS.—The shepherd counts his sheep in decimals, but he does not know it.

Sir GEORGE TURNER.—But he has done that all his life-time. It is not as if he had been in the habit of calculating his purchases in £ s. d., and had been suddenly called upon to give up his life's practice, and make his calculations according to a system of which he knew little or nothing.

Mr. PAGE.—How did the right honorable gentleman manage when he was travelling?

Sir GEORGE TURNER.—I gave what I was asked, and did not know whether it was right or wrong. I know that when I left Italy I carried away with me nineteen lire; but I do not know how many I left behind me. Mr. H. G. Turner, in giving his evidence before the select committee, pointed out that no demand had been made by the great London clearing houses for a change of currency. He referred to the immense sums of money which passed through those institutions in one day, and stated that they were able to make all their calculations within a few hours without any difficulty. He also mentioned that the Banker's Institute in England had not made any demand for the change.

Mr. G. B. EDWARDS.—Still he is in favour of the system.

Sir GEORGE TURNER.—Yes, under certain conditions which take away the whole value of his evidence so far as my honorable friend's case is concerned. The proposal for the adoption of a decimal currency was brought before Mr. Gladstone, and also before Mr. Goschen, in 1887, and before Sir William Vernon Harcourt in 1893, but they all took up the same position that I feel forced to adopt.

Mr. G. B. EDWARDS.—They always had the Irish question, or some other of equal importance, to engage their attention.

Sir GEORGE TURNER.—I think that the weight of evidence undoubtedly substantiates the proposition that we have no right to put our people to the inconvenience and loss which must result from a change of currency, unless there is a much stronger demand for it than is apparent at the present time. I quite admit that a discussion of the matter may arouse interest, and bring forward enthusiastic supporters of the proposal, and that the public may be taught that the benefits to be derived from the simplicity of keeping accounts, and the lesser schooling required, will compensate them for the losses to which they will have to submit in the first instance. But, at present, they do not take

that view. I welcome this discussion because, I think that it will prove useful, and it may help forward the end which my honorable friend has in view.

Mr. G. B. EDWARDS.—The Australian Natives Association, which is a representative institution, has declared itself in favour of the decimal system.

Sir GEORGE TURNER.—That may be ; but even the members of that body would no doubt much prefer to have the scheme brought forward in connexion with the other features to which I have referred. Without any reference to Mr. Chamberlain I contend that we should not alter our system unless the British Government can also be induced to alter theirs. At present they are apparently not in favour of a change, but if there were a strong expression of opinion from the people of Australia they might be led to take action in this matter, as I believe they undoubtedly will in connexion with the metric system.

Mr. THOMSON.—That will involve a much greater disturbance.

Sir GEORGE TURNER.—The Imperial Government are much more favorable to adopting the metric system than a new currency, and in spite of the report of the committee, I think that offers a much more ready means of saving the time of school boys and girls, and of simplifying the operations of business. If the metric system were adopted, I believe it would prove of great convenience. The Prime Minister, when he attended the Premiers' Conference in London, was in favour of that system, and drafted resolutions, now in my possession, which he desired to bring before the House for the purpose of giving effect to a recommendation in that direction.

Mr. THOMSON.—The coinage would have to be altered if the metric system were adopted.

Sir EDMUND BARTON.—A great many authorities think that the metric system should precede decimal coinage.

Sir GEORGE TURNER.—I think that the evidence available to us shows that the metric system is of far greater importance than the question of altering the currency. As one witness, whose evidence I shall quote, says, "it will be putting the cart before the horse" to adopt the decimal currency before the metric system.

Mr. G. B. EDWARDS.—The French Consul holds the contrary opinion, and Senator Walker also.

Sir GEORGE TURNER.—No doubt varying evidence has been given on the matter, but Senator Walker is not favorable to my honorable friend's contention. After reading the evidence I fail to see how the committee could have arrived at their decision. I think that my honorable friend must have imparted a considerable amount of his enthusiasm to his colleagues. That is the only way in which I can explain the result. One of the witnesses, Mr. McBride, who is apparently the general manager for the Massey Harris Co. in Australia, is among the witnesses, most of whom had particular ideas of their own, who came before the committee. Mr. McBride says—

I do not know whether there would be any particular saving there. Your text-books of course would have to be changed to the decimal system. In the Canadian schools children are taught both the decimal and the pounds, shillings and pence systems. I suppose that the same thing would apply here.

Mr. O'MALLEY.—Hear, hear ! I had to learn them there.

Sir GEORGE TURNER.—At a later stage, speaking with regard to the mil, Mr. McBride says—

I think that would be awkward for all time to come, because you would be establishing a different value for your coinage from the values in Canada and the United States.

Evidently Mr. McBride is permeated with the system to which he has been brought up from his childhood. Mr. Wardell, the superintendant of the bullion office of the Mint, goes very fully into the matter, and says—

The chief argument against its adoption in England was the undesirableness of making a change in the habits of the people unnecessarily. Mr. Gladstone, when Chancellor of the Exchequer, considered "it a very serious matter indeed, and one which ought not to be undertaken on any mere abstract opinion." It was pointed out that the primary purpose of coins was to facilitate payments, not calculations. Coins are instruments for adjusting the retail transactions of the market ; therefore, the greater the divisibility the better. . . . The chief obstacle to the adoption of the decimal system in England appears to be that no Government has yet cared to face the unpopularity of making a change in the habits of the people, there being no demand outside certain circles for the alteration. . . . It must not be forgotten that a very large number, probably a great majority if we include ladies, who would be largely affected by any change of the coinage, are unaccustomed to the use of decimals. The question is asked by the committee—"Does the decimal system of coinage possess such undoubted advantages as to render its adoption desirable, even in the face of

the difficulties occasioned by any alteration in the value of the coins by which calculations are made, and values expressed." I cannot bring myself to think so. In making calculations, it is undoubtedly much simpler than our present system, but it seems to me that calculations of value, and the coins we use for payment, are largely distinct from one another.

He also says—

So far as I can trace, no country has deliberately set itself to alter its coinage unless the existing conditions were unsatisfactory and an alteration urgently needed, except perhaps in France, when the Revolution suggested changes in everything. But even as to France there is evidence before the Decimal Commissions to show that the currency was not satisfactory. I confess that I cannot see any great advantage in altering the present system of coinage to which we are accustomed, and which suits our requirements. There is no coin at present in use which could be dispensed with without much inconvenience.

In the Mint we use the decimal system for weighing and calculations, but the money results are expressed in sterling. I do not see how we could gain anything. Values in pounds, shillings, and pence are so easily added up, and so easily understood, that I doubt whether we should gain anything by expressing them decimally.

There is no purely decimal system possible which would retain both the pound and the penny, and so many of our values are expressed in either one or the other that great confusion would attend the abolition of either.

That is what presses upon my mind, and evidently pressed upon the minds of the members of the committee and of the witnesses, because a strong effort was made to arrive at a new coin, which would be worth £1 0s. 10d., without getting rid of the *vereign*. With regard to the metric system, Mr. Wardell says—

It seems to me that it would be putting the cart before the horse to introduce a decimal coinage system before decimal weights. I have shown that the object of a change in currency in any country has generally been to standardize confused currencies. Our currency is not confused. What is confused is our system of weights and measures, and if it is desired to make any alteration, the first step would appear to be to standardize them. If, after this has been done, it should be found inconvenient to make payments in existing currency—for the facility of making payments is the only use of subsidiary coins—then a good case might be made out for altering the coinage to suit conditions which had been found to be inconvenient.

He also remarks—

The vast majority of the people in the country have never worked a decimal sum in their lives. Ladies would certainly be largely affected by the change. Fancy a mechanic's wife going into a butcher's shop on the Saturday night, and having to work out calculations in decimals. Of course, instructions would have to be given in our schools as a preliminary.

Sir George Turner.

My honorable friend may be able to show us that all this would be absolutely unnecessary, but although I followed him very carefully, he has not said anything which removes the difficulty which was in the minds of some of the witnesses, and is also in mine.

Mr. O'MALLEY.—In America the dollar is the unit.

Sir GEORGE TURNER.—I cannot get away from the simplicity of the American system, but that now recommended by the committee is more complicated to my mind than that under which we are working.

Mr. THOMSON.—There is no difficulty in connexion with the new system.

Sir GEORGE TURNER.—There is a great deal when you go below the sixpence.

Mr. THOMSON.—The difficulty in connexion with the American system is in working the dollar into pounds.

Sir GEORGE TURNER.—I have been making extensive quotations from the evidence in order that honorable members may have an opportunity of studying it. Mr. Wardell further remarks—

It seems to me that the time to alter the currency is when the shoe pinches; when the existing system is inconvenient.

Mr. FULLER.—The shoe pinches now!

Sir GEORGE TURNER.—I cannot agree with that, because, except for some purposes of calculation, our system is a good one and works satisfactorily.

Mr. FULLER.—It might be improved.

Sir GEORGE TURNER.—No doubt; but I think that by improving it we might create more difficulties than by allowing matters to remain in abeyance, unless we can at the same time make other changes with regard to our measures, and induce the Imperial authorities to join us. If we could do that I should support my honorable friend in bringing about the suggested reform. Mr. Wardell continues—

As I have said, the only reason in the past for any alteration in currency in any country, as far as I have been able to ascertain, has been that the authorities of that country desired to put things right and to avoid confusion.

It cannot be said that there is any confusion in this country. The witness continues—

They have never deliberately started a new currency from any prospect of advantage in the coinage of it. The great point to consider is that existing values should be altered as little as possible. If you adopt a different system of currency you have to alter everything.

Later on Mr. Wardell says—

If the decimalization of anything is required, the first thing should be to decimalize our weights and measures, and then see whether our coinage would fit in with it.

The honorable member for South Sydney has referred to one of our bank managers, Mr. Henry Gyles Turner. That gentleman seems to have pretty clear ideas upon this matter. It is significant that some of the witnesses who came forward with written statements, which were utterly opposed to any change in our present system were, after undergoing examination at the hands of the chairman, rather disposed to think otherwise.

Mr. WATSON.—That shows the value of cross-examination.

Sir GEORGE TURNER.—It shows the influence which my honorable friend had upon them. Mr. Henry Gyles Turner says—

Speaking theoretically, it appears to me that in its educational aspect a good decimal system would immensely abbreviate the scholar's time devoted to arithmetic; but a uniform metrical system of weights and measures seems a far more crying need. As far as I can judge, without the knowledge of an expert, I should say that, of the existing systems, the dollar and cent of the United States is the best, the smallness of the unit in that of the Latin union being cumbersome for the gigantic operations of British commerce. But even the dollar is not free from that objection; therefore I have no doubt that in any alteration which may be made in England the pound sterling will be retained as the unit. I think there can be no doubt that a change to a distinct decimal coinage in the Commonwealth which was not adopted by Great Britain would be productive of great trouble and confusion, and would seriously intensify the difficulties of bookkeeping and for a time derange commercial operations. It would be better, before taking so important a step, to ascertain whether the agitation for this change, which has been going on intermittently for 40 years, is likely to be successful. It has been advocated by combined Chambers of Commerce and other influential mercantile bodies, and has been resisted by more than one Chancellor of the Exchequer, on the ground that the general public were apathetic where they were not hostile. Mr. Goschen was emphatic on one occasion, in 1887, in saying that while he could not deny that it was a matter of great importance and prospective benefit to the foreign commerce of the country, no Government would dare to propose such a change without a distinct mandate from the people that they really wished it, and were ready to submit to some loss and much inconvenience to bring it about. On another occasion, in 1893, Sir William Harcourt, in reply to a very influential deputation, while admitting the theoretical advantages, dwelt at great length on the practical difficulties, and the injuries which it would probably inflict on the working classes and small tradesmen.

The witness then points to the case in which cheques, promissory notes, and bills of exchange all expressed in pounds, shillings, and pence, and representing a total of over £82,000,000 sterling, were paid in six hours of one day without the intervention of a single coin. No difficulty was found in making the necessary calculations under our existing system of coinage. Mr. Gyles Turner was then asked—"Do you think it likely that that mandate will ever come from the people?" to which he replied—"I do not." That is the opinion of a gentleman who has had very large experience throughout the whole of Australia. Then we have the testimony of Mr. Charles Frusher Howard, author of a new system of reckoning. He wipes the committee out altogether. He says our present system is absolutely the best that could be adopted, and that it would be a crime to alter it. Then he brings forward his own proposal by which he desires to have ten shillings made the basis of our calculations. I really do not know from where my honorable friend managed to get some of these witnesses. Then Mr. Thodey, who has evidently studied this matter very deeply, deals with the objections which have been raised against the system. He says—

The principal recommendation of the decimal system is that some calculations of an ordinary kind are greatly facilitated. It is, within limitations, an instrument for the calculator. Should it be introduced, operations in international finance and commerce would practically continue to be conducted as at present. Education as regards the subject of arithmetic would become more troublesome, for the pupil would for a long time to come have to be taught both currency systems, the new and the old. Only after more than half a century of the decimal system did the French Government prohibit the teaching of the old system in the teaching of elementary education, but up to some years ago (I cannot speak of the present position) the requisition of a knowledge of the old system by advanced students was regarded as proper. No difference would take place with regard to teaching vulgar fractions, the decimal system being hopelessly and absurdly inadequate to express fractions. A child can easily be taught that one-seventh means one of seven equal parts of a whole, but what can he make of $\cdot 142857$ + repeated for all eternity, the decimal mode of expressing one-seventh? School exercises in pure arithmetic will not be shortened, and the study of complex numbers will be augmented by the necessity of learning two monetary systems instead of one. Currency relations furnish matter for calculation, and once a rate of exchange is given no difficulty need exist. But additional work would be occasioned by the conversion of a distinctive Commonwealth currency into the currency of the country

with which it is most closely connected in trade and finance—the United Kingdom.

I think great difficulties would arise if the penny with its present value (that is 1-240th part of the British sovereign) were not retained. The retail trade, the transactions of which form by far the largest proportion of the total number of transactions, would be universally affected. Then various Australian products, such as wool, butter, leather, &c., are sold at so many pence per lb., both here and in England. The difference between 1-240th and 1-250th of a pound in low prices would be so small, and so awkward to adjust, that the purchaser might easily gain the advantage.

That would be to the disadvantage of the producers of this country. He points out that under the decimal system the rates for freight would continue to be quoted in sterling—a difficulty which seemed to strongly impress the chairman of the committee as one which it would be hard to overcome. He continues—

It would be far better to remain in close touch with the currency of the country with which Australian trade and financial relations are the greatest, than to adopt either the Latin Union or American currency system. I do not think that the adoption of a decimal system of coinage would facilitate the adoption of a metrical system of weights and measures. They can be introduced concurrently, or either may be introduced after the other. But if the change is to be made, and as the only accruing advantage would consist in facilitating certain kinds of ordinary computations, it would be as well to introduce both together.

Then he points to the varying coinage systems. In this connexion, he says—

There is no accord between existing systems. There is the German system, which is a decimal system, the mark being divided in that way, and the mark differs completely from the franc, which is also divided into hundreds, while both systems differ completely from the American system. So that, if a desire arose for an international currency, every country would have to give up something, unless they all agreed to adopt the United States dollar.

He also says—

All accounts in the United Kingdom and Australia are stated in £ s. d., and, if they are to be intelligible to people coming after, those people must learn the present system as well as any new system that may be adopted. Take a case like this: You go into an auction room and buy ten bales of wool at 6-78d.; if you alter the penny you will have to go into a calculation to find out how many Commonwealth pence and fractions of a penny you would have to give. That would be very inconvenient.

Then Mr. Harlin, who appears to be a journalist, and was previously a schoolmaster, deals with the subject. His examination is reported as follows:—

You think there is no advantage in having a decimal relation?—I think there is an advantage

Sir George Turner.

in one direction only—in facilitating computation; but there are endless disadvantages in other directions.

What form do those disadvantages take?—The number 10 is a number which admits of only two factors, namely, the factor two and the factor five. The number 12, which is our basis for retail trade at present—being the parts of a shilling—admits of four factors, two, three, four, and six. As Herbert Spencer pointed out some years ago, if we exclude the factor five and the factor six as of little value, it remains that our existing division into twelve is three times as valuable as the division into ten would be. The question, as regards wholesale trade, is of very little importance indeed. The importance, to my mind, is in providing facilities for retail trade, and the number which admits of the largest number of divisions is, to my mind, a better number than the number which admits of few divisions.

Would there be any advantage in making the new coins on the decimal system?—Again I want a little more definition than is given in the question put to me. You say—“If we had to commence a new system.” I take it that we are part of the British Empire, and that our coinage must be more or less similar to the coinage of the British Empire. If the system adopted in England is the system we have at present of the sovereign, the shilling, and the parts of those coins, unless very good reasons are shown, indeed, in favour of adopting, say, the sovereign and something equivalent to a franc, we had better stick to the shilling.

Then the Deputy Master of the Mint, Mr. von Arnheim, deals with the subject. He says—

I do not think that any system has been received with favour by the British people. I think it would be impossible to establish a decimal system in England now.

Mr. Rix, another witness, also has a scheme of his own. He says—

It would be unwise for Australia to take independent action in endeavouring to bring about international uniformity of coinage. The British Government has not yet seen its way to adopt any of the proposed international units, viz. the 25 franc unit, the ten franc unit, or the farthing (the Anglo-Saxon unit), because each one involves a change in the British gold standard of value. This is a matter for Imperial action, and Australia can do little more than urge upon the Home Government the desirability of agreeing to some international unit of value, because of the immense commercial advantages it would give to the whole Empire. But we should consider the wisdom of adopting any practical proposal to decimalize our existing coinage. During the past half-century only one such proposal has been seriously considered, and agreed to by financial authorities as the most feasible, viz.—To keep the sovereign as the gold standard of value, and decimalize it. This is usually known as the “pound and mil” system, and has been taught in the elementary schools of Great Britain for the last 30 or 40 years, in order to familiarize the people with it. In 1849, the florin, or tenth of a pound, was first minted,

avowedly to pave the way for this reform in coinage and computation. But these efforts have been fruitless, and for the following reasons:—People do not think of the florin as the tenth part of a pound, but as a two-shilling piece. They do not reckon up small purchases in florins, but in shillings. The shilling is the people's unit of value and of account in the transactions of retail trade. The florin is only half-a-century old, while the shilling is many centuries old, and among the most conservative of peoples it will continue to hold the field against the newcomer. In several of the United States, notably in New York, the "shilling," equal to twelve and a half cents, is still employed as a unit of value in trading, though no coin of that name has been minted there for over 100 years. The attempt to introduce the "pound and mil" system is, therefore, I think, doomed to failure.

He is one of the witnesses with whom my honorable friend does not agree.

Mr. MAUGER.—Is not that on account of the man's training?

Sir GEORGE TURNER.—The same remark is applicable to the witnesses who expressed themselves in favour of the system. They have become accustomed to it, whereas our people are not accustomed to it.

Mr. MAUGER.—We have to decide which is the better system.

Sir GEORGE TURNER.—Exactly; and which is the more convenient for the use of our own people. I hold that, without having consulted them upon the matter, it is premature to adopt the report of the committee. Such a step would necessarily mean the introduction of a Bill to carry out the recommendations embodied in that report without the people themselves ever having had an opportunity of expressing an opinion upon the matter. For that reason, I desire to place before the House the adverse testimony of certain witnesses, in order that the chairman of the committee may satisfy me that I am absolutely wrong. I am perfectly open to conviction. The editor of the *Bankers' Magazine*, Mr. Davis, who was also called, said—

While it must be admitted the decimal system is attractive apparently in reckoning, we fear in division into fractions, say, thirds, it would be awkward, and it would have a very upsetting effect on small retail traders, and would also be difficult to arrange in settling for fares for trams, &c., newspapers, stamps, and articles of service now purchased at $\frac{1}{4}$ d., 1d., $\frac{1}{2}$ d., 2d., and for payment of wages. Taken altogether, we do not, as at present educated, favour the change.

This gentleman appeared to be an ardent supporter of the proposals put forward by the committee, but evidently he was expressing in the magazine what he believed to be the opinion of his patrons. That is

to say, he was voicing the view which is entertained by bankers of this particular system. Then Mr. Palmer, who is a Master of Arts, says—

At the same time, if the decimal system is not to be constructed on a scientific basis, if it is not to be constructed in such a way that it would fit in with all other weights and measures, then I think it would be very undesirable to adopt it.

Another witness called was Mr. Peter Madden, who said—

To adopt the present sovereign as the decimal standard would create a rebellion in every household, and give endless trouble to every baker, butcher, grocer, and draper in the labelling of their saleable goods, and would not give any satisfaction for years.

His system, I think, was based on the farthing.

Mr. MAUGER.—Who is he?

Sir GEORGE TURNER.—He is described as a retired head teacher of a large State school—"1st class, Dublin; science certificate, London; chemistry, Melbourne."

Mr. MAUGER.—That ought to be good enough.

Sir GEORGE TURNER.—It should carry conviction to the mind of my honorable friend. Then Mr. Pinschof, Consul for Austria-Hungary, was called, and his evidence is reported as follows:—

How does the British system of coinage work amongst the continental nations. Have you heard any complaints about it?—No.

Does it work smoothly at present?—I suppose so. There is no difficulty at all.

No difficulty in international commerce?—Not for the foreigners. That is why we do not object to the thing being kept.

So far as our commercial relations with foreign countries are concerned, he sees no necessity for a change. The honorable member for South Sydney has said that if the system proposed by the committee had been in force here, the Minister for Trade and Customs would not have had so many unpleasant tasks to perform. From my short experience of the Customs Department, however, I am able to say that a very considerable number of the mistakes made there are explained by the fact that the varying systems of coinage of other countries have to be taken into account in the transactions of the Department. Varying coinages have to be changed into our money. Now we are asked to add another to the many varying systems by decimalizing our coinage—by adopting a system which would not agree with any of the other systems of

decimal coinage with which the Customs clerks have to deal.

Mr. THOMSON.—They agree, in that they are decimal systems.

Sir GEORGE TURNER.—They agree only in name. I think the shipping clerks would find it much more difficult to convert the coinage of other countries into the system of decimal coinage proposed by the committee than to convert it into the existing system.

Mr. WATSON.—Not while the sovereign is retained.

Mr. MAUGER.—I think the right honorable gentleman is wrong. He is picking out all the evidence that is against the committee's recommendation.

Sir GEORGE TURNER.—I cannot find very much in favour of it. The chairman of the committee communicated with a large number of institutions, and obtained some replies to his inquiry as to the views which they held on this matter. With the exception of the Consular bodies, nearly the whole of these representative institutions sent answers which are against the proposals contained in the report. Mr. Fenton, the Victorian Government Statist, of course would naturally desire to have the decimal system for his own purposes, but he says—

I am strongly of opinion that Australia should be slow to add another to the already too numerous currency systems of the world, or to depart materially from the system which prevails in the United Kingdom, with which the bulk of our monetary transactions are carried on. But, if a system could be devised for internal purposes, by which the use of current coins of the realm could be used, it would be desirable, and a step in the right direction.

The Chamber of Commerce at Adelaide replied to the inquiry of the committee that in their opinion—

It would not be to the advantage of the commerce of Australia, and it would be a great inconvenience to traders, to adopt a system of coinage different to that which exists in Great Britain.

The Chamber of Commerce at Melbourne said that they agreed with the evidence given by Mr. Turner, which I take it was the statement submitted in writing. The Incorporated Institute of Accountants, from whom one might have expected a favorable reply, said that—

Any change was undesirable, unless as a part of an Empire scheme; and unanimously that any change to a decimal system of coinage would be ineffective and undesirable unless accompanied by the introduction of the metric system in connexion with our weights and measures.

The Brisbane Chamber of Manufactures replied to the committee's inquiry—

That, in the opinion of this Chamber, it is not advisable for the coinage of coin on the decimal system in the Commonwealth of Australia, unless first adopted by Great Britain; at the same time we approve of the coinage of coin in the States of the Commonwealth.

It will thus be seen that the leading commercial institutions expressed the opinion that this change should not take place unless as part of an Empire scheme. Senator Walker, who is also looked upon as an authority, said in regard to this matter—

I think we should certainly wait the decision of the Home Government before adopting the decimal system,

while Mr. Teece, the well-known actuary of Sydney, expressed the opinion that—

It would be useless to attempt the introduction of the decimal system unless Great Britain took the lead, as it would lead to great confusion for these States to have a coinage differing from that of Great Britain.

Mr. Swan, member of the Suffolk Bar, Massachusetts, wrote as follows:—

I believe that any decimal system which proposes to proceed by dividing the sovereign into decimal parts and to alter the penny, will place a serious obstacle to the attainment of a desirable international coinage, for the reason that it would imply an invitation to the United States to debase its dollar to the value of only 4s.

No doubt there are many other parts of the evidence to which reference might be made. I have gone carefully through the whole of it; I have read and re-read it with a view of coming, if possible, to the conclusion arrived at by the committee. But the evidence I have read, together with other portions of the evidence given before the committee, has forced me to the conclusion that we should not be justified in making this change, unless for reasons stronger than those which are now put forth. We should not be justified in making it unless we knew that the majority of the people were prepared to put up with the admitted inconvenience which such a system would entail.

Mr. WATSON.—What is the present attitude of the British Government? It was sympathetic.

Sir GEORGE TURNER.—According to the last letter on this subject that has been received from them, the Imperial authorities would be averse to this proposal.

Mr. G. B. EDWARDS. — They simply said that they did not think the question was ripe for practical consideration.

Sir GEORGE TURNER. — The following extract is from a letter sent by the Lords Commissioners of His Majesty's Treasury in reply to an inquiry whether the question of decimal coinage, or any system of international currency, was engaging, or was likely to engage, the attention of His Majesty's Government :—

In reply, I am to request you to inform Mr. Secretary Chamberlain that, in the opinion of this Board, the difficulties connected with any change of our coinage system are so great that there is no likelihood that the question will engage the attention of His Majesty's Government in a practical way.

Like myself, the Imperial authorities are apparently in sympathy with the movement, but do not think it is so urgent that it should be enforced upon an unwilling people. While I do not think we ought to go to the length of saying that we should have a coinage of our own — a coinage different from that of the mother country — I believe it is well within our province to say that we, as a Parliament, consider that some changes should be made in our system of coinage, and also in our weights and measures system. We might even go the length of urging the British Government to reconsider the question, and see whether a change could not be carried out. I would support a proposal of that kind. I hope that this matter will be fully discussed, both in Parliament and in the press, and then we shall be able to obtain some idea of the general trend of public opinion. Personally I am sympathetically disposed towards the proposal; but while I might use the new system, there are tens of thousands who would not be able to do so with readiness. There are thousands who would be confused and irritated by and who would possibly derive no practical benefit from it. The only real benefit claimed for it, so far as I know, is that it would simplify the keeping of accounts. As against that it seems to me that it would be absolutely necessary for us to keep both the old and new systems in force for many years. The rising generation would have to be taught both systems until the time arrived when the old method might be wholly superseded by the new one. I believe that that time will come. The difficulties would gradually disappear.

Mr. THOMSON. — They disappear in a month when a man goes to the United States.

Sir GEORGE TURNER.—My own experience is that people who go to the States do not trouble very much about the system of coinage there. They are told that they have to pay so much, and they pay it without making any calculations as to whether the charge is right or wrong. The evidence given before the committee shows that when the present system was introduced in the United States great difficulty was experienced in preventing people from continuing to use the old methods, while in France some 50 years elapsed before any attempt was made to make the decimal system compulsory. I do not know whether the committee would say that at the end of two years the decimal system should be made compulsory. If such a course were adopted, it would cause a great outburst of public feeling against it, and unless the change were made compulsory many years would elapse before it came to be generally adopted. In these circumstances, I cannot support the adoption of the report. I feel strongly that the system, if adopted, should be brought into operation in conjunction with the metric system of weights and measures, and that, if it could be avoided, it should not be accepted unless as part of an Empire scheme. I, therefore, move, as an amendment—

That all the words after "that," line 1, be omitted, with a view to insert in lieu thereof the words—"in the opinion of this House any change to decimal coinage by Australia should, in order to confer in any great measure the benefits expected from it, be preceded by its adoption in the United Kingdom, and if possible be accompanied by the metric system of weights and measures. That in view of the fact that the time has not, in the judgment of the Government of the United Kingdom, arrived for the substitution of the decimal system for the existing coinage, it would not at present be advisable to initiate the system in the Commonwealth."

Mr. JOSEPH COOK.—Put that into three words, "Yes, Mr. Chamberlain."

Sir GEORGE TURNER. — I have already dealt with that old gag, in the absence of my honorable friend. If the honorable member for South Sydney thinks that the course I have suggested would further the object he has in view, I shall have no objection to an amendment of the amendment providing that the Imperial authorities be strongly urged to reconsider the whole matter, and, if possible, to effect a change by adopting a system simpler than that which the committee have brought before us. My sympathies are with the honorable

member; but, like those who have had to deal with this matter in Britain, I fear that the advantages would be comparatively few, while the disadvantages to the bulk of our people would be great. I have pointed out the objections raised by the witnesses, in order that the matter may be fully considered. I have an open mind on the subject, and I have been guided only by the evidence which has been put before the committee. Upon that evidence I feel that I cannot support its conclusion.

Mr. SPEAKER.—I am not at all sure that I can accept the amendment. When the House met this morning the honorable member for South Sydney gave notice of a motion which, I think, covers practically the whole subject dealt with in this amendment, and though that motion is not literally upon the notice-paper at the present time, I think it must be held to be in the possession of the House. If I accept the amendment it will be placed upon the notice-paper, and the motion of the honorable member for South Sydney will also appear there, so that we shall have two notices on the business-paper at the one time dealing with practically the same subject. I ask the Treasurer therefore to let me look again at his amendment, and also at the motion of the honorable member for South Sydney. If upon further consideration I find that they do not conflict, or cover the same ground, both will appear, but if the reverse is the case the motion of the honorable member for South Sydney, having been given notice of first, will be placed upon the notice-paper, and I shall not be able to accept the amendment of the Treasurer.

Sir GEORGE TURNER.—If you, sir, come to the conclusion that the amendment and the motion conflict, it will be necessary to omit only that portion of the amendment which refers to the metric system to enable it to be placed upon the business-paper, because the other portion of it does not conflict with the motion of the honorable member for South Sydney. I should like to have the whole amendment placed before honorable members if that can be done, but otherwise I should like only that portion of it to be struck out which conflicts with the motion of which notice has already been given.

Mr. SPEAKER.—I am bound to carry out the standing orders, and I cannot, therefore, allow two notices dealing with the one matter in practically the same way

to appear on the notice-paper at the one time. If the motion and amendment are in conflict, the latter cannot appear; but if they are not in conflict they will both appear.

Mr. THOMSON.—Will the adoption of the amendment, or its acceptance as an amendment, in any way curtail the discussion on the main question?

Mr. SPEAKER.—In no way.

Debate (on motion by Mr. THOMSON) adjourned.

At a later stage—

Mr. SPEAKER.—I have again read the notice of motion of the honorable member for South Sydney, and I see that there is no such conflict between it and the amendment of the Treasurer as will prevent both from appearing upon the notice-paper.

CUSTOMS PROSECUTIONS.

Ordered (on motion by Mr. G. B. EDWARDS)—

That a return be laid upon the table of this House giving, in tabulated form, the under-mentioned particulars of all prosecutions under the Customs Act from the coming into force of the said statute to 30th May last—

- (a) Name and address of defendant.
- (b) Date of hearing.
- (c) The offence charged.
- (d) The amount of duty (if any) involved.
- (e) The penalty (if any) imposed, or the manner in which the case was disposed of.
- (f) The costs (if any) awarded.
- (g) The legal costs (if any) incurred by the Department in such prosecution.

PRIVATE TELEPHONES.

Ordered (on motion by Mr. HARTNOLL)—

That a return be laid upon the table of the House showing the number of private telephones in each municipal or police district in Tasmania (only excepting the cities of Hobart and Launceston) which have been relinquished since the regulations issued by the Postmaster-General came into force.

House adjourned at 3.37 p.m.

House of Representatives.

Tuesday, 16 June, 1903.

Mr. SPEAKER took the chair at 2.30 p.m., and read prayers.

SERVIAN INSURRECTION.

Mr. O'MALLEY.—I wish to know from the Prime Minister if he has received any official information concerning the alleged

murder of the King and Queen of Servia by savage military officers? Does he propose to communicate to the Imperial Government the abhorrence of Australia at this brutal crime, and the hope that the murderers will be brought to justice forthwith? Does he intend, in accordance with precedent, to propose a vote of condolence with the relatives of the murdered royalties?

Sir EDMUND BARTON.—The answer to all three questions is No.

DUTY ON WORKS OF ART.

Sir LANGDON BONYTHON.—Some trouble having arisen in South Australia with regard to the payment of duty upon a work of art—a statue of the late Sir Thomas Elder—and the matter having been referred to the Minister for Trade and Customs, I should like to ask him if he has arrived at any decision in respect to it?

Mr. KINGSTON.—No; but I will do so speedily. I was advised of the matter only this morning.

NEWSPAPER MISREPRESENTATION.

Mr. FOWLER.—I wish to know from the Prime Minister whether he intends to take notice of the policy of misrepresentation of this Parliament which is being prosecuted so vigorously in this city?

Sir EDMUND BARTON.—I believe there are in this morning's newspapers reports, which I have not had time to read through, of a meeting which was held in Melbourne last night, and I shall take into consideration the question whether it is necessary to make a counter-blast to what is described to me as a very gross misrepresentation.

APPOINTMENT OF NEW GOVERNOR- GENERAL.

Mr. CROUCH.—I wish to know from the Prime Minister if it is true that the name of the Duke of Connaught has been suggested as that of the new Governor-General of Australia? If so, will he take up the position that the Government of Australia must be consulted in regard to any new appointments; and will he give this House an opportunity of considering any proposed appointment?

Sir EDMUND BARTON.—I cannot say whose name has been mentioned in connexion with this matter, or by whom. Mention has been frequent and various; but no

official communication has been made on the subject, either to the Governor-General or to myself. It is hoped that an intimation will be given to this Government before any new appointment is made; but I hesitate to say that the question of such an appointment should be brought before this House before it is sanctioned.

Sir EDWARD BRADDON.—Why "hesitate to say"?

Sir EDMUND BARTON.—I hesitate to say that it should be brought before the House. I might have no hesitation in saying that it should not.

PAPER.

Sir PHILIP FYSH laid upon the table—

Tasmanian Post and Telegraph Offices—Return to Order dated 2nd October, 1902.

SOUTH AUSTRALIAN FEDERAL OFFICERS.

Mr. POYNTON asked the Prime Minister, *upon notice*—

When does the Government intend advancing the 6th and 4th classes of South Australian Federal officers who have reached the South Australian State maximum of their class from the intermediate grade salary to an equality with other Federal officers at the maximum of the Commonwealth 5th and 4th classes, and will such advance date from the coming into operation of the Commonwealth Act?

Sir EDMUND BARTON.—The answer to the honorable member's question is as follows:—

The remuneration provided under the Commonwealth Public Service Act and the South Australian Public Service Act for the several classes of the clerical division varies in many particulars, and there is no 6th class in the Commonwealth Public Service, while there is in that of South Australia. It is not possible to bring the salaries into accord until after the work performed by each officer has been valued, and the classification of the whole service has been completed. Any changes made can only date from the issue of the classification.

WESTERN AUSTRALIAN RIFLE CLUBS.

Mr. MAHON asked the Minister for Defence, *upon notice*—

1. Has his attention been drawn to the unnecessary delay experienced by rifle clubs in Western Australia in obtaining from Melbourne the necessary rifles?

2. To obviate such delay in future will he direct that a moderate supply of Martini-Enfield rifles be kept in stock in Perth?

Sir JOHN FORREST.—The answers to the honorable member's questions are as follow :—

Rifle clubs in Western Australia have not hitherto been formed under regulations, and rifles have been supplied from Melbourne, where there was a stock on hand. The rifle clubs in Western Australia will be brought under the new rifle club regulations, and arrangements will be made for keeping Martini-Enfield rifles in stock for sale.

OFFICERS: GENERAL DIVISION.

Mr. HUME COOK asked the Attorney-General, *upon notice*—

With reference to remarks made by him, as reported on page 2076 of *Hansard* of last session; what provision has been made for the promotion of officers of the general division who passed State clerical examinations?

Mr. DEAKIN.—The answer to the honorable member's question is as follows :—

It is intended to declare a specified number of vacancies in the 5th class to be filled by officers who may be found suitable, and who have qualified by passing the State clerical examination.

ENGLISH LETTER RATES.

Sir EDWARD BRADDON asked the Prime Minister, *upon notice*—

Whether it has not been agreed between the British and Commonwealth Governments that letters from England bearing the full postage at the 1d. rate prevailing there shall be received in Australia as sufficiently stamped, and, if so, by what authority are such letters surcharged by the Postal Department of the Commonwealth?

Sir PHILIP FYSH.—The answer to the honorable member's question is as follows :—

No such agreement has been arrived at between the British and Commonwealth Governments.

VICTORIAN POSTAL ARRANGEMENTS.

Mr. SALMON asked the Minister representing the Postmaster-General, *upon notice*—

1. Is the Postmaster-General aware that serious loss and inconvenience are being incurred by residents in the country districts of Victoria owing to the curtailment of postal facilities?

2. Is it a fact that this matter depends on the restoration of railway services?

3. If so, will the Postmaster-General take means to bring under the notice of the State Premier the urgent need for immediate action in cases where it has been decided to increase the number of trains where it is not necessary to wait until the complete time-table is prepared and adopted?

Sir PHILIP FYSH.—The answers to the honorable member's questions are as follow :—

1. The Postmaster-General is aware that inconvenience has been caused to residents in some of the country districts of Victoria owing to the reduced number of mails.

2. The reversion to the former number depends upon the restoration of the railway services.

3. The matter will be brought under the notice of the State Government.

EAGLEHAWK TELEPHONE LINE.

Mr. CHAPMAN (for Sir JOHN QUICK) asked the Minister representing the Postmaster-General, *upon notice*—

Whether complaints have been received from subscribers to the telephone at Eaglehawk respecting the obstruction to communication with Bendigo, consequent on the operation of the electric tramway which runs adjacent to the telephone wires, and what action is proposed to be taken to restore proper telephone communication between Eaglehawk and Bendigo?

Sir PHILIP FYSH.—The answer to the honorable and learned member's question is as follows :—

Complaints have been received. The matter is under consideration with a view to the adoption of the best means of removing the interference with the telephone wires, and also to ascertain whether in accordance with section 142 of the Post and Telegraph Act 1901, the tramway authorities have adopted all known and reasonable precautions to avoid injurious affection.

COMPILATION OF ELECTORAL ROLLS.

Mr. HUME COOK asked the Minister for Home Affairs, *upon notice*—

Whether it is true that the police who collected the names for the Federal rolls have not yet been paid; and, if true, when will they be paid?

Sir EDMUND BARTON.—The answer to the honorable member's question is as follows :—

I presume the honorable member refers to the Victorian Police. The accounts received from the Commissioner of the Police have now been dealt with, and it is anticipated that the accounts for the eight districts still remaining will be paid before the end of this month.

SUGAR BONUS BILL.

SECOND READING.

Debate resumed from 11th June (*vide* page 795), on motion by Sir GEORGE TURNER—

That the Bill be now read a second time.

Mr. THOMSON (North Sydney).—When I moved the adjournment of the debate last Thursday, I did so, not altogether

with the object of affording myself an opportunity to speak upon the Bill, but in order that the promise of the Treasurer might be carried into effect, and that other honorable members, some of whom had left for their own States, might have an opportunity of discussing the measure at its second-reading stage, as I knew they desired to do. However, being called upon now, I will say what little I have to say on the matter at once. It seems to me, after a perusal of the figures put before us by the Treasurer, that there are only three adoptable means for arriving at an Inter-State settlement in connexion with the rebate which this Parliament has decided shall be given upon sugar grown by white labour. The first of these means is the adoption of the production basis, under which each producing State would be debited with the whole amount of the rebate paid on the quantity of white grown sugar which it produced. I think it will be recognised at once that such an arrangement would be unfair to Queensland, and to New South Wales, or to any other producing State. Furthermore, in dealing with this matter, we must not confine our attention to the present producers, because the Excise Tariff Bill provides for the granting of a rebate upon beet sugar grown by white labour, and at some future time beet sugar may be produced in States which are not now affected by our decision. If the amount of sugar produced were taken as the basis upon which rebate should be charged, this is what would happen. If the excise were to be collected as it is at the present time, and the consuming States got credit for it, while the producing State was debited with the amount paid for rebate, certain States would be getting £3 a ton upon the sugar consumed by them and grown in Queensland or New South Wales, while the two producing States would be paying £2 a ton in rebate upon that sugar. But if the adjustment were not made in that manner, and the rebate were simply debited to the producing State, on the amount of sugar produced by white labour, then, if the quantity of sugar so produced in Queensland increases, as it was anticipated by those who supported the arrangement in the first place that it would increase, that State may be called upon to pay £200,000 or £300,000 in support of the policy adopted by Parliament to procure a white Australia. I do not think Queensland could afford to make such

a sacrifice for the Commonwealth. The second method of adjustment would be upon the basis of consumption, and if I could see a reasonable way of adopting that method, I should be inclined to advocate it. We now credit the States with the amount of the duties collected upon the goods which they consume, and if it were possible to do so, I think it would be in keeping with that system to debit them with any rebate of duties upon such goods. But that would be very difficult. In the first place, as the Treasurer has pointed out, it is very hard to trace white grown sugar after it has left the State in which it was produced. Some of it leaves that State in an unrefined condition, and enters the refineries of another State, is frequently mixed with black-grown sugar, and is then transferred to other States, where its origin is absolutely untraceable.

Sir GEORGE TURNER.—It cannot be traced after it goes to the mills.

Mr. THOMSON.—Quite so; there is no distinction between the two classes of sugar, and it is therefore impossible, without hampering trade operations to an extent that would be very undesirable, to trace the source from which the sugar comes when it reaches the ultimate point of delivery. There is also this consideration to be taken into account. Any State, by arrangement with its refiners, could decide which other States would have to pay the rebate on the white-grown sugar. It is perfectly certain that if New South Wales or Queensland found that by consuming their own white-grown sugar, they were losing the £2 per ton rebate, they would try to come to an understanding with the refiners that the white-grown sugar produced by them should be used to supply the requirements of other States, which would, therefore, lose the £2 per ton. If the sugar-producing States did not take any such step it would be still more objectionable to leave the refiners to decide which States should pay the rebate. I should hesitate to give to any firm or company the decision of such a question, and yet this would be the result if we adopted the consumption basis of adjustment. If it could be proved that those who consumed the sugar received an advantage of £2 per ton in the price they were called upon to pay, no adjustment would be necessary, because the £2 paid in the form of rebate would be balanced by the reduction in price. But the weakness of the protectionist argument in regard to

the operation of duties is shown most distinctly in the application now being made to the House for a different method of adjustment. It is quite evident that the price of sugar in each State is regulated, except to the extent of a slight shade of difference, by the cost at which similar sugar from abroad can be landed, duty paid. There is practically no difference in the price charged in the different States, because refined sugar from abroad can be landed in almost every one of them at the same price.

Mr. WATSON.—That only applies to conditions in which the production does not overtake the demand.

Mr. THOMSON.—The honorable member has anticipated what I intended to add. Any one in favour of protective duties would say that the present production of sugar is much below the requirements of the Commonwealth, and that different results will follow when local consumption is overtaken; that as soon as the local production rises to an export level the price will come down to the value of the article for the purposes of export. It has been proved, however—for the sugar industry is not a new one—that cane sugar cannot be grown here at a profit in open competition with the imported article. When locally-grown sugar is exposed to free competition with sugar from abroad, and has to come down to world prices, production is immediately checked. We cannot escape this fact in connexion with our sugar industry. On the other hand, when this check operates, and as soon as the production drops to any degree below the requirements of the Commonwealth, the price of the local article immediately rises to the value of the imported sugar after payment of the duty.

Mr. WATSON.—That has not been proved with regard to white-grown sugar.

Mr. THOMSON.—If it is necessary to give a rebate of £2 per ton in order to encourage the employment of white labour in sugar growing, and it is considered desirable that all sugar should be grown by white labour, that affords sufficient proof that local growers cannot compete with the black-grown sugar produced in other countries.

Mr. WATSON.—The rebate is intended simply to enable the growers to get over the transition period.

Mr. THOMSON.—I do not think that the difficulty will be felt during the transition period only. I do not suppose that

the honorable member for Bland believes that after the transition period has passed we shall be able to grow sugar with white labour in free competition with the imported article.

Mr. SPEAKER.—I wish to point out that the only question raised by the Bill under discussion is whether the sugar rebate shall be charged to the States in one way or another. The fiscal question, or the desirability or otherwise of the white Australia policy, or any matters connected with either of these two questions, are not raised, and therefore I could not permit the discussion of them under the Bill.

Mr. THOMSON.—I should not seek knowingly to raise a question that is not in order, but I wish to point out that I am introducing this matter in a way that makes it entirely relevant to the point at issue.

Mr. SPEAKER.—I waited for some time in order to ascertain the trend of the honorable member's remarks.

Mr. THOMSON.—What I said was that if it could be shown that by the protection given under the Tariff the internal price of sugar would be reduced by £2 per ton, there would be no necessity for an adjustment, because the rebate the consumer would be called upon to pay would be balanced by the reduction in price.

Mr. SPEAKER.—So far as the honorable member was proceeding on those lines, of course, I raised no objection.

Mr. THOMSON.—Continuing that line of argument, I submit, with all due deference to you, Mr. Speaker, that I had to show that it was not likely that such a result would follow. However, I only wish to point out, further, that we are at present losing through the excise duty and the rebates, as compared with the import duty, £336,000 per annum. If the excise duty, and consequently the rebate, are removed in 1907, and only white-grown sugar is produced and consumed in Australia, we shall then lose an additional £787,000, or in all £1,123,000 annually, representing a capital value of £22,460,000, at 5 per cent. That is a tremendous price to pay for the industry. However, I shall now leave that branch of the subject. Coming back to the other argument, which I was at first inclined to favour, that New South Wales and Queensland would gain an undue advantage under the arrangement proposed. I find there is no such advantage.

Mr. CONROY.—That might apply to this year, but not to subsequent years.

Mr. THOMSON.—The amount might vary, because, of course, the more production there is the greater equality there will be. Admittedly, refined sugar produced within the Commonwealth is sold at practically an equal price in all the States, because, as I have already pointed out, the price is influenced by the cost at which refined sugar can be introduced from abroad. The result, therefore, would be, that the consumers in any one or more producing States would get an advantage if the amount of duty paid into their States Treasuries per ton of sugar consumed under the new arrangement were out of proportion to the amounts realized in other States. I find that, according to the Treasurer's figures, the duty realized upon the sugar consumed in the Commonwealth averages £4 2s. per ton. This includes the consumption of both home-grown and imported sugars.

Sir GEORGE TURNER.—Is that with or without the rebate?

Mr. THOMSON.—That is after each State has been debited with its share of the bonus. The actual amount left in the New South Wales Treasury after its share of the bonus has been paid is £3 3s.; in Victoria, £5 5s.; in Queensland, £2 15s.; in South Australia, £5 12s.; in Western Australia, £4 17s.; and in Tasmania, £3 19s. per ton. These will be the amounts left in the Treasuries of the various States under the proposal of the Treasurer.

Mr. GLYNN.—Or, rather, under the Excise Act as well.

Mr. THOMSON.—Yes; under the adjustment proposed, and under the Customs Duties Act and the Excise Act.

Sir GEORGE TURNER.—Of course, those amounts may vary next year.

Mr. THOMSON.—Yes, of course; according to the amount of sugar produced. But I do not think that the figures I have given will vary very much if the production is the same, because the growers of New South Wales and Queensland sugar naturally seek their nearest markets, unless they are forced to the other States, in order to make those States pay the rebate.

Mr. FISHER.—That could be done by arrangement.

Mr. THOMSON.—Yes, as I pointed out before. The consumers of sugar in all these States will pay the same price for

what they use, and will receive in revenue the varying amounts which I have mentioned. That being the case, it will be seen that New South Wales and Queensland will still be at a disadvantage even if this Bill becomes law. Under these conditions, I see no other course than to accept the proposal of the Treasurer. I do this reluctantly, because I should have preferred to fix the payment of the rebate on a consumption basis, and because the rebate will, under the proposed arrangement, become a bonus; and I object to bonuses. Of course, I am aware that another proposal has been made, which practically amounts to a distribution of the payment upon the basis of consumption. It has been suggested that instead of granting any rebate or bonus, we should levy an excise duty of £1 per ton upon sugar grown by white labour, and impose an excise of £3 per ton upon that produced by black labour. That, however, amounts to the same thing as the payment of the rebate upon the basis of consumption.

Sir GEORGE TURNER.—That proposal is impracticable. We cannot levy an excise duty until the sugar has actually been produced.

Mr. THOMSON.—I know there are some objections which can be urged to that proposal, inasmuch as it would be difficult to decide where the sugar is consumed. For instance, Queensland and New South Wales would be induced to export their white grown sugar—upon which they would receive an excise duty of only £1 per ton if it were consumed within their own borders—to the other States, whilst they would consume the sugar produced by black labour which would return them £3 per ton.

Mr. FISHER.—Quite right.

Mr. THOMSON.—No doubt it would be right if the law permitted that practice to be adopted. But I object to a system which would allow that course to be pursued, and therefore I will support the proposal which the Treasurer has embodied in this Bill.

Mr. EWING (Richmond).—I take it, sir, that you have ruled that in your opinion—which of course controls the situation—the matter before the House does not involve the important question of a white Australia, or of the extent to which the legislation of last session has proved beneficial; but that it is purely a question of

whether this is a State or a national matter. Am I right thus far?

Mr. SPEAKER.—I certainly have not ruled, nor should I rule, that the question before the House is one of whether this is a national or a State matter. I merely called attention to the scope of the Bill, and intimated that I should be obliged to rule throughout that in discussing it honorable members must not go beyond its scope.

Mr. EWING.—This matter originated in a protest from the Premiers of New South Wales and Queensland against the method adopted by the Customs Department for the payment of the sugar rebate. Stripped of all technicality, it is perfectly clear that, had the original proposal of the Government been persevered in the payment of that rebate to secure a white Australia would have partaken of the nature rather of a State matter than of a national one. It is now proposed to pay the rebate out of the consolidated revenue upon a population basis. I wish to direct the attention of honorable members purely to that aspect of the case. The honorable member for North Sydney made a reference to the similarity which exists between the consumption of sugar by the States throughout Australia. But I would point out that the consumption per head of the different States varies very considerably. It is remarkable—possibly honorable members may be able to furnish their own explanations for the difference which obtains—that whilst New South Wales consumes 107 lbs. per head, the consumption in Victoria is only 93 lbs. per head, whilst in Queensland it is 123 lbs. per head.

Sir GEORGE TURNER.—Those figures are merely the result of guess-work. The States deducted from their total production the quantities exported, and concluded that they had consumed the balance.

Mr. EWING.—The figures which I am quoting are taken from *Coghlan*. South Australia consumes 100 lbs. of sugar per head of the population, Western Australia 114 lbs., and Tasmania 90 lbs. The mean consumption of the Commonwealth, therefore, is 103 lbs. Honorable members will observe that, at first sight, these variations appear somewhat remarkable. But they are not difficult of explanation, although, in deference to Mr. Speaker's ruling, I must not attempt to furnish that explanation. It will be noted that in Tasmania the

quantity of sugar used falls 10 per cent. below the mean consumption, whilst in Queensland it is 20 per cent. above it. If, therefore, it is conceded that this is a national, and not a State matter, it would not be possible to secure a more satisfactory method for distributing the rebate than that which is proposed under the Bill. Let us turn to another aspect of the case. Every honorable member is familiar with the population of the various States. In New South Wales it numbers 1,350,000, in Victoria 1,200,000, in Queensland 500,000, in South Australia 360,000, in Western Australia 180,000, and in Tasmania, approximately, 180,000, making a total of 3,800,000. The annual consumption of sugar within the Commonwealth is 177,000 tons. If, as the honorable member for North Sydney mentioned, the States paid an import duty of £6 per ton upon their total consumption, the revenue thus derived—assuming that no sugar were produced in Australia—would be approximately £1,100,000. I ask honorable members to note the enigmas connected with the sugar trade which are brought about by the oversea trade, by the contiguity of the producing States, by production, and the presence of refineries. If Australia received the revenue I have indicated from the sugar required for its own consumption, and that revenue were distributed amongst the States in proportion to their population, the New South Wales Treasury would benefit approximately by £390,000; that of Victoria by £360,000; Queensland by £150,000; South Australia by £108,000; Western Australia by £54,000; and Tasmania by £54,000. That is how the figures would work out, approximately, assuming that none of the States were producing sugar, but all were importing it from abroad. I am leaving out of consideration what may be termed the "accidents" of trade. But what is the present position? Instead of receiving these amounts the revenue upon imported sugar benefits the New South Wales Treasury by only £66,000, instead of £390,000; Victoria by £282,000, instead of £360,000; Queensland by £6,000, instead of £150,000; South Australia by £96,000, instead of £108,000; Western Australia by £42,000, instead of £54,000; and Tasmania by £21,000, instead of £54,000. Honorable members must see at once that if there were no sugar produced in Australia,

New South Wales would receive £390,000 as revenue from that source, and Victoria £360,000; whereas New South Wales receives only £66,000, and Victoria £282,000. These facts conclusively prove that this is a special matter, and one which requires special consideration. Let us take the case of one State as an example. I have seen it asserted by a South Australian that this is purely a State matter, and that the Commonwealth has no right to pay the sugar rebate out of the consolidated revenue. That statement was made by a representative of a State which—although its population is one third less than that of Queensland—receives a revenue of £96,000 from imported sugar as against £6,000 received by Queensland from that source. Yet, despite the great disadvantage under which the Treasury of Queensland is placed in regard to import duties, that State is coolly informed that the payment of the sugar rebate is purely a Queensland matter, and should not have come before this Parliament. Regarding that phase of the question, I submit that this never could have been a State matter. The whole question of the rebate is controlled—and the payment of a bonus, also, must ever be controlled—by the Commonwealth Parliament. The action which the Treasurer has taken is the only one possible under the provisions of the Constitution. If a High Court had been in existence, the right honorable gentleman could not have saddled the sugar-producing States—and that would have been the result of the action previously contemplated by him—with more than their fair share of the payment of the rebate upon the basis of population. To me that point appears perfectly clear. Sub-section (3) of section 51 of the Constitution says that the Parliament shall have power to make laws "with respect to bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth." The power to pay these bounties, therefore, is specifically taken away from the States. All the States must be treated upon an absolute equality. Had the Treasurer—influenced by any of the States—been sufficiently mean to suggest that the payment involved was a State and not a national obligation, it would have been speedily ruled that such was not the case.

Mr. CONROY.—Does the honorable member think that the States which produce the

sugar should alone bear the burden of the payment of the rebate?

Mr. EWING.—I am endeavouring to deal with that aspect of the case. I have already pointed out that under the Constitution all power in connexion with this matter has been taken from the States. When the people of the Commonwealth approved of the Constitution, they approved of a Constitution which makes it clear that all bonuses or rebates must be paid by the Commonwealth Government and not by the States. Any attempt to saddle any State with special responsibility in connexion therewith must be constitutionally wrong. I hope that the honorable and learned member grasps that point.

Mr. CONROY.—That being the case, why did the honorable member support the original proposal of the Government?

Mr. EWING.—The question then involved was one of whether any rebate should be paid. I supported that proposal in the first instance, because I believed—as I still believe—that it was the right policy to adopt. But this is a question of the method in which the payment shall be made. It is a question of whether the burden shall be distributed upon a national or State basis.

Mr. CONROY.—Over twelve months ago the honorable and learned member for South Australia, Mr. Glynn, and myself pointed out the trouble that was bound to ensue.

Mr. EWING.—Some people are under the impression that New South Wales has had nothing to do in order to obtain the payment of this rebate, but that State is as much concerned in the matter, in proportion to the area of land under cultivation with sugar-cane, as is Queensland. According to the number of acres under cultivation with sugar-cane, the number of coloured men employed in Queensland is 1 to 8·7, and in New South Wales it is about 1 to 8·8. The New South Wales people therefore on the face of it would appear to have as much to do with this matter as the Queenslanders.

Mr. BATCHELOR.—With black labour?

Mr. EWING.—In proportion to area under cultivation we had, and that is sometimes forgotten.

Mr. BATCHELOR.—Then both deserve to be punished.

Mr. EWING.—And we are being punished. That is exactly the position. The Federal Parliament informs the sugar grower that he must use white labour, that

he must substitute for the kanaka, costing 2s. 4½d. a day, white labour. That is the mandate of the Federal Parliament, and we have said to the grower of sugar with white labour that if he does that we will give him a rebate. The growers of sugar are very much concerned in the matter, so much concerned, indeed, that some people engaged in the industry in the State of Queensland protest very loudly that the proposals which have been made will ruin the industry. It must be remembered therefore that the sugar-growers are not getting this rebate for nothing. The mandate of the Federal Parliament is that they must get rid of black labour, and that the people of Australia are willing to aid them in doing so.

Mr. BATCHELOR.—Yes; we say to them —“We give you a protection of £6 per ton to get rid of it.”

Mr. EWING. — When the honorable member refers me to the duty of £6 per ton upon sugar, I may be permitted to mention that with the exception of starch, sugar is the only article in ordinary use upon which we have thought fit to impose an excise duty. We have an import duty of £6 per ton, with an excise duty of £3 per ton, and, therefore, at best, it can be considered a protection of only £3 per ton. The giving of a bonus where white labour is substituted for black puts a different aspect upon the case altogether. Though we have informed the sugar-growers that they must get rid of black labour, there is still a considerable difference of opinion as to this proposal. What does it amount to? According to the Treasurer's figures, it amounts to 3d. per head of the population. From one aspect of the case, the re-adjustment proposed might be said to be effected at a cost of 1½d. per head, but I prefer to set the amount down at 3d. That is the price that the people of Australia are called upon to pay.

Mr. GLYNN.—To-day; not next year.

Mr. EWING.—We are dealing only with to-day. The honorable and learned member and myself might not be here next year. Any prophesy with regard to this question involves an “if” or an “about”. We have certain figures before us, and they are the only figures to which we can direct the attention of honorable members as having the significance of facts. The proposal will mean about 3d. per

head of the population of the Commonwealth. In dealing with the question whether this is a State or a national question, I would ask what it is proposed that this bonus should be given for? The honorable member for South Australia, Mr. Batchelor, will grant that it is given for the substitution of Australian workmen for alien workmen. I have no desire now to discuss the protective policy at large, but when that policy was before us for discussion, what was the basis of the whole of the arguments submitted in support of that policy? Was it not that it was intended to substitute the work of Australian workmen for that of the workmen in other parts of the world? Is that a State or national matter? Honorable members know that we never asked whether certain industries were established at Footscray or Hobart. Possibly, with the one exception of the salt industry, no one ever asked where any industry was carried on. We regarded the question as a national one, and protective duties were agreed to in order to secure the substitution of Australian for foreign labour. The same argument applies in this case. When the honorable member for South Australia, Mr. Batchelor, voted for protective duties, he did so with that end in view. He agreed that it was a national matter, and that it should be our object to establish Australian workmen here, and to do away with the work of the alien and the foreigner. I heard the honorable member say these or similar words over and over again. This matter of the sugar bonus is in exactly the same category. The imposition of protective duties was a national matter, and this is a national matter, for the object sought is the substitution of white labour for alien and foreign labour. If the honorable member for South Australia, Mr. Batchelor, justifies protection from the stand-point of labour, he must give his vote for this proposal.

Mr. McDONALD.—Is the honorable member going to vote for it?

Mr. EWING.—I am inclined to think that that might have been clear even to the honorable member for Kennedy. I have no doubt that every honorable member in this House, when he next appeals to his constituents, will point out that he has assisted in a great national work in taking a forward step for the attainment of the white Australia policy.

Mr. CAMERON.—Every honorable member will not.

Mr. EWING.—Every honorable member ought to do so. I believe that every honorable member ought to hold that view. I am justified in making the statement that every representative of any portion of the Australian people will feel that he has done a great national work in purging various portions of Australia from black labour. If that be so, if the action taken has been national, and if it has been taken in compliance with a mandate from our constituents that was also national, how can any one now contend that this is a matter for the States? How can it be contended that we should accept the honour and the prestige that comes from honour, and refuse to accept the responsibility? If this is a national matter the nation, and not particular States, must pay for it. The whole idea of federation from the first has been the destruction of small State interests, and the establishment of a national ideal, the building up of something approaching responsibility, not to a particular State, but to the whole continent. If this be not a case in which we get far beyond State responsibility, and if it be not a case in which the nation is interested as a nation, then no such case has yet existed. I believe that morally the Treasurer has done the only thing he could have done, and I believe that, constitutionally, no other course was open to him. I shall, therefore, be prepared to support the proposal now before us.

Mr. CROUCH (Corio).—I desire to say that usually in financial matters I am only too glad to follow the Treasurer. In view of the position which the right honorable gentleman has held in the past in Victoria, and which he holds in this House, and speaking for myself as a supporter of the Ministry of which he is a member, I am usually only too ready to follow his lead, feeling that the right honorable gentleman will do his best not only for Australia, but for his own State. But, in bringing this Bill forward, I think that the Government and the Treasurer have for the first time raised the question of State rights. And in dealing with the question they are not looking to the rights of the four States who have to pay, Victoria, South Australia, Queensland, and Western Australia, so much as to the State rights and privileges, as I think I may call them, of the State of New

South Wales. When we remember that New South Wales has really done her best on every occasion to thwart the wishes of the whole of the rest of Australia, and that the cry of the leader of the Opposition, when he was trying to defeat the Commonwealth Bill, was that the other wretched insolvent States of Australia were going to ruin New South Wales, it is very strange to find that that State under the Treasurer's proposal will receive some £22,758. The representatives of that State come to us and the Premier of New South Wales tells us that he requires that Victoria shall pay to New South Wales some £16,286; South Australia, £5,658; Queensland, £862; and Western Australia £846. That is surely a complete reversal of the position as it has been previously stated to us. When we remember that this rebate of £2 per ton upon sugar is, under the Braddon sections of the Constitution, to be paid to the New South Wales Treasurer, it is all the more remarkable that this Bill should have been brought forward at all. It is now proposed to alter the Tariff schedule in such a way that the whole of the amount paid in rebate, upon sugar grown by white labour, shall be paid by the whole of the people of Australia upon a population basis. I desire to point out to honorable members that for years before the establishment of federation, Victoria had pursued a strong Australian policy. Without bringing the matter into a Commonwealth balance-sheet, and asking that the whole of the Commonwealth should pay for it, Victoria for years before federation supported Australian grown sugar by taxing her own people. We imposed a duty of £12 per ton upon all beet sugar coming from the continent of Europe.

Mr. CONROY.—It was grown by white labour.

Mr. CROUCH.—Cane sugar was imported at a duty of £6 per ton only, the desire being to encourage the growth of sugar by white labour in Queensland. Victoria at no time asked for any consideration for this action. The first movement in that direction comes very strangely from New South Wales, which State is to get the whole of the benefit of the rebate paid to growers in that State. New South Wales comes to the other States, who were said by its leaders to be almost insolvent before federation, and is the first to ask that the Commonwealth shall return money collected under

the Tariff to the State of New South Wales. The Treasurer has pointed out that a large amount of sugar consumed in Victoria is imported, and upon that sugar there is imposed a duty of £6 per ton. Who pays that duty? The honorable member for North Sydney says that it is the foreigner, but I think it is the Victorian people who pay it. If the Victorian people continue to import sugar, they will have to pay this £6 per ton duty upon it, in addition to the rebate we are here being asked to pay to the New South Wales Treasurer. The Treasurer stated the other day that he looks upon last year as a phenomenal one, and considers that afterwards the importations will not be so large. If, however, the people of Victoria do not import sugar, the State will lose the revenue to be derived from the duty of £6 per ton, and which is very necessary in the present condition of Victorian State finances. I am speaking particularly of Victoria, but this applies equally to South Australia and Western Australia. We must lose that revenue, and at the same time we must continue to pay rebate to the growers of sugar by white labour on the Richmond River, in New South Wales. This, in my opinion, is unfair. I think that if Victoria chooses to pay £6 per ton on sugar through the Customs, that is quite enough to ask the people of that State to pay.

Mr. MAUGER.—Have we federated?

Mr. CROUCH.—We have federated. The honorable member for Melbourne Ports need not think that I am not speaking from a Commonwealth stand-point.

Mr. MAUGER.—The honorable and learned member is speaking from a very narrow stand-point.

Mr. CROUCH.—Indeed I am not. I do not think this is a fair proposal so long as that section exists by which duties that are collected in one State have to be credited to that State. While that lasts, we cannot regard the Commonwealth as an entity, but as departments. The section has an effect on the State revenues, and I think an injustice is being done to Victoria, Queensland, and Western Australia in the matter. There is another way in which Victoria, and I suppose every other State, would have an equal claim on the Commonwealth. The claim of New South Wales is that because a certain policy has been adopted—that of paying higher wages to white men—therefore the Commonwealth should come to its rescue.

In Victoria we have a whiaky and brandy distillery, which is compelled to pay a higher rate of wages than is paid in the other States. Because we have approved of high wages being paid, are we, then, to refund to the distillers the excise duty which they have to pay to this State? The position would be exactly the same. Because we are approving of a certain policy, we are trying to override a policy which the Commonwealth has adopted, and a position which is asserted in the Constitution Act, which I do not think we can override. We have the statement from the Treasurer that next year Victoria will not import so much.

Sir GEORGE TURNER.—I cannot tell that yet.

Mr. CROUCH.—If there was one argument that ran through the speech of the Treasurer it was that this was a phenomenal year. Referring to Victoria and New South Wales he said—

It has been the good fortune of these two States to receive a very large amount of revenue from imported sugar, an amount far more than I anticipated, and much in excess of that which will probably be derived from the same source in ordinary years.

I take it that when he made that statement he knew what he was talking about, and that next year Victoria will not import so much sugar.

Sir GEORGE TURNER.—It all depends upon what Queensland produces.

Mr. CROUCH.—Yes. If Victoria does not import so much sugar, then it means that it will have less revenue from that source. I am speaking of Victoria only; but I might say that all the States except New South Wales will import less sugar, with the consequence that they will get less revenue; that more imported sugar may go to New South Wales, and yet all the time, although we are suffering this loss of revenue, we are paying a yearly increasing amount of rebate to that State. That means that all the other States will get no increase in revenue, but will have to pay the rebate. There is another point which, I think, ought to be considered—that it is a far better thing to have white men in the State than black men. That is admitted by the fact of a white Australia policy having been adopted. A white man uses far more taxable articles than does a black man.

Mr. L. E. GROOM.—Is that the honorable and learned member's only reason?

Mr. CROUCH.—That is one reason, and it is the only reason I wish to use now. If there are a number of white men where previously black men were employed—and that is what the rebate has done for New South Wales—it means that those white men will use far more taxable articles than were previously used, and, although New South Wales may lose upon the rebate which she has to pay to white men, it will get customs duties from the articles which will have to be imported to supply those men, and which black men would not use. For instance, although white men use whisky, black men will not use so much.

Mr. McDONALD.—Will they not? It kills them a little more quickly.

Mr. CROUCH.—In view of the experience of my honorable friend, I will say that the black men use only as much whisky as their wages will permit; that their wages are not so large as are those of white people, and that, therefore, they cannot use so much whisky as white people do. Although the State may lose slightly through the rebate, it will get a large advantage from the use by white men of taxable articles. Yet we are proposing to pay a rebate equal to that which was paid last year on white-grown sugar—£36,000. I am sorry I cannot agree with the Treasurer. If the Commonwealth pools the rebate, it should pool the imports. The Treasurer knows that he cannot do that under the Constitution Act.

Sir GEORGE TURNER.—Do not ask me to do that in the interests of Victoria.

Mr. CROUCH.—I think it is a fair thing.

Sir GEORGE TURNER. — I am afraid that my honorable and learned friend has not seen the figures. I can give them to him if he likes.

Mr. CROUCH.—There is no need for the figures to be given. If we are to look at this question from a Commonwealth standpoint on one side, we must look at it from the same stand-point on the other side. It does not matter to me whether Victoria loses or gains, so long as it is fairly treated all round. It does not matter to me if South Australia, Western Australia, and Queensland gain so long as they are treated fairly in both directions. But if New South Wales is to get the rebate she should also throw into a common pool the revenue which she receives from the importation of sugar. That is the

only way in which it is possible to meet this position fairly. These facts have been missed in the previous discussion. Strong advocates of the Bill have submitted their views, and, although, of course, I would not vote against the second reading, I think that the views I have expressed should be considered by honorable members. I trust that the Treasurer will be able to show that he has weighed these matters, and is dealing fairly, not only with the Richmond River district of New South Wales, but with the rest of the Commonwealth.

Sir EDWARD BRADDON (Tasmania).

—On this occasion the Opposition are, I hope, going to assist the Government out of a mess which they have got themselves into in some inexplicable way, to which I need not refer. We passed a Bill which provided that this matter should be dealt with by way of a rebate, and then it dawned upon Ministers that there was no possible way to pay the rebate, as, indeed, I think, was obvious enough, inasmuch as it was not possible to them to hand back £2 out of the £3 per ton levied by way of excise without infringing the Constitution. We are now asked to do this thing by way of a bonus, the cost of which is to be cast on the States without regard to the extent to which they consume black-grown or white-grown sugar. We, on this side, recognise that this is a price which the various States have to pay for a white Australia, and which can only be paid, as the honorable member for North Sydney has said, equitably by being paid ratably at so much per head. We have to pay this as the price for a white Australia, not, I hope, the sort of white Australia which the last speaker referred to—a white Australia which was to be encouraged by imposing a duty of £12 per ton on white-grown sugar, and a duty of £6 per ton on sugar produced by coloured labour. That is what the honorable and learned member proposed as a splendid way of facilitating the white labour movement. I heard from him, as I have heard from other members, some curious things about that section in the Constitution with which my name is associated. I have heard all sorts of things said about that section—that it prevented this thing and the other thing from being done. The Prime Minister has himself said a great many things of that sort, casting the blame and the odium, if there is any, on that unfortunate provision. The honorable and learned

member for Corio seems to have found that under the section it is impossible to pay this bonus on sugar. There is nothing in the section which prevents the expenditure of the Customs revenue in any direction whatever. All it does is to limit the amount of expenditure within the bounds therein laid down. I presume that the Treasurer has not at his disposal funds to meet this charge out of one-fourth of the net revenue?

Sir GEORGE TURNER.—Ample funds.

Sir EDWARD BRADDON.—I am glad to hear that at the present time there will be ample funds.

Sir GEORGE TURNER.—I could spend another million and a half without running against the section, I think.

Sir EDWARD BRADDON.—That is so at present, but can the right honorable and learned gentleman say that will be so while the production of white-grown sugar increases, and proportionately the consumption of black-grown imported sugar decreases?

Sir GEORGE TURNER.—During the currency of this Bill I should think there is no doubt that it would be so.

Sir EDWARD BRADDON.—All I can say is that the honorable and learned gentleman is very hopeful.

Sir EDMUND BARTON.—He is never very sanguine.

Sir EDWARD BRADDON.—I am afraid that the honorable and learned gentleman is not sanguine in the right direction. He ought to be hopeful that there will be that increase in the local production of sugar for local consumption.

Sir GEORGE TURNER.—If produced at all, it will be only a fourth, and that would not be more than £250,000 at the very outside.

Sir EDWARD BRADDON.—That will be considerably more than the cost of that glass of beer we have heard of to the unfortunate taxpayer. It is impossible to put away the idea that this bonus is in some sort a direct tax. It is the principle, I believe, of the Ministry that they will not go in for any direct form of taxation. There is nothing in the Constitution to prevent their doing so. They can impose any direct tax they choose provided that it is the same for every portion of the Commonwealth. We are now come to this unfortunate necessity of imposing a direct tax which will be in the form of a small

poll tax. I can only regret that the necessity has arisen—a necessity for which Tasmania among other States will have to pay—and that we shall have to pay more and more as the time goes on. But there is, apparently, no hope of extraction from the difficulty without passing this measure; and I can only add that it is my intention to support it.

Mr. GLYNN (South Australia).—Possibly I may be required to explain why I should assent to a measure which involves a sacrifice of £5,658 a year to South Australia. But I look upon the matter involved as a Federal one. Though I object to the surrender of the excise in 1907 as entailing an enormous price for the policy of a white Australia—I voted for the principle, but I object to the price to be paid—yet I do not look upon this as a matter to which that consideration applies. What we now have to consider is a fair method of apportioning the rebate which, until the year 1907, is granted. After considering the matter carefully, I cannot see how it can be done in any other way except by an apportionment per head of population. We must look upon it from a federal point of view. We cannot say, because Queensland and New South Wales are the only States affected by the sugar question—they will benefit by £61,267 this year by way of rebates—that they shall pay the full amount themselves. That would be an absurd position. We cannot segregate States and say that because the policy of a white Australia directly affects only two, those must be the only States which pay for that policy. We are bound, as this is a Federal matter, however obnoxious the principle may be, to deal with it per head of population. At the same time I think that South Australia cannot complain that the Government made a mistake in her favour in their original Bill. The only true method upon which this matter could have been decided was to make the import duty and the excise duty exactly the same during the period between now and the year 1907. I think that honorable members will agree with me upon that point if they consider the matter a little. The difficulty at present is this, as has been pointed out by the Treasurer and the honorable member for North Sydney: South Australia gets credit for £6 per ton on all her consumption of sugar, except about 500 tons. New South Wales gets credit for about £3 3s. or £3 4s., without taking into consideration

the amount of the rebate. The honorable member for North Sydney said that the amount for which New South Wales gets credit is about £3 3s. per ton after having credited the rebate. But at the present time, as we do not take this into account, probably New South Wales gets credit on her consumption for more than £3 3s. per ton. We in South Australia get credit for about £6 per ton. But we shall under this Bill get credit for £5 12s., although the average credit for the States is £4 2s. That is to say, we shall get credit for about 30s. more than the average credit for the States, while New South Wales will get credit for about 25s. under that average. So that, although South Australia really hands over something like £5,658 this year, it must not be forgotten that owing to the way the Government—I will not say made a mess of the matter originally but led us into a difficulty, we in South Australia are getting something like £30,000 or £40,000 a year from sugar more than we should have done under the old conditions. Our revenue from sugar only averaged about £54,000 a year, and we are getting £96,000 this year, simply because we are getting the full rate, while the other States only get on an average £4 2s. per ton. The whole difficulty would have been got over had the Government proposed that the excise duty should be £6 per ton, when the import duty was fixed at £6 per ton, and had they granted a bonus on the production of sugar by white labour. There would have been no necessity to follow up the sugar when once it left the factory. All that the Treasurer had to say was—"Here is the sugar produced by white labour; we give you a bonus of £5 per ton for its production," which amount would be equivalent to the rebate of £2 per ton on an excise of £3, and would be perfectly uniform, inasmuch as New South Wales would get credit for £6 per ton on her total consumption, Victoria would get credit for £6 per ton, and South Australia and the other States would also get credit for £6 per ton, while the bonus expenditure would be debited per capita. We should not then have had the ridiculous position of South Australia being credited with £6 per ton, whilst the other States on an average were credited with £4 2s. The difficulty that has been created was caused by the mistake made by the Government in their leadership of the House, and it is our duty to help them to get out

of the muddle. Although I am strongly opposed to the proposed abolition of the excise in 1907—which is a matter for future consideration—still, to adjust the matter in the meantime, I shall vote for this Bill. At the present time I believe that the States are entitled, on the basis of consumption, to receive amounts which the Treasurer holds for them in trust. He was bound under the Constitution to pay them this money from month to month. That is clear under section 89, which says—

The Commonwealth shall pay to each State month by month the balance, if any, in favour of the State.

But what has the Treasurer done? Instead of paying the States month by month, as the Constitution prescribes, their surplus of the sugar duties collected according to consumption throughout the States, he has kept the money in hand, and has asked us to revise the Tariff which Parliament passed. After two years, he is asking us to cancel the constitutional duty which he found he was unable to perform, because it was unfair. That is a bad principle to adopt. This is really *ex post facto* legislation. We are all to some extent responsible in not having made the legislation in question satisfactory, but still it is a bad thing for this Parliament to pass an Act which is retrospective to the extent of eighteen months in regard to money which ought to have been allotted from month to month, which belongs to the States, which is held in trust for them by the Treasurer, and which, under the Constitution, he ought to have paid over to them. But under all the circumstances I consider that it is my duty to vote for the Bill.

Mr. CLARKE (Cowper).—As far as the object of this Bill is concerned I do not wish to say very much, except that I believe it was the idea of most honorable members when we gave legislative effect to the principle of the payment of rebate under the Excise Act that the rebate would be borne by the whole Commonwealth. At any rate, several honorable members to whom I have spoken have expressed that view, and I myself certainly thought that the rebate would be a charge upon the whole Commonwealth, and not upon the two States of Queensland and New South Wales. But it seems, from the technical or constitutional reasons that have been given, that this cannot be done, and looking at the question in the broadest possible

way from the stand-point of one who is in favour of the principle of a white Australia, I think that the House will be in agreement with the principle underlying this measure. What I rose for chiefly was to express the hope that when the regulations are being framed, the basis of the past year's crushing will be carefully looked into.

Sir GEORGE TURNER.—The Minister is doing that now.

Mr. CLARKE.—I am pleased to hear that, and I hope as a result there will be a more equitable distribution of what will now become the bonus. Although it is recognised that an honest effort has been made to deal with this complicated question, some sugar-cane growers are not quite satisfied with the distribution, or rather with the way in which the rebate has been apportioned. That is to say, their yield has been of a higher average than that on which they have been paid. I trust that that matter will be looked into, and that as far as possible the growers will get the full benefit of the rebate—or bonus as it will then be—in the future. I have no hesitation in supporting the measure, and am glad to notice that honorable members are receiving it in such a cordial manner.

Mr. CONROY (Werriwa).—The Bill before us is, I am bound to say, one of the results of the ill-considered legislation that has been introduced, and I submit that it is a matter for which Ministers are entirely responsible. It is a great pity that at the very inception of federation so little care was taken in considering legislation from the point of view from which statesmen ought to consider it, and of making the measures passed as elastic as possible. Difficulties of this sort were pointed out when the question was first raised. It was also pointed out that the rebate to be given exceeded the amount that was paid in labour for cutting the cane. I find from *Coghlan* that there is a difference of something like 6d. to 7d. per ton between the cost of cutting cane by black labour and white. The figures are respectively 2s. 11d. and 3s. 5d. per ton. But say that the difference is quite 1s. per ton. The rebate formerly proposed was 4s. per ton, taking the cane to average 10 per cent. of sugar. Advantage has not been taken of the fact that the bonus might have been brought down from

4s. to 1s. to cover this difference. When we are considering the way the other States are affected it must be remembered that it is not at all improbable that the full amount of sugar used for local consumption in Australia will be locally produced. I find that a total of 194,000 tons of sugar have been raised in one year in Australia, and that exceeds the present consumption of something like 180,000 tons. When the Bill gets into Committee I shall raise a protest against the retrospective clauses of it. I do not think that we are legally entitled to pass them. As far as the Treasurer is concerned, it seems to me that the proposal now brought forward is better in many respects than the former one. At all events it enables each State to know exactly the price it is paying. That is one great advantage that will result from its passage. As to one question raised by the honorable and learned member for South Australia, Mr. Glynn, I think that under the Constitution there will be considerable difficulty in allowing matters to remain as they are at present. When the High Court is established—or even now, if Federal jurisdiction were given to the local courts—if an application were made by any State interested, the money held by the Treasurer would have to be paid over. I do not think that the fact that the Treasurer holds certain moneys would enable him at any future time to retain these moneys as against the State. I trust we shall not do anything that in effect is really varying an Act passed by this House. Such an Act is of a very solemn nature, and should be rescinded only by something of similar strength, namely, another Act. If the Treasurer were to ask us to alter the rebate duty, he would be within his province; but even were it within his province—I do not think it ought to be—to ask us to make a Bill retrospective, I do not think any attempt in that direction should be made by Parliament. Indeed, I am afraid that even if we did desire to make a Bill retrospective we could not do so under the Constitution. That part of the argument, however, I shall deal with in Committee when the details are before us. I opposed the sugar rebate in the first instance, and should do so now if opposition were of any value. I certainly think the suggested method of distribution is an improvement on the previous one, and there being no hope of repealing the

sugar legislation, I am bound to give my support to the new proposal.

Mr. V. L. SOLOMON (South Australia).

—The remarks of the honorable and learned member for South Australia, Mr. Glynn, to some extent cover the ground it was my intention to traverse. I want, however, to ascertain from the Treasurer what the system has been in reference to the repayment of these rebates. From what I could glean from the Treasurer's speech, the rebates in many instances have not been paid; and the Treasurer uses the term "paid" as if the producers of sugar by white labour first handed over the £3 excise, and subsequently, as a separate transaction, received the £2 per ton rebate.

Sir GEORGE TURNER.—The growers do not pay the excise; the refiner pays the excise, and the grower gets the rebate.

Mr. V. L. SOLOMON.—If such is the case, that is not in accordance with the Excise Tariff Act. In the schedule of that Act we find that the duty per cwt. of manufactured sugar is—

3s. until the 1st January, 1902, less, from the 1st July, 1902, a rebate to the grower of sugar cane and beet. The rebate in the case of sugar cane to be 4s. per ton on all sugar delivered for manufacture, and in the production of which sugar cane white labour only has been employed after the 28th February, 1902. The rebate is calculated on cane giving 10 per cent. of sugar, and is to be increased or reduced proportionately according to any variation from this standard. A similar rebate to be allowed in respect of sugar-beet—the rebate to be allowed at the rate of £2 per ton on the sugar-giving contents of the beet. All rebates to be allowed at the time of delivery of the cane or beet on the ascertainment in manner prescribed of the sugar-giving contents. . . .

I desire to call attention to the words which provide that all rebates are to be allowed at the time of the delivery of the cane or beet to the manufacturer. It is here provided that the rebate is to be allowed—not to be paid. What is the rebate to be allowed on? If it is ascertainable at the time of delivery what quantity of sugar there is in the cane or beet, there is an allowance on the quantity. What does "rebate" mean? We provide in the Excise Tariff Act that there is to be an excise of £3 per ton on Australian-grown sugar, with a rebate of £2 per ton on sugar grown by white labour, that rebate to be allowed on the delivery of the cane or beet to the manufacturer or at the mill. It is easy enough to ascertain at every mill what are the sugar-giving contents

of the rough syrup after the first crushing. Does the Treasurer mean that, in the first instance, the grower, on delivery, has to be paid £2 in hard cash, and that the £3 excise has not to be received until after the article is completely manufactured? If that has been the system, it strikes at the root of the whole excise legislation. When we passed the Excise Tariff Act our intention was to have, practically, three duties—a duty of £6 per ton against foreign imported sugar, an excise duty of £3 per ton on Australian sugar grown by black labour, and an excise of £1 per ton on Australian sugar produced by white labour. That allowance on white-grown sugar was not termed a bonus, but a "rebate"—a discount on the £3 per ton to be allowed if it was ascertainable in a sufficiently correct manner what the sugar-giving contents of the cane or beet were at the time of delivery. The schedule in the Act goes on to say—

the average sugar-giving contents of the cane or beet in any particular district shall be taken to be the sugar-giving contents of each lot of cane or beet in such district.

If the rebate has merely to be allowed, it is an allowance and not a payment. Surely it was never contemplated that the Treasurer would pay £2 per ton in cash. The idea was rather that the Treasurer would allow a rebate or discount, reducing the duty on white-grown sugar to £1 per ton. It was pointed out by the honorable and learned member for South Australia, Mr. Glynn, that New South Wales dealt with 10,200 tons of white-grown sugar and 39,800 tons of black-grown sugar imported from Queensland. It will be remembered that section 93, sub-section (1), of the Constitution provides—

The duties of Customs chargeable on goods imported into a State and afterwards passing into another State for consumption, and the duties of excise paid on goods produced or manufactured in a State and afterwards passing into another State for consumption, shall be taken to have been collected not on the former but in the latter State.

That is to say, the excise payable on this white-grown sugar produced and manufactured in Queensland would be £3 per ton, less the rebate or discount of £2 per ton, and New South Wales ought to have been credited with the duty on 39,800 tons of black-grown sugar at £3 per ton, or £119,000 more. There is no question of this being a bonus. What is important is that this £1 per ton ought to have been

collected at the time the sugar cane was brought to the mill, if the Customs authorities were satisfied that it had been grown by white labour, and the amount realized ought to be charged to Queensland on its export to New South Wales and credited to the latter State.

Sir GEORGE TURNER.—Does the honorable member say that the excise ought to be collected when the cane is delivered at the mill?

Mr. V. L. SOLOMON.—Why not?

Sir GEORGE TURNER.—Because the excise is payable on manufactured sugar.

Mr. V. L. SOLOMON.—If the rebate of 4s. per ton can be calculated on cane giving 10 per cent. of sugar, the excise can be ascertained. I cannot understand why, if the rebate of £2 per ton on sugar beet can be ascertained and allowed at the time of delivery, the excise of £3 per ton cannot also be calculated. What is the meaning of the words that the rebate is to be "allowed"? Is it that the Treasurer has, first of all, to draw a cheque, and allow the rebate on the ascertained contents, and then at some future period, he not then being able to trace the cane or beet, must trust that he may be repaid the excise of £3 per ton. Whatever may be the views of honorable members as to rejecting the original system of debiting the whole of Australia on a consumption basis, and accepting the proposal to debit on a population basis, it must be seen that clause 7 of the Bill before us overturns legislation which was approved and passed by this House. That clause practically says to the various States, which should have received regularly month to month payments of the balance of excise on the sugar consumed—"Although you received £1 excise upon the white-grown sugar you consumed, you will have to pay back to us your proportion of the rebate of £2 per ton, in order that one or two States may obtain a benefit we did not reckon on before." This is a Federal question of great magnitude; and I feel satisfied that if many honorable members had known the extent to which they were pledging the taxpayers of the Commonwealth, the proposal to give this rebate on white-grown sugar would have received much closer attention.

Mr. CONROY.—I called attention to this aspect of the question at the time.

Mr. MAUGER.—The provision would have passed all the same.

Mr. V. L. SOLOMON.—The provision might have passed, but there would have been much fuller discussion on the whole question. I am not going to argue that the proposal in the Bill—I am not now alluding to the retrospective legislation—that the whole Commonwealth shall pay in proportion to its population is unfair or inequitable. I do not think it is. I am inclined to take the view that, having discovered that the original position was a wrong one, the equitable and proper course to adopt was to bring in this Bill. But to my mind it is not fair to make the measure retrospective as is done by clause 7, and thus to charge amounts against States whose Governments had no idea that such charges would be made, and to keep from them sums of money which should have been paid to them long ago. I shall vote for the second reading, but I hope that the Treasurer will agree to the omission of clause 7, so that the measure may take effect from the date of its becoming law. It is not fair after a period of eighteen months to go back on our legislation, and make what are practically surcharges upon the States. If the clause is not omitted, there will probably be a great deal of trouble in getting the Bill through the other branch of the Legislature in which the States are specially represented. I trust, however, that the Treasurer will not oppose the attempt which will be made on this side of the Chamber to prevent the Bill from being retrospective, and in Committee I shall move the omission of clause 7.

Sir LANGDON BONYTHON (South Australia).—I do not know that I rejoice at the introduction of this Bill, but, as I have no wish to display an unfederal spirit, I suppose I must support its second reading. I fear that this is the price which the Commonwealth has to pay for a white Australia. It is rather hard on South Australia, however, because that State has in the past paid very heavily to prevent the introduction of coloured labour into the Northern Territory. I shall support the second reading.

Mr. FISHER (Wide Bay).—It must have been gratifying to most honorable members to hear the plain and open statement of the Treasurer that, in his opinion, our original legislation upon this subject was wrong, and that he is now taking the earliest opportunity to amend it. Even under the arrangement provided for in the Bill, Queensland will lose to the extent

of £862; but the Treasurer put his finger upon the weak spot when he stated that the feeling in that State arose because of the misapprehension of the Premiers of both Queensland and New South Wales, that their States will be called upon to pay the whole of the rebate. That was not contemplated by Parliament, nor was it provided for by the Act. It is satisfactory to those who supported the white Australia policy in the beginning to find that it is now being largely indorsed. In my opinion, our enactments will produce good fruit, and will prove to be for the welfare, not only of Queensland and New South Wales, but of the whole Commonwealth. I do not agree with the honorable member for South Australia, Mr. V. L. Solomon, that the Bill should not be retrospective. I would rather enlarge its scope than restrict it, and therefore I hope that the Treasurer will take power to enable him to pay bonuses from year to year as the planters increase the areas cultivated by white labour. It is no doubt the wish of honorable members that all the sugar grown in Australia shall be grown by white labour, and I think that such an alteration of the Bill as I suggest will help to more quickly achieve that end. I regret the tone which has been adopted by some of the representatives of Victoria who have spoken upon the Bill. Although originally Queensland was called upon to pay most heavily for a white Australia, I, as the representative of a Queensland constituency, nevertheless cheerfully supported the proposal to grant the rebate upon beet sugar grown by white labour which the Victorian representatives, selfish above those of every other State, desired. I am not parochial, however, in regard to this matter. I think there is not a State in Australia which cannot produce sugar, and I should like to see Victoria undertake the production of beet sugar. Then we shall have a truly national policy which every one of us can support. I am exceedingly pleased that the Government proposal has been so well received, and I venture to think that it will be more equitable than the arrangement which has prevailed in the past. The admirable speech of the honorable member for North Sydney on the subject, however, leaves practically nothing more to be said. Many of us plainly saw, in the first instance, that the original arrangement could, by an understanding between the sugar-growers and the manufacturers, be made to work

distinctly against the interests of particular States. Victorian representatives should remember, however, that while under the present arrangement their State will be £16,286 to the bad, it might have been next year, under the old arrangement, twice as much to the bad. I congratulate the Treasurer upon the plain and frank statement which he made. It is a credit to the Government, and an honour to Parliament, to have such a man in his position.

Question resolved in the affirmative.

Bill read a second time.

In Committee :

Clause 1 agreed to.

Clause 2—

There shall be paid out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, to every grower of sugar cane or beet within the Commonwealth, in the production of which sugar cane or beet white labour only has been employed after the 28th day of February, 1902, a bonus, at the rates provided by this Act, on all such sugar cane or beet delivered for manufacture after the commencement of this Act, and before the 1st day of January, 1907.

Sir GEORGE TURNER (Balaclava—Treasurer).—The honorable member for Wide Bay has referred to a matter in connexion with this clause which has been under my consideration since I saw the Bill in print. It is a somewhat important one, and I have, therefore, consulted the Prime Minister and the Attorney-General with regard to the effect of the clause as it stands. I take it that it is the desire of Parliament to encourage persons who are now employing black labour to substitute white labour for it. But if we provide that bonuses shall be paid only upon sugar-cane grown by white labour after a certain date, and delivered for manufacture before a certain other date, those who are now using black labour will have no inducement to substitute white labour for it in some future period. That is not our intention, and the original provision in the Tariff Excise Act was intended to mean that during each year rebate should be allowed to those who after a certain date in that year use white labour only. It was not intended that the Act should not apply to those who, after two or three years' experience, said—"We are going to abandon black labour and employ white labour," or to those who will be forced by the operation of the Pacific Islands Labourers Act to do so. The effect of the clause as it stands, however, is that only in cases where white labour only has been employed after

28th February, 1902, in the production of sugar cane or beet which is delivered for manufacture before the 1st January, 1907, shall a bonus be paid. Therefore, if a grower employed any black labour after 28th February, 1902, and during this year's operations, which will commence about July, employed white labour only, he would get no benefit under the Bill. To obviate that difficulty, I move—

That after the figures "1902," line 7, the words "or such date in each year thereafter as may be prescribed" be inserted.

Mr. POYNTON.—Will the provision apply to a part, or only to the whole of a plantation?

Sir GEORGE TURNER.—It applies to both. If a man can show that he has used only white labour on so many acres of his plantation, he will be entitled to a bonus on the sugar-cane grown on the area. Of course, a careful check is kept, and any one trying to evade the provisions of the law will be prosecuted.

Mr. WATSON.—A great deal of inspection will be necessary.

Sir GEORGE TURNER.—It has been found, from our experience last year, that not much inspection is required. The arrangement seems to work fairly well. The effect will be to allow the Minister to fix a particular date in each year, and the growers will be informed that if after that particular date they do not use black labour they will be able to claim the benefit of the bonus. That will be in accordance with the intention of Parliament, and will operate with fairness and justice. It will offer an inducement to growers to use white labour, whilst at the same time it will be equitable to those who are forced to use white labour because the black labour has been sent away from them.

Mr. WATSON (Bland).—I should like to know whether it is also intended to allow planters who have been using white labour and have reverted to black labour to again register as employers of white labour only?

Sir GEORGE TURNER.—I think that would have to be permitted, but for any year in which the grower employed black labour he would forfeit the rebate.

Mr. WATSON.—But supposing he were to wish to register again?

Sir GEORGE TURNER.—I know that that has been allowed; but the matter is not dealt with by the amendment, which only proposes to fix a date.

Mr. WATSON.—I think that the Government have been imposed upon. I am informed that a number of the growers have registered as employers of white labour, have put white men on to work for a short period to cut cane, and have afterwards employed coloured labour to cultivate the ground preparatory to the next cutting season. It will be very difficult if one portion of a plantation is to be registered as cultivated with white labour and another portion as worked with black labour, to keep in perfect touch with the actual conditions.

Sir GEORGE TURNER.—We could not very well refuse permission for a man to register part of his plantation as worked with white labour when he has a big property and wishes to bring about the change from black to white labour by degrees.

Mr. WATSON.—At first sight it may appear rather harsh to refuse, but we have to consider the difficulties of administration. It will not confer much benefit on the Commonwealth if we have to pay rebate to planters who use black labour, as well as white labour. I am informed that in some instances nearly the whole of the work of the plantation, except the cutting of the cane, has been done by black labour, and that the rebate has still been secured by the planters.

Sir GEORGE TURNER.—If we could get evidence to that effect we should prosecute the persons concerned.

Mr. WATSON.—No doubt it is very difficult to induce people to come forward and swear to the facts in such cases.

Sir GEORGE TURNER.—There has been at least one prosecution in Queensland.

Mr. WATSON.—Yes: and I am informed that there have been one or two cases in New South Wales also. But, in order to comply with the spirit of the law, the cane-growers should be compelled to employ white labour for the twelve months preceding the cutting of the cane, as well as during the cutting season. According to the proposal of the Minister the date could be altered to suit the growers who could cultivate their ground with black labour, and then just before the cutting season register as employers of white labour.

Sir GEORGE TURNER.—The regulations could be framed in such a way as to prevent that.

Mr. WATSON.—What I desire to point out is that the growers have been allowed to again register themselves as employers of

white labour after reverting to the employment of black labour, and I think that that practice should be stopped. Cane-growers should make up their minds which kind of labour they will employ, and if they once revert to black labour after having employed white men, they should not be allowed to register again. I admit that there is great reason why those who employ black labour should be encouraged to substitute white labour, and I should not care to do anything to prevent them from securing the benefits conferred by the law, but it is wrong to allow planters to shift about from one form of labour to another, because such action is in direct opposition to the spirit of our legislation, and must lead to great difficulty in administration.

Mr. FISHER (Wide Bay).—The honorable member for Bland is in error if he supposes that it will be possible to carry out the intentions of Parliament without allowing portions of plantations to be worked with white labour. Our desire is to encourage the employment of white labour upon territory now occupied by black labour, and to bring about this change to the greatest possible extent at an early date. It would be impracticable for the large planters to get rid of the whole of their coloured labour at one fell swoop, and at the same time secure a sufficient number of white men to enable them to work the whole of their plantations. For that reason it will be sound policy on our part to allow them to set apart a portion of their plantations to be worked with white labour, so that they may bring about the change gradually, and under circumstances which will best suit their own purposes. No greater danger of imposition arises in such cases than in connexion with very small holdings. We must provide for the inspection of the plantations, and upon this point I think that it would be better if we adopted a more efficient system than that now in operation. I do not think that the Commonwealth has suffered very much from impositions in Queensland, but the inspection should be a little more vigilant than it is.

Mr. WATSON.—Does the honorable member think that a planter, after having registered as an employer of white labour, and having reverted to black labour, should be allowed to re-register?

Mr. FISHER.—I do not know of any case in which that has happened.

Sir GEORGE TURNER.—I know of one case in which a man registered as an employer of white labour, but unfortunately afterwards had to use black labour, and thereby forfeited his claim to the rebate. He was allowed to register as an employer of white labour for the following year.

Mr. FISHER.—I do not think there could be any serious objection to re-registration in such a case, because the planter was actually prepared to employ white labour, but was placed in such a position that he was compelled to forfeit his claim to the rebate.

Mr. WATSON.—That is not the case to which I referred.

Mr. FISHER.—I am not aware of any others; but if planters voluntarily return to the employment of black labour they should be penalized in some way when they seek to again register as employers of white labour.

Mr. CONROY (Werriwa).—I submit that the Treasurer is perfectly right in the view which he has put before honorable members, and that we should not disqualify any planters who are willing to employ white labour. It must be clear to them that they cannot claim the bonus if they employ black labour in the production of their sugar, and we should do nothing to discourage them from employing white men.

Mr. GLYNN (South Australia).—I should like to be assured by the Treasurer that this clause does not form part of the retrospective provisions of the Bill. It may be read as if it did, because it refers back to the time of the commencement of the Excise Act.

Sir GEORGE TURNER.—No; it has no retrospective effect.

Mr. GLYNN.—I am willing to accept the Treasurer's assurance; otherwise certain amendments would be necessary.

Mr. THOMSON (North Sydney).—The Treasurer has not explained why there is any necessity to fix a date.

Sir GEORGE TURNER.—We must fix some time in order to prevent planters from using white labour and then reverting to black labour.

Mr. THOMSON.—But the words "in the production of which sugar cane or beet white labour only has been employed," are used, and I do not see any necessity to fix any date if white labour only has been employed in the production of the sugar. There was

a necessity for fixing a date when we offered the rebate in the first instance, because there was no inspection prior to the passing of the Act. But now the planter has to register as an employer of white labour, and he has to satisfy the inspector that the cane has been grown by white labour only.

Mr. FISHER.—But they have to make their declaration early in the year, so that the inspector can keep his eye on them.

Mr. THOMSON.—But if the planters know that they will not get the bonus unless they can prove to the satisfaction of the inspector that they have employed only white labour in the production of the cane, that should prove sufficient without fixing any date.

Mr. FISHER.—But the planters have to declare the area upon which they intend to employ white labour, so that the inspector may exercise his vigilance in regard to that particular portion of the plantation.

Mr. THOMSON.—But that does not affect the question of fixing the date, and I do not see any reason why we should give this arbitrary power to the Minister. It is sufficient for all practical purposes to provide that the bonus shall be paid in respect to sugar, in the production of which only white labour has been employed.

Mr. EWING (Richmond).—It would appear from a casual view that the contention of the honorable member is correct, but honorable members will notice that the date fixed is the 28th February, 1902. Some of the cane upon which the growers were granted exemption prior to 28th February, 1902, has not yet been dealt with, and therefore the honorable member will see the necessity for the insertion of the first date. Whenever a sugar-grower is prepared to substitute white for black labour, the Bill should encourage him to do so.

Mr. THOMSON. — But why give this exemption every year?

Mr. EWING.—Let me give the honorable member an illustration of what I mean. A grower who is employing black labour may apply to the Commissioner, informing him that he intends dispensing with it. In such circumstances, the Bill gives him an opportunity of registering his name as a grower of sugar by white labour. The total abolition of black labour in the sugar industry must be a gradual process. By fixing the first date and making it applicable to crops which are not yet two years old, and which

will come in at the next cutting, we necessarily require a second date.

Mr. CONROY (Werriwa).—I must ask the Treasurer to seriously consider this clause. Upon looking into it carefully it seems to me that in its present form the Government may be called upon to pay both the rebate and the bonus.

Sir GEORGE TURNER.—We have introduced a Bill to abolish the payment of the rebate.

Mr. CONROY.—But suppose it is held that the growers have a legal claim to the payment of the rebate, and that afterward they demand the bonus?

Sir GEORGE TURNER.—They cannot do so. The Bill providing for the payment of the rebate will be repealed before the bonus is forthcoming.

Mr. CONROY.—But I understood that all claims for rebate have not been paid?

Sir GEORGE TURNER.—All have been paid. It is the other money which has been held.

Mr. CONROY.—Is the Prime Minister quite sure that the words "the 28th day of February, 1902," will not have a retrospective effect?

Sir EDMUND BARTON.—They will be retrospective only as to our intention, which is to deal with sugar cane or beet in the production of which white labour has been employed since 28th February, 1902.

Mr. CONROY.—That question, therefore, could not arise under this clause?

Sir EDMUND BARTON.—When the payment of the rebate has been converted into a bonus, everything in the nature of rebate which has been paid will be accounted to have been paid by way of bonus under clause 7.

Mr. CONROY.—Quite so; but many honorable members, though quite willing to vote for the provisions contained in this clause, are not disposed to make its operation retrospective.

Sir GEORGE TURNER.—This clause cannot affect that matter. Clause 7 will settle it one way or the other.

Mr. CONROY.—It seems to me that under this provision the matter might be open to argument.

Sir GEORGE TURNER.—It is only a question of distribution that is involved. All the growers have been paid.

Mr. THOMSON (North Sydney).—In spite of the explanation offered by the honorable member for Richmond, I do not

see any necessity for the amendment which is proposed. The fixing of a date might be necessary to confer exemption upon those who employed a little black labour before the Excise Tariff Act came into operation, but it will not be necessary in the future.

Sir GEORGE TURNER.—Would the honorable member shut the door against every employer of black labour in the future?

Mr. THOMSON.—When the Act is in operation everybody is acquainted with the fact. Are we to allow the Minister the option of granting absolution every year?

Mr. FISHER.—It is not a question of absolution.

Mr. THOMSON.—The honorable member for Richmond explained that it was necessary to insert this date because, prior to the Act becoming operative, some sugar-growers who had employed black labour upon preliminary work in connexion with their crops might be quite willing to employ white labour. He urged that it would not be right to penalize them for having unwittingly offended. It was necessary, he urged, to fix a date so that they might be absolved from any penalty applicable to their actions before that date.

Mr. FISHER.—That is not the idea at all.

Mr. EWING (Richmond).—I would point out that the employment of black labour was not an act of inadvertence on the part of a great many sugar-growers. They were employing black labour, and it was necessary to fix a period when that practice should be discontinued. Hence the necessity for inserting the first date. The sugar-growers have obtained exemption for the crops put in prior to that date. That cane has not yet been dealt with; bonus is still to be paid upon it. Then, if there is to be a gradual abolition of the employment of black labour in the sugar industry, is it not obvious that the Minister must be vested with power to allow the growers, when they so desire, to dispense with it, and become cultivators with white labour? Otherwise, we shall have the same number of sugar-growers by black labour in 1907 as we have now.

Sir EDWARD BRADDON (Tasmania).—If I understand the clause aright, the insertion of this date is by way of limitation of the bonus payable upon the sugar produced by white labour. It will prevent the bonus from being payable to any grower upon sugar manufactured by white labour prior to the 28th February, 1902.

Sir GEORGE TURNER.—That is dealt with by the Act, which is already on our statute-book.

Sir EDWARD BRADDON.—Then this clause merely repeats that provision?

Sir GEORGE TURNER.—It also gives an extension to those sugar-growers who may desire to avail themselves of the provisions of the Excise Tariff Act in the future.

Mr. THOMSON (North Sydney).—I really think that honorable members are becoming very confused in regard to this matter. To my mind we are asked to encourage the payment of bonuses upon sugar which has been partially grown by black labour. I do not think Parliament ever intended that that should be done when once the Excise Tariff Act was in full operation. We were told that it was necessary to fix a date because the sugar-growers, when their crops were put in, could not foresee that such an Act would be passed. Now we are asked to allow the Minister to declare each year that cane which has been dealt with by white labour for only two or three months shall participate in the payment of the bonus.

Mr. EWING.—Let the honorable member suppose that a man had never grown any cane at all, and desired to start growing it by the employment of white labour. Without this provision he could not do it.

Mr. THOMSON.—Why not? If he cultivated the cane by white labour he would participate in the bonus. Why is it necessary to fix a date prior to which the employment of black labour will be allowed, seeing that the Act has already been in operation for something like twelve months? Having originally fixed the date as a starting point, there is no necessity to do anything more. We can declare that whilst up to that date some exemption would be granted, after it, we expect the conditions imposed to be carried out. Surely that will place the matter upon a reasonable basis. We are supposed to be passing a law to encourage the production of sugar by white labour, whereas we are really giving the Minister power to say that each year a certain quantity of sugar produced by black labour shall participate in the payment of the bonus. He may say that he will allow that payment upon sugar which has been dealt with by white labour for only three months.

Sir GEORGE TURNER.—If he did so, the House would intervene.

Mr. THOMSON.—We have experienced a great deal of trouble in connexion with options given to Ministers—options which have been used in a way that Parliament never intended. We have full power over the Customs and a host of other regulations, but we found that when we gave certain options under the Act they were used.

Mr. A. McLEAN.—What is the object of renewing the options each year?

Sir GEORGE TURNER.—To allow those who have been employing black labour to come in.

Sir EDMUND BARTON.—To allow of the extension of the employment of white labour from year to year.

Mr. THOMSON.—There is no necessity for any such extension after the Act has been in force for a considerable time. The Statute itself provides the necessary encouragement. Surely we ought not to be called upon to pay a white labour bonus upon sugar which has been chiefly produced by black labour. I see no necessity for the options which are now sought. Therefore there is no occasion to confer upon the employers of black labour that exemption which was extended to them when the Act first became operative. I shall certainly oppose the amendment.

Sir GEORGE TURNER.—I think we are all hopeful that, within two or three years, black labour will not be employed in the production of sugar. Estimates have been made of the cost involved in its abolition. If it be wise to dispense with black labour, it is equally wise to encourage the sugar-growers who have been employing it either prior to or since the 28th February, 1902, to substitute white labour for it.

Mr. THOMSON.—How will it encourage them to give them a bonus for sugar grown by black labour?

Sir GEORGE TURNER.—We do not do that.

Mr. A. McLEAN.—If we fix an original date, and give a bonus upon all sugar grown by white labour after that date, will not that be sufficient?

Sir GEORGE TURNER.—No. Because by doing that we would shut out all those who have been growing by black labour for any period after that particular date.

Mr. A. McLEAN.—Can they not come in at any time after that original date?

Sir EDMUND BARTON.—Under this Bill, without the amendment proposed, they could not.

Mr. A. McLEAN.—Then the Bill is faultily drawn?

Sir GEORGE TURNER.—My honorable friend will see that the object is to allow them to come in after the original date, and the amendment proposed will effect what the honorable member apparently desires.

Mr. A. McLEAN.—What I desire is I think the simplest course to pursue—fix a date and say that any one who produces sugar by white labour after that date in any year shall be given the bonus.

Sir EDMUND BARTON.—(Hunter—Minister for External Affairs).—The purpose is to give the bonus, to put it shortly, to growers of cane or beet sugar in producing which white labour only has been employed after the 28th of February, 1902. We thought that the Bill as printed would have carried out what is desired by the honorable member for Gippsland. But there are occasionally faults in the drafting of a Bill, and, on going through the matter again, we found that it was a *sine qua non*, if the clause were to stand as in the Bill without alteration, that where a person desired to get a bonus for the growth of sugar by white labour he must have started employing white labour in the growth of that sugar on or before the 28th day of February, 1902, and, if he was still employing black labour on the 1st or 2nd March, 1902, he would have no claim to the bonus, although he might on that date have ceased cultivating with black labour and have begun cultivating with white labour. The object we all have, I take it, is that persons who successively commence to employ white labour from time to time shall have the benefit of the bonus. We had, therefore, to discover in what way this clause could be amended, as otherwise it would not carry out the purpose we all have in view. After consultation between the Treasurer, the Attorney-General, and myself, the only way to effect that purpose seemed to us to be the insertion of some such words as these—"or such date in each year thereafter as may be prescribed." It is necessary to provide some starting point, so that there might be some *locus penitentiae*, some time allowed in each year when growers of cane by white labour alone might begin to earn the bonus. I do not see in what way this provision could be abused, except that there will probably be occasional deceptions, and in those cases there will be no hesitation in employing the

criminal law to punish anybody guilty of offences under the Bill.

Mr. FISHER.—The proposal gives those who come in later no advantage over those who came in originally.

Sir EDWARD BRADDON (Tasmania).—The intention of the Bill is to provide a bonus upon sugar grown only by white labour. If the words which define a certain date, the 28th February, 1902, are inserted, they will involve this complete discrepancy—that sugar which has been grown, we will say for one month by white labour and by black labour for sixteen or seventeen months, will be just as much entitled to the bonus as if it had been cultivated by white labour for the whole of the eighteen months.

Sir GEORGE TURNER.—That depends upon the day of the year we fix.

Sir EDWARD BRADDON.—Why should there be any day fixed by which sugar grown chiefly by black labour may be brought under the provisions of an act intended to encourage the use of white labour? We need not have any date fixed, and I submit that if all reference to the date is omitted the clause will carry out the purpose of Parliament in a way which will do injustice to nobody.

Mr. EWING (Richmond).—I have already explained why it would not do to leave out all reference to a date. I am satisfied that the honorable members for Gippsland and North Sydney approach this question fairly, and desire only to be convinced.

Mr. THOMSON.—We have no desire to pay a bonus for sugar grown by black labour.

Mr. EWING.—We are not dealing with that aspect of the case now. We are endeavouring to prove that the action taken by the Treasurer in introducing this amendment is correct. The end in view is the attainment of a white Australia, and the abolition of black labour in the sugar industry.

Mr. THOMSON.—Yet, it is proposed to give a bonus for black labour.

Mr. EWING.—If the honorable member will bear with me for a moment, I will state a case for him: Suppose the honorable member is a sugar-grower in Northern Queensland, and has been employing 200 kanakas on the date set out in the clause, the 28th February, 1902. On that date the honorable member finds himself with certain responsibilities to, say, 200 kanakas, and

with no white men available. Obviously it is not possible for him on that date to register as a grower of sugar by white labour. It is equally obvious that he must remain for all time a producer of sugar by black labour, or else he must be given a subsequent opportunity to register. Is that clear?

Mr. THOMSON.—It is not clear that he will not have a subsequent opportunity.

Mr. EWING.—If he fails to come in on the date specified, he must permanently remain a producer of sugar by black labour or he must be given a subsequent opportunity.

Mr. POYNTON.—Does one crop last a life-time?

Mr. EWING.—One planting may last for seven years. In fairly good soil, from the time the cane is first planted, it may last seven years.

Mr. CONROY.—How often will the honorable and learned member find it lasting longer than two or three years?

Mr. EWING.—I know exactly what I am talking about in this matter. Honorable members make the mistake of confusing years with crops. In New South Wales, generally, sugar-growers cut their cane once in two years, and a sugar-grower who will get three crops from tolerably good soil will get them from cane which has been planted for six years.

Mr. THOMSON.—Then under this clause he could not get a bonus for years to come!

Mr. EWING.—Yes, because he is exempted prior to the date we have already referred to. I pointed out that this exemption was necessary in the first instance, because the cane crop might last for seven years. A crop put in two years ago, prior to this date, is not yet cut, and that difficulty had to be overcome. To continue the argument *ad hominem*, the question arises: what is the honorable member for North Sydney to do when, on the date referred to, he finds himself with black labour of various descriptions, and, therefore, unable to register? Clearly if he is going to have fewer kanakas in 1907 than he has to-day we must give him a subsequent opportunity to come under the Bill. What we are fighting for now is that subsequent opportunity. The honorable member desiring to employ white labour in the growth of sugar, finds a little later on an opportunity of doing so. He applies to the Department and says that he has now made arrangements for getting rid of his kanakas as there are white men

available for the cultivation of sugar. The Department must be placed in a position to meet him, and how can that be done unless we give him the opportunity of a subsequent date upon which he can come under the provisions of the Bill? As has been explained by the Prime Minister and the Treasurer, if that is not done we shall, in 1907, have as many *kanakas* employed as we have to-day. If the sugar-growers do not get the benefits of the Bill, they will not get rid of their *kanakas*. If the contention of the honorable member for North Sydney is correct, we should pass a Bill which would be absolutely inoperative beyond its first effect. The idea was a gradual abolition of the employment of black labour, as we knew it was not possible for the people of Queensland to obtain all the white labour they required at once. How often have we, in discussing the matter here, pointed out that Queensland had 8,000 *kanakas* which must be gradually got rid of? If the contention of the honorable member for North Sydney is correct, what is proposed will be a refusal to allow those *kanakas* to be gradually got rid of. If the bonus is to lead to the gradual abolition of the use of black labour, there must be various dates provided for registration, and the person who must be allowed to decide the dates must be the Minister for the time being.

Mr. POYNTON (South Australia).—I am one of those who have not seen the necessity for the subsequent dates. It does appear to me that the whole intention is to get a bonus for a crop grown partly by black labour. That must be the general conclusion from the speech to which we have just listened.

Sir EDWARD BRADDON.—Members have admitted that.

Mr. POYNTON.—Is that the intention of honorable members? Is it the desire of members of this House that these people should be encouraged to put in a crop and nurse it for two or three years with black labour until it begins to yield, and then say that they wish to come under the Bill and secure the bonus for sugar grown by white labour?

Mr. EWING.—What are they to nurse it with if they cannot get white labour? They have started the crop; we are dealing with a going enterprise.

Mr. POYNTON.—I take it that without any reference to dates in the clause, if I were a sugar-grower in Queensland and

started to plant cane to-morrow with white labour I should be entitled to the bonus if I continued to comply with the conditions as to labour.

Mr. FISHER.—Certainly.

Mr. POYNTON.—Then, what is the necessity for fixing this date if it is not to give people the advantage of using black labour in the production of the sugar up to a certain date?

Mr. FISHER.—Where is the advantage?

Mr. POYNTON.—They have been using black labour for some time, and we desire now to whitewash them; but honorable members appear to me to wish to give them the benefit of the bonus for sugar which is only partially the product of white labour. I do not like this Bill at all. I believe that under it we shall require as many inspectors as there are plantations. If a man is to be allowed a bonus upon sugar grown upon an acre in this plantation and an acre in another, a great many inspectors will be required.

Sir GEORGE TURNER.—This amendment does not affect that question.

Mr. POYNTON.—I grant that.

Sir GEORGE TURNER.—My honorable friend will see that many of these planters have *kanakas* under contract for one, two, or three years, and they cannot at once get rid of them. Gradually they will get rid of them and employ white labour, and from the time they employ white labour they ought to get the benefit of the Bill.

Mr. POYNTON.—Will these planters never plant again? Have they got in a crop which will last for all time? If the bonus is to be paid on the sugar which is grown by white labour, it must mean that it is to be given from the time when the crop was put into the ground, otherwise we are giving a bonus for the employment of black labour. Suppose that I was a grower of beet; that I used coloured labour up to the time when the beet was fit for conversion into sugar, and that I used white labour for that purpose, should I be entitled to get the bonus under this amendment?

Sir GEORGE TURNER.—No; because the date would be prescribed in such a way as to prevent any of those frauds being brought about.

Mr. POYNTON.—I am afraid that the clause is very loosely worded.

Mr. FISHER (Wide Bay).—I am as keenly alive as any one else to the danger of any sugar-grower getting at the

Treasury. It seems to be obvious, as all the planters could not put the whole of their plantations under white labour to begin with, that, from time to time, as they intend to increase the area to be planted with cane, and worked with white labour, it is advisable that there should be a date fixed—each year if you like—after which they must use white labour wholly in the production of cane to earn the bonus. That is practically what the amendment does, with this difference, that it allows the Minister to prescribe the date. It is absolutely impossible to do other than to allow the planters some of the advantages which may have accrued to them by using black labour up to a certain point. They are not going to root out their cane for the mere purpose of earning the bonus. I do not suppose that honorable members would be so absurd as to say that the planters should root out the latent capital which had accrued from the employment of black labour with the sole idea of having the whole work done again by white labour. The honorable member for South Australia might as well say that if a plantation had been ploughed and trenched in past years by black labour the work should be re-done now by white labour. It is perfectly clear that those planters who may come in at a later stage will reap no greater advantage than those who came in at first.

Sir EDWARD BRADDON.—Yes, because they have had to pay lower wages to their blackfellows.

Mr. FISHER.—I submit that those who come under the Act next year will have no greater advantages than those who registered during the first year of its operation. If it is a question of policy, why should we differentiate? I hope that honorable members will see that it is the right thing to make this amendment.

Sir GEORGE TURNER.—I have tried to explain that the object of the amendment is to keep open the door of repentance to those who have been growing cane with black labour, and desire to come under the provisions of the Act. In addition to that, some planters could not help themselves, because they had labour contracts with one, two, or more years to run, and we are giving them an opportunity to come under the Act. A fear has been expressed that a date will be fixed which would allow nearly the whole of the work to be done with black labour, and that just as the last stages

were being reached, white labour would be employed. No Minister would be foolish enough to fix any such date. As the 28th February has been fixed after full inquiries as the proper date in the year when we should stop the employment of black labour, I have no objection to alter the amendment by inserting the words "or the same day in the year," so that if the Minister during a year chose to prescribe that after that year the bonus may be allowed, then he must fix upon the 28th February. That date would allow for a very large amount of employment to the end of the year in cleaning the cane, trashing and cutting, and taking to market. All that work has to be done after the 28th February. If it is feared that a misuse might be made of the power by the Minister fixing a wrong date, the amendment I suggest would meet that objection. Parliament always has control over the regulations; they have to be laid upon the table, and if anything unfair has been done, a regulation can be annulled.

Sir MALCOLM MCEACHARN.—Will the same date suit Queensland as will suit New South Wales?

Sir GEORGE TURNER.—Apparently the same date has been fixed. I think that it had better be left to the discretion of the Minister, who will act as circumstances may require him to do. We have two difficulties to face. Either we are to shut out those planters who have been forced to use black labour for a portion of the time, or we are to run the little risk of allowing them to come in. That is a risk which we may well afford to run, leaving the controlling power in the hands of the Minister, who in his turn will be controlled by Parliament. I wish to encourage the growing of sugar by white labour.

Mr. V. L. SOLOMON (South Australia).—It seems that this is rather a difficult question to deal with. It certainly appears that the owner of land which has been prepared, planted, and cropped with black labour during the first year may come under the Act at the end of that time when there is no planting to be done, and when a second crop is being grown from the stools. There we run the risk of allowing the bonus to be paid on a crop of cane that had been planted by black labour in ground which had been tilled and worked by black labour up to the time when the trashing had to be done. I think the honorable member for Richmond will admit that in some places the growers

get not only a crop from the first planting, but two, and even three successive crops from the stools. In fact, the third successive crop is very often better, stronger, and denser in sugar contents than the earlier crops. It is very difficult to get over the danger of paying a bonus on sugar produced from cane that was originally planted by black labour in ground which had been tilled by black labour, and upon which little or no work had been done by white labour. The only way I can see out of the difficulty is by not passing this amendment, but by omitting the words "the 28th day of February, 1902."

Mr. EWING.—That cannot help us. If a man has employed any black labour at all, he cannot come in at any time.

Mr. V. L. SOLOMON.—It strikes out the necessity for white labour to have been employed ever since the date stipulated.

Mr. McCAY.—That does not get over a case where the cane was planted by black labour.

Mr. V. L. SOLOMON.—It does entirely.

In the production of which sugar cane or beet white labour only has been employed.

Surely those words are definite enough?

Sir MALCOLM McEACHARN.—If the cane was planted by black labour, the grower could not get the bonus under the suggested amendment.

Mr. V. L. SOLOMON.—How long does that last?

Mr. McDONALD.—That lasts for five years.

Mr. V. L. SOLOMON.—I do not wish to go, nor do I think that we shall go as far as that, by omitting those words. I believe that in most instances the original stools are rooted up after three years.

Mr. EWING.—Very far north that may be so; but about Bundaberg they can get seven crops.

Mr. V. L. SOLOMON.—Then we are placed in this position—that on sugar-cane which was planted three or four years before the principal Act was passed, and worked by black labour, we may be paying this bonus.

Sir GEORGE TURNER.—We have paid it.

Mr. McDONALD.—What proportion of the labour is represented in the planting?

Mr. V. L. SOLOMON.—The preparing of the ground and the planting of the cane represent a very large proportion of the labour.

Mr. McDONALD.—The kanakas do not plough.

Mr. V. L. SOLOMON.—It may not be necessary to plough the ground. In many instances they only dig holes in which to plant at short distance the pieces of cane for each stool. I have seen the cane planted. A very large portion of the cost involved is in clearing and preparing the land, and planting the cane. I have not gone into the proportions of expenditure, but I know that the processes of preparing the ground and planting the cane cost more than any other processes in sugar production except the milling. I am certainly against giving extended powers to the Government to work a Bill like this merely by issuing a proclamation each year.

Mr. CONROY (Werriwa).—I think I can suggest an amendment which will meet all the circumstances. I would suggest making the clause read—

In the production of which crop of sugar cane or beet white labour only has been employed.

This would get over all the difficulties.

Sir GEORGE TURNER. — During what period of the year is the crop produced? Surely after the 28th February?

Mr. A. McLEAN.—The cane is planted in one year and harvested in another.

Sir GEORGE TURNER. — I suppose it is harvested in July, August, and September; and it is planted certainly before the 28th February.

Mr. CONROY.—But the effect of the proposal of the Bill as it stands would be that, if the cane had been planted before the 28th February, had been attended to for eighteen months, and was cut in July the following year, the grower might be able to obtain the bonus, although his crop had been grown by black labour for the first nineteen or twenty months. He might have stopped short in the employing of black labour on the 28th February, and might be able to obtain the bonus of £2 per ton, although the earlier part of his operations had been carried on with the aid of black labour. I presume that the intention of the Treasurer is to insure that each crop on account of which the bonus is paid shall have been sown and produced by white labour only. But if what is now proposed were carried it would mean that for the first eighteen or twenty months black labour might be employed.

Sir GEORGE TURNER.—So would the honorable and learned member's suggestion mean that.

Mr. CONROY.—Oh, no; the amendment I suggest would refer only to a crop that had been produced by white labour exclusively.

Sir GEORGE TURNER.—The object of having a date was to enable us to fix a reasonable time each year. I think it is wiser to leave the matter to the control of the Minister.

Mr. CONROY.—There seems to be a fear as to the administration of the Minister; the Committee does not seem to care to leave the matter to be decided by him.

Sir GEORGE TURNER.—The honorable and learned member will not trust the Minister; that is the long and short of it.

Mr. CONROY.—It means that to a certain extent. But the objection refers to any Minister. The Committee declines to allow the Minister to legislate when Parliament itself ought to legislate. Therefore no particular Minister should object to the limitation now proposed.

Sir GEORGE TURNER.—Surely the honorable and learned member would not ask us to pass a Bill fixing a date for each year?

Mr. CONROY.—We could so fix the date that it would be beyond the control of the Minister to say what the date should be each year, and every man in the Commonwealth who was growing sugar would be able to know upon what date the operation of this clause would take place. We might so amend the clause as to secure the employment of white labour for nine months.

Sir GEORGE TURNER.—I am prepared to trust the Minister whoever he may be under the control of Parliament; I will not put in any limitation of which I do not understand the effect.

Mr. CONROY.—The effect of my proposal can be understood, because it prevents the Minister from altering the date. It says the bonus shall not be paid on account of any sugar in the production of which white labour shall not have been employed for nine months. We must remember that over 180,000 tons are produced in Australia, and that £360,000 may be paid away; so that the amount of money to be paid away in bonuses is worthy of our consideration. I would urge the Treasurer to accept some such amendment as I have suggested.

Sir GEORGE TURNER.—I do not think we should tie our hands, because Parliament

can control the Minister for the time being if he is wrong in the regulations he makes.

Mr. CONROY.—What I ask is that the House, not the Minister, shall legislate. With every respect for the Treasurer, I would suggest that this provision will have to be administered by other Treasurers in the future. Probably he would object to control of this kind being exercised by a Treasurer upon this side of the Chamber.

Sir GEORGE TURNER.—I would trust the honorable and learned member if he were Treasurer.

Mr. CONROY.—I admit that there is a saving clause in the proposal in one way, inasmuch as it provides that the regulation shall be laid on the table of the House. That is a sort of safeguard. But I should prefer to see the matter dealt with in another manner altogether.

Mr. L. E. GROOM (Darling Downs).—I cannot understand the objection that is made to the position put by the Treasurer. He has put a very fair, just, and reasonable proposition before the Committee—that is, that it shall be left in the discretion of the Minister to fix a date in each year. The Minister administering the Act would make inquiries from his officers as to which was the best date, and would act on that experience which his officers would bring to bear. The question has been raised as to whether we ought to trust the Minister with these powers. What are the powers which we are asked to intrust to him? We have been passing a series of Acts of Parliament, the object of which is to encourage sugar-growers to employ white labour. We are asked to intrust to the Minister the power to declare from time to time other dates, to enable those now employing black labour and those who wish to follow out the policy which Parliament has declared to be a wise one for Australia, to register themselves as growers by white labour. The Minister could not restrict the policy that has been inaugurated by anything he could do under this Bill; all he could do would be to extend it.

Mr. THOMSON.—It would enable him to pay a bonus for the production of sugar from black labour.

Mr. L. E. GROOM.—No; only to those who were prepared to do away with black labour and to employ white labour, provided they did so before the prescribed date. We know that there was at first a great deal of

hostility in regard to the employment of white labour in the sugar-fields. But now a change has come over the minds of the growers. We find that at places like Mackay, and other leading sugar centres, the growers are taking up the position that they should endeavour to make the white Australia policy a success. I notice with pleasure that Mr. Philp has given that advice—that the sugar-growers should do all they can to take advantage of the provisions of the Commonwealth Act, and to make the policy of a white Australia a success if possible. The point is, therefore, whether, as a Parliament, we should endeavour to give them every assistance we can, in order to carry out the policy we desire to see promoted. Here was a large national industry in Queensland, in which coloured labour had been employed. Our desire was to have that industry carried on without any coloured labour being employed in it. When the growers themselves are expressing a desire to come under these provisions, if we can in framing this Bill give to the Minister power to enable him to further the policy we desire, it is our duty to do so. The proposal is perfectly reasonable, and does not ask us to take out of the hands of Parliament any power which it now possesses.

Mr. THOMSON.—We can fix provisions to cover what is proposed.

Mr. L. E. GROOM.—I submit that is all that is proposed under the Bill. As the Treasurer has pointed out, under the operation of the Pacific Islands Labourers Act, the importation of kanakas will diminish every year, and finally cease; and we know, further, that these coloured men are continually leaving the Commonwealth. There were a certain number of contracts in existence prior to the passing of that Act, and those contracts from time to time expire. What is desired is to enable planters, as their contracts expire, to set aside, under regulation, certain specified lands which they declare will in the future be worked by white labour only. As contracts expire it becomes more difficult to get coloured labour; and if planters are desirous of making an honest effort to carry on with white labour we ought to extend a helping hand and preserve the sugar industry for Australia as a whole. There is no proposal to deprive the House of any power; on the contrary, there is an attempt to honestly and justly carry into effect the

existing law. We ought not to do anything to place obstacles in the way of a policy to which we are pledged and which we desire to see carried into effect. All that the Treasurer proposes are such powers as will enable the Minister, after consultation with his officers, to fix a date which will tend to the efficient carrying out of the policy. I hope the Committee will grant the powers asked for, because I am sure they will render valuable assistance to the industry, not only in Queensland, but throughout the Commonwealth.

Mr. THOMSON (North Sydney).—I have no objection to give the Minister any powers which we cannot properly define ourselves. So long, however, as we can accurately define the powers we desire to see exercised, we have no right to place in the hands of a Minister, who may now or in the future administer the Act, any such option as that proposed. By the change of a single day the Minister, under this Bill, would be able to put into or take out of the pockets of the people in this community thousands of pounds. There are honorable members on both sides of the Committee whose intention is similar and easily defined: and we have no right to remit extraordinary powers to any Minister when our intention can be made clear in words. The honorable member for Richmond desires the removal of any restriction which would prevent the bonus being paid in the case of a crop produced by white labour but grown from roots which, it may be, had lain in the ground for four or five years. That is my desire, and the desire, I believe, of other honorable members who may object to the proposal as it appears in the Bill. We have, in the words of the honorable member for Richmond, given absolution in the case of a crop partly produced or grown by coloured labour prior to February, 1902. But I am against giving the bonus in the case of any crop—by this I do not mean the root or stool from which the crop is grown—on which black labour has been employed after that date. I do not think that the Minister proposes that the bonus should be paid in the latter case.

Sir GEORGE TURNER.—I do not.

Mr. THOMSON.—But the powers asked for would enable the Minister to give the bonus under such circumstances. Why should we give the Minister powers which he says he does not propose to exercise?

Sir GEORGE TURNER.—Because we cannot fix the date here.

Mr. THOMSON.—There is no need to fix the date. I do not profess to be a draftsman, but surely we have sufficient legal skill in the Chamber to make it clear that, whilst there will be no restriction in the case of cane coming from an old root or stool, there will be no bonus for a crop which has been produced by black labour for any portion of the time.

Sir GEORGE TURNER.—What does the honorable member mean by "crop"?

Mr. THOMSON.—Has the Minister never heard of a crop of peaches? Does such a crop mean the peaches, or the trees from which they come?

Sir GEORGE TURNER.—I have never heard of a "crop" of peaches, or of a "crop" of sugar.

Mr. THOMSON.—Without using strict legal phraseology, I suggest that words such as the following be inserted in the clause after the word "Commonwealth"—

in respect of each crop in the growth and harvesting of which white labour only has been employed.

Is not that the meaning of the Committee?

Sir GEORGE TURNER.—No; the Committee want to go further.

Mr. KENNEDY.—It is not exactly the meaning of the Committee, because the suggestion of the honorable member for North Sydney would apply to a crop planted, say, this year by black labour, and harvested perhaps two years hence by white labour.

Mr. THOMSON.—That is the very thing to which I am objecting. This legislation becomes a sham when we encourage people to employ black labour in planting, and then to ask the Minister to so fix the date that they may employ white labour for a short period, and qualify for the bonus. It must be remembered that after the period to which the Pacific Island Labourers Act applies there will be a lot of floating black labour in Queensland, and that planters will have opportunities of employing either that or white labour. I do not object to the employment of black labour if it is there, and planters wish to have it; but I object to the bonus for white labour being given in any case except where white labour is used. The reason for originally fixing the 28th February, 1902, as the date was that no notice had been given to people who would

use white labour but had had a certain amount of work done by coloured men; and it was considered unfair to exclude these people if they chose to dispense with the latter by that date. Now it is proposed to fix the 28th February for every year, and to give the bonus although it may be a two years' crop and black labour may have been employed for twelve months or more. That is a most extraordinary proposal. The crop, properly speaking, is that which is cut from the sugar cane at a given time.

Sir GEORGE TURNER.—The cutting of the crop commences about June or July. I should go further back.

Mr. THOMSON.—The Treasurer would not go further back than I should, because I say that all the crop ought to be produced by white labour. It is proposed to fix the date in February, and it is only from February to July that white labour would be necessary.

Sir GEORGE TURNER.—The honorable member would go back to the original planting.

Mr. THOMSON.—I would not go back to the original stools or root. Sometimes sugar-cane is left in the ground, and like other trees—because it is a kind of tree—it branches out, and may be cut after a period varying from a year and a quarter to two years. This is the cutting of the crop; and here lies the objection to the proposal of the Treasurer. The right honorable gentleman suggests the 28th February as a suitable time to fix each year, and if this be done, black labour employed prior to that date on the year's crop would be absolved, leaving only about four months for white labour. That is an extraordinary proposal after all the flourish of trumpets about encouraging the use of white labour. Whatever we may think on the question of white v. black labour, we entered into this legislation on certain conditions; and yet we are now asked to extend the operation of the Act to a degree never contemplated—to continue indefinitely up to 1907 the payment of a bonus on sugar on which white labour has been employed for only four months out of sixteen, or even 24 months. I am not prepared to give the Minister the powers asked for; especially am I not prepared to give powers which may affect residents of the Commonwealth to the extent of £2,000 to £4,000 on each crop. This might be the effect of the difference of a

single day, or a week, or two or three weeks, or a month in the gazettement of the notice. Such powers ought not to be given unless absolutely necessary; and they are not necessary in the present case. The proposal of the Minister would seem to mean that only four months of white labour need be given to earn the bonus; and, if that be so, it is a most extraordinary proceeding to which I do not see my way to agree. It will be an acknowledgment of incapacity if we are not capable of expressing our meaning in the Bill.

Mr. G. B. EDWARDS (South Sydney).—I quite agree with the honorable member for North Sydney, that if we can possibly express in the Bill what we mean we should do so, and not give power to any Minister to make regulations for carrying out what are the main principles of the measure. My suggestion is that we should leave the clause precisely as at present only adding the following words:—

Provided that, after the coming into operation of this Act, the grower registers his intention to grow with white labour only twelve months prior to such delivery.

The season varies in different parts of Australia, and each grower knows when his season commences. This applies alike to the grower in Northern Queensland and the grower on the Manning River; and, under my suggestion, it would be left open to them to register twelve months before delivery. But we certainly should ask the Government to put into the measure some guarantee, because I can assure the Committee that I have suffered more heavily, perhaps, than any man in the Commonwealth from the operation of the "white Australia policy." I am not prepared to make that sacrifice again for growers who employ black labour to within four months of the delivery of the cane to the mill. It may be that, as the Bill makes no provision for registration, it will be necessary to insert in it a clause providing for registration under the regulations. The words—

Provided that after the coming into operation of this Act

apply only to future cases. Persons will be able to go to the nearest Custom-house, and there apply to be registered as growers who intend to employ white labour only for the twelve months preceding their next delivery. If that provision is made, the Minister will not have to seek expert advice in regard to delivery, because the growers

themselves will declare when they intend to deliver. I think the adoption of the proviso which I suggest will meet the well-founded objections to the clause.

Amendment, by leave, withdrawn.

Mr. THOMSON (North Sydney).—I move—

That after the word "Commonwealth," line 4, the following words be inserted:—"in respect to each crop."

That amendment will test the whole question.

Mr. CONROY (Werriwa).—I think that an excellent reason why the Committee should not go further than the provisions of the Tariff Excise Act is that the whole matter was there settled according to a certain agreement, under which the rebate upon sugar-cane was to be 4s. a ton, for all cane delivered for manufacture in the production of which white labour only had been employed, after 28th February, 1902. Both the excise and import duties were settled on the basis of that agreement, and therefore when dealing with the Bill, which was introduced merely to alter the manner of payment by substituting a bonus for a rebate, we should not try to alter the original arrangement. I hope that the Treasurer will upon consideration see his way to withdraw this debatable provision.

Sir GEORGE TURNER.—I think the Committee are pretty well at one in their desires in this matter. No one wishes to see black labour employed to within two or three months of the delivery of the sugar-cane.

Mr. THOMSON.—As we know what we want, we ought to provide for the carrying out of our intentions.

Sir GEORGE TURNER.—I am certain that no Minister would prescribe such a date as would enable the course to be taken to which honorable members object.

Mr. BAMFORD.—We are not sure of that.

Sir EDWARD BRADDON.—The Minister should not have the power.

Sir GEORGE TURNER.—I do not see why not. In every Act we have passed, the Government of the day have been intrusted with far larger powers.

Sir MALCOLM MCEACHARN.—We should not repeat the mistake we made when we passed the Customs Act.

Mr. THOMSON.—We should not trust any Minister if we can express our intention in the Bill.

Sir GEORGE TURNER.—I feel certain that if the amendment is agreed to no one will be able to say what the words mean. I do not wish growers to obtain bonuses for sugar-cane which has not been grown wholly by white labour, and I am, therefore, prepared to ask the Attorney-General to frame an amendment to provide that if black labour has been used in connexion with the production of cane within nine months previous to its delivery no rebate shall be given.

Mr. G. B. EDWARDS.—Why not make it twelve months?

Mr. THOMSON.—Nine months is only half the time the crop is growing.

Sir GEORGE TURNER.—I am not an expert in the cultivation of sugar-cane, and therefore I am prepared to accept advice from those who represent constituencies in which cane is grown as to what is the proper term to provide for.

Mr. G. B. EDWARDS.—Let each grower register.

Mr. THOMSON.—Why not provide that a bonus shall not be paid in respect to any crop in the production of which black labour has been used?

Mr. KENNEDY.—The trouble is to frame a definition.

Sir GEORGE TURNER.—I do not think we can frame a satisfactory definition. I think that the original provision, giving the Minister power to make regulations subject to the approval of Parliament is the best. At the same time, I do not object to the fixing of some reasonable period.

Sir JOHN QUICK (Bendigo).—I think that the proposed amendment involves a very serious innovation upon the compact upon which our "white Australia" legislation was adopted, and I am surprised that the subject has been introduced in Committee as if it were an after-thought on the part of the Minister. I understood that the Bill was introduced merely to substitute bonuses for rebates, so that the expense of maintaining a white Australia should be federalized by being divided equally among the States, and although the proposed change imposes an additional burden on the State which I represent, I am willing to agree to it on that ground. But I think that before we make any alteration in the original compact we should take time to consider the whole matter. There seems to be great difference

of opinion as to what is the proper form for the proposed amendment, and I, for one, should not like to vote on the question this evening. I doubt, indeed, whether it is wise to amend the Bill at all. I think it would be better to confine its provisions to their original scope, and let this new matter stand over. I object to the granting of bonuses to those who go on growing cane for a considerable time with black labour. There will be great difficulty in obtaining support in the sacrifice which we are making to create a white Australia if growers who employ black labour up to within a short time of the delivery of their cane are to be allowed to obtain a bonus.

Mr. BAMFORD (Herbert).—I agree with the honorable and learned member for Bendigo that it would be as well if the Committee had more time to consider the amendment. For my own part, I am much in favour of the clause as it stands. Those who knew anything of the subject are aware that the Commonwealth has been imposed upon to some extent in this matter.

Sir GEORGE TURNER.—I undertake to prosecute any case brought before me. We have done so already, and some persons have been fined.

Mr. BAMFORD.—There have been cases in which the cane was cut with white labour and then black labour was put on to the field again, and yet the growers were able to obtain rebates. I gave the Minister a specific instance in which this had been done, and he framed a regulation to prevent it. Within the present month the Premier of Queensland has been in the northern part of that State, and has advised cane-planters to bring over Chinamen from the Northern Territory, because there is no restriction which can prevent their introduction.

Sir MALCOLM MCEACHARN.—I thought he advised them to endeavour to grow cane with white labour only.

Mr. BAMFORD.—He gave both kinds of advice. He often does that.

Sir MALCOLM MCEACHARN.—That is not my experience of him.

Mr. BAMFORD.—Perhaps the honorable member's experience of him is limited. I advise the Treasurer to leave the matter as it stands. I am sorry that the Minister for Trade and Customs is not here, because he could throw a great deal of light upon the subject. The extension of the time to the 1st March was declared by some of the

northern newspapers to be a sign of weakness on the part of the Federal Government. They said that the Parliament had no faith whatever in its own legislation, and that we extended the time for registration because we recognised that white men could not do the work. If the time is extended as is now proposed, they will say that the cry for a white Australia is a sham, and, unless the clause is allowed to stand, and the regulations are very drastically administered, our law will not be worth the paper upon which it is written. I might be expected to support the amendment, because I represent a sugar-growing district; but my experience has been such that I feel called upon to resist any proposal unless it takes the direction I have indicated.

Mr. FISHER (Wide Bay).—I also represent a sugar-growing district, and I entirely differ from the honorable member for Herbert. I had not previously heard of the case which the honorable member has cited, and I very much regret to learn that any one was allowed to do as he has described, and to obtain the rebate. I do not know under what authority Ministers acted in paying the rebate if black labour were employed. The Minister for Trade and Customs could very well have refused registration. If the clause is allowed to stand, no one will be permitted to come in.

Mr. BAMFORD.—Yes, they will, because the regulations already provide for that.

Mr. FISHER.—The crop may be ploughed out, but still the planter will not be able to escape the fact that black labour has been employed on the land. Does the honorable member seriously argue that the results of the employment of black labour must be destroyed before the planter is entitled to earn the rebate?

Mr. BAMFORD.—Yes, I do.

Mr. FISHER.—Then I cannot agree with the honorable member. Reasonable opportunities should be allowed to those planters who have labour contracts to discharge. They have entered into contracts under the statute law and the regulations of the State relating to the employment of kanakas, and are bound to employ the islanders for the term for which they were hired. These agreements terminate from time to time, but the honorable member apparently desires to compel the growers to break their agreements. I cannot agree with him in that view, because I think that the planters should be permitted to

employ the kanakas for the full term necessary to enable them to complete their contracts.

Sir EDWARD BRADDON.—But the honorable member would not give the employers of the kanakas any bonus.

Mr. FISHER.—Not while they are employing black labour; but I should allow any one and every one to come in if they employed white labour from the taking off of one crop to the production of another.

Mr. G. B. EDWARDS.—That would be for twelve months.

Mr. FISHER.—It might be for twelve months, or a little more, or a little less. I think very few crops are taken off within less than twelve months, but there may be exceptional instances. It would be wrong for us to enact that no other planters should be allowed to register their plantations, and I hope that the Committee will not follow the suggestion of the honorable member for Herbert. The impression left upon my mind is that, if the honorable member has his way, any planter who is now employing black labour will not be able to obtain the bonus offered for the employment of white labour unless he ploughs up every vestige of vegetation upon the cultivation of which black labour has been engaged.

Mr. BAMFORD.—Hear, hear.

Mr. FISHER.—I am entirely against the honorable member on that point. Why should we destroy the results of the employment of capital and labour in that way?

Mr. BAMFORD.—Why did the planters not take advantage of the Act before?

Mr. FISHER.—For the reason which I have stated. They have to carry out certain contracts in connexion with the employment of kanaka labour. I do not suppose that the honorable member will follow up the line of argument which he has adopted, because he must see that the Committee could not support him. I think that such a period should be fixed as would afford every reasonable facility for earning the bonus, and that we should not destroy the results which have been brought about by the employment of much capital and labour for the sake of mere sentiment.

Mr. McDONALD (Kennedy).—I can bear out what the honorable member for Herbert has stated, because while I was in Northern Queensland, I had brought under my notice cases in which notwithstanding

that black labour had been employed in the cultivation of the cane up to a certain point, the growers had registered on the 30th March and had been able to secure the rebate. In view of these circumstances such restrictions should be imposed that if planters desire to earn the bonus they must cultivate their cane wholly by means of white labour. Upon all the plantations a large area is annually set out for a new crop, and if growers desire to obtain the rebate they can start by employing white labour solely upon the newly planted area. Then they will obviate the necessity of having to plough out the results of previous cultivation. I was very much surprised when it was pointed out to me that it was possible to cultivate cane with black labour, and still to obtain the rebate. I thought that was simply ridiculous, and when the instances mentioned by the honorable member for Herbert were quoted, I was perfectly staggered. I know that this cannot be done now under the regulations, but it has been done. We should put our foot down very firmly, and make the planters understand that they must use white labour wholly in the cultivation of sugar upon which any rebate is to be claimed.

Mr. BAMFORD (Herbert).—I think that it was principally through my intercession with the Minister for Trade and Customs that the time for registration was extended to 1st March last. When I was in Northern Queensland during the recess, I was waited upon at Cairns and other places by planters, who asked me if I would use my influence with the Minister to have this concession granted. I consented to do so, but told them plainly that, so far as I was personally concerned, I would not go one day beyond 1st March. I told them that they were not entitled to any further extension of time; that they had had every opportunity of taking advantage of the provisions of the Act, if they had chosen to do so, but that they were so wedded to black labour that they would not give it up. Therefore, I said that if they wanted the rebate they would have to make another start. I hold that view still.

Mr. McCAY (Corinella).—So far as I can understand the original amendment and all the suggested modifications, they lead to the one result, namely, a very large increase in the bonus towards which all the States will have to contribute.

Mr. THOMSON.—Not the amendment—that leaves the matter in its present position.

Mr. McCAY.—The proposal of the Government does, but the amendment of the honorable member for South Sydney will extend the facilities offered under the Bill.

Mr. THOMSON.—No; because the Government have already been paying the rebate under that system.

Mr. McCAY.—That is just the point. The Government have been paying the rebate under a system not authorized by the Excise Act.

Sir GEORGE TURNER.—Not paying the rebate. I have held back the balance which might in strictness have been paid to the States, but I have not paid any rebate.

Mr. McCAY.—The Treasurer proposes to make payments which are at present not authorized by the Excise Act, which forbids the payment of any rebate in regard to sugar produced by the employment of black labour after 28th February, 1902. As I understand, the Government has extended the time of repentance to 1st March, 1903, or rather they have promised to do so. Perhaps the Treasurer can inform the Committee whether a promise has been given to the growers that they shall be entitled to the payment of the bonus on sugar produced by white labour from the 1st March, 1903.

Sir GEORGE TURNER.—As far as I have been able to make inquiries, I understand that that is so. A regulation to that effect was passed and laid upon the table of the House.

Mr. McCAY.—Honorable members do not always see regulations which are laid upon the table, nor do they always read them when they appear in that interesting publication, the *Government Gazette*. I should like to know where the legislative authority for such a practice is to be found. The Excise Tariff Act declares that the excise duty upon manufactured sugar shall be "3s. per cwt. until the 1st January, 1907, less, from the 1st July, 1902, a rebate to the grower of sugar-cane and beet. The rebate in the case of sugar-cane to be 4s. per ton on all sugar-cane delivered for manufacture, and in the production of which white labour only has been employed after 28th February, 1902." It then goes on to explain how the rebate is to be calculated. To my mind that is a specific legislative

decree that no sugar-cane shall be entitled to the rebate unless it has been white-grown from the 28th February, 1902. If a promise such as that to which I have referred has been given, and if people have acted upon the faith of it, Parliament might feel bound to give effect to it. But I am very dubious of the propriety of adopting any such amendment as that suggested by the Treasurer, which would vest the Minister with power to fix dates, so that the bonus might be claimed upon sugar which had been worked by white labour only after those dates. It seems to me that under such an arrangement it would be possible for a great many growers—seeing that they cut their cane at different periods—to cultivate it by black labour till it had reached a very advanced stage, and then to cut it by white labour, so that they might claim the bonus upon it.

Sir GEORGE TURNER.—It all depends upon the date fixed by the Minister.

Mr. McCAY.—I do not think so, because I understand that cane is cut as early as May and as late as September.

Mr. V. L. SOLOMON.—It depends on the season.

Mr. McCAY.—It depends upon the season and the locality in which the cane is grown. The same date would not be applicable to all districts. If the Minister is to fix different dates for different districts—that is an exercise of Ministerial discretion which is open to objection because the Minister cannot be like Cæsar's wife, above suspicion.

Sir GEORGE TURNER.—Parliament has already empowered him to pay a rebate upon cane according to standard.

Mr. McCAY.—The rebate is based upon the practical result of the cane crushing. Parliament could not determine what percentage of sugar was contained in sugar-cane. Both in this House and elsewhere I have protested against vesting the Executive with what is practically legislative authority which can be exercised by Parliament itself. If we could dispense with regulations altogether it would be a good thing in many ways. That, however, is impossible, and therefore we have to abandon the principle to a certain extent because of the necessities of the case. At the same time we should strive to guard against the chance of any grower taking advantage of the exact wording of an Act of Parliament or a regulation. I suppose there

are growers, even in Queensland, who would consider it right, so long as they kept within the letter of the regulation, to draw bonuses which Parliament never intended to give them. It behoves us to be careful that we do not allow the growers to employ black labour, and at the same time to participate in the benefit conferred by the operation of a bonus. That is the danger against which we have to guard. The Committee have been taken by surprise by the proposal to extend the terms of the bargain which was made at the time that the Excise Tariff Act was passed. No question of this kind was then raised. I do not think that any of the honorable members, who now point out the desirableness of making an alteration, recognised this disability or suggested any proposal in connexion therewith. Whilst all the States—even Victoria—which is the biggest sufferer by the nationalization of these bounties—are prepared to pay their share of this "new" expenditure for the sake of the Commonwealth as a whole, it is only right that they should be protected against any possibility of results such as those to which I have referred. It would have been much better, I think, if this matter had been brought before honorable members earlier, so that they might have been allowed an opportunity to give it more careful consideration. The amendment which have been suggested this afternoon show that the mind of the Committee is not crystallized on the matter. Personally, I am in some doubt as to what action I should take. Under the circumstances, I feel inclined either to abide by the Bill as it stands, or, at the utmost, to go to the length of the concession which the Minister for Trade and Customs seems to have promised, namely, to extend the right to participate in the payment of the bonus to growers who have employed white labour since the 28th February of this year. Even of that I am dubious, but beyond that I am not disposed to go, though I am open to conviction as to the wisdom of the course which I at present fear.

Sir GEORGE TURNER.—The Excise Tariff Act, I would remind honorable members, has been administered by the Minister for Trade and Customs. He is exceptionally busy upon some other measures, and as it partook somewhat of the nature of the Treasury matter, I agreed to take charge of this Bill. I knew that some alteration

had been made under the Excise Tariff Act with regard to the date after which the bonus should be payable on sugar produced by white labour. I was under the impression that the desire was to allow those who had been using black labour to get rid of it gradually, and to come under the provisions relating to the employment of white labour. I still feel that that is the right course to pursue if it is practicable. But many difficulties have been raised during the course of this discussion which I should like time to consider. I also desire to consult the Minister for Trade and Customs, who is charged with the administration of the Act. Therefore, if the honorable member for North Sydney will withdraw his amendment, I shall be prepared to allow the clause to pass in its present form, and to recommit it to-morrow, so that honorable members may have a further opportunity of discussing it. Perhaps I may then be able to tell the Committee that the alteration proposed should be made, or that it should be effected only to the extent mentioned by the honorable and learned member for Corinella, or that it should go further.

Sir EDWARD BRADDON.—Why not postpone the clause?

Sir GEORGE TURNER.—I would much rather pass it, and have it recommitted.

Mr. THOMSON (North Sydney).—After the remarks of the Treasurer, I have much pleasure in withdrawing my amendment, and allowing the clause to pass in its present form.

Amendment, by leave, withdrawn.

Mr. KENNEDY (Moira).—The Committee occupies very much the same position in regard to this clause as it did when the discussion commenced. The honorable and learned member for Corinella has referred to an extension of the provision contained in the Excise Tariff Act to 1st March, 1903. Practically, that is an extension for one year. I understand that it applies only to the crop for the ensuing year. It was never intended that the Excise Tariff Act should debar sugar-growers who produced their sugar by black labour in 1902 and 1903 from participating in the rebate granted by Parliament, provided that they grow their sugar by white labour in 1905.

Mr. MCCAY.—My remarks referred to sugar which has been planted by black labour since 28th February, 1902, and from which a second crop will be taken in 1905.

Mr. KENNEDY.—The Act states that the rebate shall be payable upon sugar cane or beet in the production of which white labour only has been employed. I should like to know whether the word "production" includes every operation that is necessary in the cultivation of the land for three or four years prior to the harvesting of the crops?

Mr. THOMSON.—I understand that under that provision rebate has already been allowed.

Sir GEORGE TURNER.—Because the Act provided for it.

Mr. KINGSTON.—There was an original provision that nothing done before a certain date should invalidate the claims.

Mr. KENNEDY.—The amendment suggested by the honorable member for North Sydney is in line with my own views upon this question, as it would insure that black labour would not be utilized in the cultivation at any time in a particular year of a crop on which the bonus was paid.

Mr. THOMSON.—That if it had been, we should not pay the bonus upon that crop.

Mr. KENNEDY.—So far my views are in line with those expressed by the honorable member, and the difficulty is to find words to convey that intention in such a way that it shall be open to no doubt, and that there can be no extension whatever of the concession beyond the desire of this House. The section in the Excise Act leaves a doubt in my mind as to the possibility of the sugar-grower coming in at some period subsequent to 1902 if he has made use of any black labour at all in the planting of a crop, and, if he ceases to use black labour in 1903 or 1904. I think that under that section he would be debarred from taking advantage of the bonus provisions of this Bill, and I do not think that that was ever contemplated. What was contemplated was that no sugar-grower should be entitled to a bonus upon sugar in the production of which black labour had been employed. It was not intended to apply where black labour was employed only in the preparation of the land and planting of the cane, provided that subsequently white labour had been employed in the cultivation of the crop, and for a period of at least twelve months before the time when the cane was carted to the mill.

Sir GEORGE TURNER.—The Excise Act as it stands would shut that sugar out.

Mr. KENNEDY.—That was the doubt in my mind, that as it stands the Excise Act

would shut out any sugar in the production of which black labour was employed at any time after the 28th February, 1902.

Sir GEORGE TURNER.—Yes; the grower would have had to cease the use of black labour on that date.

Mr. KENNEDY.—Does that mean that any sugar cane on which black labour has been employed after that date could not take advantage of the rebate provision?

Sir GEORGE TURNER.—That is the meaning of the law as it stands. If any black labour whatever has been used after the 28th February, 1902, no rebate can be granted upon the crop so produced. What is meant by the law as passed is that a man must prepare his ground afresh, plant his cane, and cultivate it entirely by white labour, and that I think is too harsh.

Mr. KENNEDY.—That was not contemplated.

Mr. THOMSON.—The Act is not administered in that way.

Sir GEORGE TURNER.—No operations under it have yet arisen.

Mr. KENNEDY.—I should think that when we have regulations, providing for an extension of the time from February, 1902, to March, 1903, that is an indication that the Act is not going to be administered in that direction.

Sir GEORGE TURNER.—That applies to the coming crop; but those regulations are being challenged as being outside the Act.

Mr. KENNEDY.—What I desire to get at is whether the Excise Act prevents our extending the provisions of the Bonus Bill to sugar in the production of which, after 1902, no black labour has been employed.

Mr. BAMFORD.—The date has already been extended.

Sir GEORGE TURNER.—Yes, by regulations, which are challenged as being outside the Act.

Mr. KENNEDY.—I should like to know whether those regulations are valid, and whether the Excise Act is to be so interpreted that a bonus may be paid upon sugar manufactured in 1905, and in the production of which no black labour has been employed for say, twelve months prior to the cutting of the cane and its being carted to the mill.

Sir GEORGE TURNER.—A rebate could not be granted upon that sugar under the Excise Act as it stands.

Mr. KENNEDY.—Is there not power under the Act to extend the provisions?

Sir GEORGE TURNER.—There is the general power to make regulations.

Mr. KENNEDY.—I believe that the consensus of opinion in the Committee is that that should be allowed. My impression when the Excise Act was under consideration was that power was given under that Act to pay the bonus upon sugar grown in any particular year up to 1907, if it had been grown entirely by white labour. To confirm that opinion I would point out that the Excise Act was simply a corollary of the Pacific Island Labourers Act, under which we took power to restrict the importation of *kanakas*. No one who discussed that measure lost sight of the fact that a number of sugar planters had black labour under contract, and could not dispense with it prior to 1902, 1903, or even 1904, and it was felt that as soon as they could dispense with that labour and substitute white labour for it, they should receive consideration under the rebate provisions. I never for a moment imagined that the Excise Act would debar us from extending the provisions of the rebate to sugar grown by white labour after 1902.

Clause agreed to.

Clause 3 (Calculation of bonus on sugar cane).

Mr. CONROY (Werriwa).—I would point out that as it is suggested that we shall depart from the original scope of the Bill, which was merely to convert the rebate previously provided for into a bonus, we might as well consider this clause under which the bonus is proposed to be 4s. per ton. I remind all who are interested in the sugar business, that according to the figures taken both from Queensland and New South Wales, the cost of treating a ton of cane varies from something like 2s. 11d. for cane produced by black labour to 3s. 5d. a ton for cane produced by white labour. There is therefore a difference of only 6d. per ton in the cost of cane produced by white labour as against that produced by black labour. We might go further, and admit a difference of 1s. per ton, and yet honorable members will see that by this clause it is proposed to allow 4s. per ton. If this Bill were merely intended to provide for a bonus instead of the existing rebate, I scarcely think that I should press my objection; but if it is proposed to go very much further than the original Excise Act, and

practically enter upon an entirely new understanding, it is high time that the people of the States who are being asked to contribute should know what they are contributing for. They should understand distinctly that according to *Coghlan* they are being asked to contribute just eight times as much as is necessary to cover the difference in the cost of production between the employment of white and black labour.

Mr. BAMFORD.—*Coghlan's* figures apply to New South Wales only.

Mr. CONROY.—According to *Coghlan* the position is slightly worse for Queensland than it is for New South Wales, because he shows that in the total cost of production of a ton of sugar there is a difference of 39s. in favour of Queensland as against New South Wales. He points out that this is partly due to the difference in the cost of labour, and is due also to one or two other considerations. At that rate Queensland could afford to take 3s. 6d. per ton less.

Mr. EWING.—The honorable and learned member will perhaps explain to the Committee that *Coghlan* is dealing only with the growing of the cane, and not with the cutting and crushing.

Mr. CONROY.—The figures given by *Coghlan* deal with the growing and cutting, not with the treatment in the mill, but with the total cost up to the time the cane is received in the mill. The honorable and learned member will probably recollect that *Coghlan* includes in his figures something like 9d. per ton of cane as the cost of transport from the field to the mill. He explains that the cost of transport is less in Queensland owing to the better facilities there provided by small railways and tramways and the proximity of central mills. He gives figures showing a cost of something like 12s. 2d. for Queensland and 16s. 3d. for New South Wales.

Mr. EWING.—That is for the growing of the cane.

Mr. CONROY.—It is for the growing of the cane and its whole treatment until it reaches the mill, and the figures given include the price paid for the cane, which is something like 10s. or 11s. per ton.

Mr. EWING.—Those figures refer to the growing of the cane, and do not embrace thrashing and cutting in which black labour is employed.

Mr. CONROY.—If the honorable and learned member will again refer to *Coghlan* he will find that his figures cover the cost

of thrashing and cutting and the transport of the cane to the mill. He points out that 2s. 11d. is the lower rate for black labour, and 3s. 5d. is the rate for white labour, the difference being 6d. per ton. In this Bill we are asked to vote as a bonus eight times that amount. If we say that instead of 6d. the difference in cost between sugar produced by white labour and that produced by black labour is 1s. per ton, we are then being asked to vote four times as much as we should. If it is intended to depart from the provisions of the old rebate arrangement in the way which has been proposed we should certainly consider whether we should not also depart from the provisions of clause 3 of this Bill.

Mr. KENNEDY.—I referred only to the method of contribution.

Mr. CONROY.—If the honorable member for Moira, as indeed I understood him, only referred to the method of contribution, I cannot include him amongst those who appear to desire that the whole question should be re-opened. Under the last clause the suggestion was made that despite the provision in the Excise Act we should extend the bonus to all sugar produced by white labour after February, 1902, and if there is to be a re-opening of the whole question, I think I shall be justified in raising the matter of the amount of bonus to be paid, and in suggesting that 4s. per ton is too much. If the Bonus Bill is brought forward, as I understood it was to be, purely in the place of the existing rebate provision, and if, so far as possible, exactly the same conditions are to prevail, I shall not discuss the matter further; but if we are to go into the whole question again, I submit that it is our duty to consider the present position, and not to act as we acted in times past, hurriedly and without the consideration that a measure of this sort should receive. If I am assured by the Treasurer that in the event of clause 2 being altered in the way which has been suggested, we shall be given another opportunity of discussing clause 3, I shall be satisfied.

Sir GEORGE TURNER.—I shall try to meet the honorable member.

Clause agreed to.

Clauses 4 to 6 agreed to.

Clause 7—

All rebates of excise duty on sugar paid before the commencement of the Act shall be taken to have been paid as bonuses under this Act.

Mr. V. L. SOLOMON (South Australia).—I intimated when speaking upon the second reading of this Bill, that I think it proposes the introduction of a very bad system in our legislation. Utterly irrespective of the sentimental aspect given to the question by some honorable members, it is misleading to make a surcharge virtually upon the various States for sums of money which they have received, and which the Government now think should be contributed by them towards making up this rebate of excise duty. Some honorable members have said that when the rebate was proposed, they were under the impression that it was to be divided *per capita* amongst the people of the Commonwealth as the establishment of a white Australia and the encouragement of white labour on our sugar-fields was a national question, and to this extent I have no doubt that many honorable members did consider that some sacrifice on the part of the States was necessary. It is pointed out in the papers which the Treasurer has kindly handed to us that one of the States which would be in a somewhat bad position owing to the existing system of making a reduction in the rate of excise merely on white-grown sugar, is New South Wales—a State which from the figures before us appears to have consumed by far the largest quantity of Australian-grown sugar. I would point out that when the Excise Tariff Bill was before us the question of the relative contributions by the States under its provisions did not arise. Those States which were likely to consume, and have consumed, the greater portion of the white-grown sugar of Queensland have been placed in this position—that instead of receiving a credit of £3 per ton excise duty on black-grown sugar, or £6 per ton Customs duty on imported white-grown sugar, they have received a credit to their revenue of only £1 per ton excise duty on white-grown sugar. I am not aware of the method which has been adopted by the Treasurer in the payment or distribution of this rebate to the growers. The Excise Tariff Act distinctly says—

The rebate to be allowed at the rate of £2 per ton on the sugar-giving contents of the beet. All rebates to be allowed at the time of delivery of the cane or beet on the ascertainment in manner prescribed of the sugar-giving contents.

The word “rebate” has a common every day meaning. It is simply an allowance in

respect of white-grown sugar, and instead of charging £3 per ton excise duty to the grower, or producer, or manufacturer—that is, to the man who last handled it—as we do on black-grown sugar, we charge only £1 per ton. We charge £3 per ton virtually, but we make an allowance of £2 per ton, and that allowance was to be calculated on its sugar contents when the sugar was brought to the mill. I am a little in the dark by reason of the fact that I missed hearing a portion of the Treasurer's speech the other day, and I do not think that he has really explained the *modus operandi* which has been adopted with regard to the rebates. It appears to me that the clear reading of the Excise Tariff Act is that, having ascertained when the sugar-cane or beet was brought to the mill for treatment, and discovered by analysis the sugar contents of the sugar-cane or beet, it is then a question of whether its owner should pay an excise duty of £3 a ton, or whether he should pay an excise duty of £3 per ton with a rebate of £2 per ton—in other words, £1 per ton on the ascertained sugar contents. Whatever may have been understood by some honorable members, whatever may have been thought of the mode in which this loss of revenue by States consuming the white-grown sugar was to be regulated, it was not embodied in the Act, and the proposal to go back upon that legislation, and to ask the States to pay a sum of £60,000 in order to recoup to the States which have used the white-grown sugar the sum of £2 per ton rebate on that sugar seems to me grossly unjust. It is a bad departure in principle. It is extremely dangerous to go back on a legislative enactment which has been on the statute-book for twelve months, and under which certain sums have been paid and certain accounts have been adjusted with regularity between the States, and ask those States for a surcharge provided for by new legislation. It is a departure which, as regards the past, I cannot understand, but which, as regards the future, may be perfectly just, now that the question is raised for the first time in Parliament. That appears to me to be a strong point. I should like the Treasurer, by interjection, to enlighten me as to the manner in which the rebates have been paid or allowed. It is clear that the Excise Tariff Act contemplated a mere rebate or virtually the

collection of £1 per ton on the sugar contents instead of £3 per ton. It provides that the rebate shall be allowed at the rate of £2 per ton on the sugar-giving contents of the cane or beet, at the time of the delivery of the cane or beet on the ascertainment of the sugar-giving contents in the manner prescribed. Where is the delivery of the cane or beet to be made? Undoubtedly it is to be made to the mill or place of treatment where the sugar contents are to be ascertained, and the excise duty of £1 per ton collected from the producer of the sugar, which would give him the advantage of a protection of 5 per ton against foreign sugar. That was considered by many honorable members on this side to be a very high rate of protection—such a rate as would encourage the growth and production of sugar by European labour. Section 93 of the Constitution Act distinctly says that—

The duties of excise paid on goods produced or manufactured in a State, and afterwards passing into another State for consumption, shall be taken to have been collected, not in the former but in the latter State.

That is to say, that the State where a ton of this sugar is consumed shall be credited with the excise duty. What excise duty? Surely the Treasurer will not tell me that he has first credited the States with the £3 per ton excise duty, and then debited them with the £2 per ton rebate—that a host of financial operations have had to be gone through, instead of the simple operation contemplated by the Excise Tariff Act of collecting and crediting to the States only £1 per ton on the sugar contents of white-grown cane, instead of £3. I cannot understand the Government not seeing that—whether this policy is one which Australia will approve of in the future or not—it is an injustice to pass retrospective legislation, and to go back on our previous legislation. I trust that the good sense of the Committee will see that it is inadvisable and unfair at this very early stage of our existence, not only to amend our legislation, but to go in for a retrospective surcharge on the various States, which will be a tax on some of their revenues.

Sir GEORGE TURNER.—The question of fixing the mode of dealing with the rebate, as it was unfortunately called, on white-grown sugar gave the House a considerable amount of trouble. We were all anxious that the rebate should go to the grower of

the cane, and we knew well that, if we had an excise duty paid by the manufacturer of the sugar and allowed the rebate off the duty, then there might be a little difficulty about the whole of the rebate getting back to the grower. The Act provides for an excise duty of £3 per ton on the manufactured sugar, and we are bound to collect that sum. We cannot collect only £1 per ton. The Act tells us that on the manufactured sugar we are to collect the excise duty. My honorable friend opposite seems to think that we ought to collect the excise duty from the grower when he takes his cane to the mill, but that would be utterly impracticable.

Mr. V. L. SOLOMON.—Or from the mill.

Sir GEORGE TURNER.—We collect the Excise duty when the sugar produced from the cane goes into consumption, and it is not collected for many months after we have had to pay the rebate to the growers—in some cases probably fifteen or eighteen months, because a considerable stock is carried over from one year to the other.

Mr. HIGGINS.—At what stage is the rebate paid?

Sir GEORGE TURNER.—We pay the rebate to the grower immediately the sugar-cane is delivered at the mill. Our authorised officers at the mill give a certificate which is equal to cash. It is cashed on presentation at the Treasury or other convenient places throughout the State.

Mr. V. L. SOLOMON.—The rebate is paid on a sum which has not been collected?

Sir GEORGE TURNER.—Certainly. "Rebate" may not have been the right word to use, but it was very difficult to find a word which would have better answered our purpose. But the object was perfectly clear—that the grower immediately he delivered his cane at the mill should be entitled to receive his certificate, and to get that certificate cashed as quickly as possible afterwards. The mode adopted in administration has enabled him to get that money within a day or two of the delivery of his cane at the mill. The excise itself can only be collected on the sugar produced from the cane, and that is collected from persons entirely different from those who grow the cane. There is no other means of carrying out the Act in a fair and reasonable manner than by adopting that practice, which gives to the grower what Parliament intended, 4s. per cwt. for sugar grown by white labour.

Mr. WILKS.—As a subsidy.

Sir GEORGE TURNER.—As a subsidy to enable the grower to make up for the loss—though the honorable and learned member for Werriwa says there is very little loss—supposed to be caused by the employment of white labour instead of black. When we had to pay this rebate we had no money appropriated by Parliament for that purpose; and the only course open to me was to take whatever excise was collected, put it in a trust fund, and pay the rebates out of it.

Sir EDWARD BRADDON.—What about section 89 of the Constitution, requiring that money to be paid to the States?

Sir GEORGE TURNER.—I continued to do that until I saw how the matter was working out. I quite admit that, in strictness, I might have been bound to hand the money over to the States as collected.

Sir EDWARD BRADDON.—Bound by the Constitution, in exclusive terms.

Sir GEORGE TURNER.—No doubt.

Mr. V. L. SOLOMON.—The Treasurer still has that money?

Sir GEORGE TURNER.—Yes; and shall hold it until Parliament directs it to be distributed. But what is the difference? Suppose I had paid the money over to the States, I should still have asked Parliament to allow the charge to be borne on a population basis. What I did made not the slightest difference to the States, except that if I had handed the money over to them, they might have spent it and might have found it very awkward at the end of the year, when they expected to receive a certain amount, to discover that they were not to get any money from the Treasury at all. Looking at the matter from a fair and equitable point of view, I thought that I was perfectly justified, until Parliament had an opportunity of dealing with this matter—because the matter arose after Parliament had ceased to sit at the end of last session; it came under my notice in the middle of the next January—in saying—“In the interim I will place this money in a trust fund until Parliament has an opportunity of saying whether the charge shall be distributed on a population basis or not.” I took the proper course. When Parliament deals with the matter the money which is still in the trust fund and amounts to a considerable sum will be distributed within 48 hours. While it was not in strict compliance with the terms of the Constitution to do as I did, I think it

was the right and proper thing to do under the circumstances. No one is injured, because, as I have pointed out, had I paid over the money to the States and Parliament directed that the charge was to be borne on a population basis, I should simply have had to make a charge against the States after they had had the money and spent it. That would have been much worse for them.

Mr. GLYNN.—The Treasurer would never have got it back from them.

Sir GEORGE TURNER.—I should have got it back by taking it out of the next money to be paid to them.

Mr. GLYNN.—Parliament would never have permitted that to be done.

Sir GEORGE TURNER.—The determination of the question rests with Parliament, whose hands are not tied. It is quite possible for Parliament to say that for this year the distribution shall be made on the old system, and that the new system shall apply only in the future. Parliament is not injured in any way. In fact, no one has been injured by the action which I took; and I consider that that action was amply justified, and was in the best interests of all the parties concerned in the distribution of the money. The question as to whether we ought or ought not to make this change apply to this year is one which has to be considered by the Committee. I think it is admitted on all hands that it is unfair to compel the States to pay in the mode in which the Act would have compelled them to pay. If it is unfair for the next and the following years, to my mind it is equally unfair for the past year. If it is wrong in principle, as we admit it is, to make the charge in one way, and we say that it is to be made in another way, surely we should begin by making the charge in a proper manner from the start. That was the object which I had in view—so that the hands of Parliament should not be tied, and so that the money should not be paid over to the States, with the consequence that it would have to be taken from them afterwards. I thought that the fairer plan was to keep the money in hand, so that Parliament might have an opportunity of dealing with the question.

Mr. V. L. SOLOMON.—What money has the Treasurer kept in hand?

Sir GEORGE TURNER.—The whole of the excise collected, less rebate paid; with the exception that Queensland was anxious

to have a certain amount of the sum due, and I advanced £25,000.

Mr. V. L. SOLOMON.—The Treasurer has only kept in hand £1 per ton for white-grown sugar?

Sir GEORGE TURNER.—Yes; I took the excise as it came into the Treasury, and charged the rebate to the trust fund. Then there were two of the States which required a sufficient amount of money by way of transfer to enable the rebate certificates to be honoured when they were produced. We had no other course open to us. We could not expect the growers to wait until the amounts were collected on the sugar produced from the cane—even if we could have distinguished which was the sugar produced by particular growers at that time, which we could not have done. We thought that they ought to have the money due to them at once, that the remainder of the money should be kept in a trust fund, and that Parliament should say whether the charge for this year was to be made on a population basis or a consumption basis. I say that we should adopt the same plan all through, whatever we do. We made a mistake at the beginning, and should rectify it from the beginning.

Mr. CONROY (Werriwa).—The principle upon which we are acting is not sound. It is a bad thing for Parliament to go in for retrospective legislation. To Victoria alone, what is proposed makes a difference of £16,000, which I think the Treasurer of the State might very fairly expect to receive. It is true that very little difference is made to some of the States, but a marked difference is made in the case of others. The difference is on the plus side in regard to New South Wales. I think, however, that it will be very unwise of the Federal Parliament, especially at such an early stage of its history, to indulge in retrospective legislation, and I, for my part, shall oppose it. Therefore, I shall vote against the clause.

Mr. KENNEDY (Moir).—I am not aware that this clause is in the nature of retrospective legislation in the slightest degree, because this is the first opportunity that we have had of determining upon what basis the rebate charge shall be distributed throughout the Commonwealth.

Mr. G. B. EDWARDS.—We had that opportunity when the primary legislation was framed.

Mr. KENNEDY.—That legislation only says that a rebate shall be paid to the

growers from the revenue of the Commonwealth, and does not say in what manner it shall be charged. As far as I can understand, the Act is silent on that point, and this is the first opportunity that Parliament has had of determining it. So far as Victoria is concerned, she is quite prepared to deal with the question in that Federal spirit which, from time to time, we have been advised to adopt. From that point of view, I hope that the honorable and learned member for Werriwa will not press the question to a division. Victoria is quite prepared to bear her share of the cost of the policy of a white Australia. She is not going to suffer an irreparable loss even if this Bill is made retrospective to the extent of asking her to part with £16,000 out of last year's revenue.

Question—That the clause be agreed to—put. The Committee divided.

Ayes	...	...	...	38
Noes	...	...	...	12
Majority	...	...	...	26

AYES.

Bamford, F. W.
Barton, Sir E.
Brown, T.
Chapman, A.
Clarke, F.
Deakin, A.
Ewing, T. T.
Fisher, A.
Forrest, Sir J.
Fysh, Sir P. O.
Groom, L. E.
Higgins, H. B.
Isaacs, I. A.
Kennedy, T.
Kingston, C. C.
Kirwan, J. W.
Manifold, J. C.
Mauger, S.
McCay, J. W.
McDonald, C.

McEacharn, Sir M. D.
McLean, A.
O'Malley, K.
Page, J.
Paterson, A.
Phillips, P.
Quick, Sir J.
Ronald, J. B.
Sawers, W. B. S. G.
Spence, W. G.
Tudor, F.
Turner, Sir G.
Watkins, D.
Wilkinson, J.
Wilks, W. H.
Willis, H.

Tellers.

Watson, J. C.
Salmon, C. C.

NOES.

Batchelor, E. L.
Braddon, Sir E.
Cameron, N.
Crouch, R. A.
Edwards, G. B.
Glynn, P. McM.
Hartnoll, W.

Poynton, A.
Solomon, E.
Thomson, D.

Tellers.

Conroy, A. H.
Solomon, V. L.

PAIRS.

For.

Cook, J. H.
Harper, R.
Lyne, Sir W. J.
Thomas, J.

Against.

Fowler, J. M.
Skene, T.
Mahon, H.
Bonython, Sir J. L.

Question so resolved in the affirmative.
Clause agreed to.

Clause 8 agreed to.

Clause 9.—Application of Regulations in respect of rebates.

Sir GEORGE TURNER.—It is only fair to point out that this clause might be affected by, or affect clause 2. Clause 9 speaks of regulations already made, and under the circumstances I propose to ask the Committee to allow this clause to pass on the understanding that I will recommend it in connexion with clause 2.

Clause agreed to.

Bill reported without amendment.

SUGAR REBATE ABOLITION BILL.

SECOND READING.

Debate resumed from 11th June (*vide* page 795), on motion by Sir GEORGE TURNER—

That the Bill be now read a second time.

Mr. CONROY (Werriwa).—As we have already passed a Bill to provide for a bonus on sugar, it seems to me that the measure before us is absolutely necessary; and, under the circumstances, I do not propose to discuss it. No matter what steps honorable members might think fit to take in regard to the Sugar Bonus Bill, we are bound to vote for the present measure.

Question resolved in the affirmative.

Bill read a second time, and reported without amendment; report adopted.

JUDICIARY BILL.

In Committee (Consideration resumed from 11th June, *vide* page 842).

Clause 1.—(Short Title and Divisions.)

Mr. DEAKIN (Ballarat — Attorney-General).—I move—

That clause 1 be postponed.

This is simply an index clause, the significance of which depends on what follows. Consequently, it would be better to deal with matters of substance as they arise, and to afterwards alter this clause to agree with the final determination of the Committee.

Mr. GLYNN (South Australia).—I ask the Attorney-General not to postpone this clause unless he also consents to postpone clause 3, which fixes the number of Judges who shall constitute the High Court. There is far more in the motion of the Attorney-General than will perhaps be at once grasped by honorable members. Unless we at once raise the question of the jurisdiction we are

to vest in the Court, we cannot determine the number of Judges, and the Attorney-General, probably feeling that, asks us to take the extraordinary course of postponing the clause in order to prevent the possibility of the question of jurisdiction being raised at this stage. I desire to propose an amendment on clause 1, with a view of testing the question of the original jurisdiction of the High Court, but I shall not do so at this stage if clause 3 be also postponed. In the absence of any promise as to the postponement of the latter clause, the sooner we test the question of the original jurisdiction the better.

Mr. WATSON.—Some honorable members would, in any case like to see the question of the original jurisdiction raised on clause 75.

Mr. GLYNN.—I have given notice of an amendment on clause 1 which will immediately raise the question of the original jurisdiction, and this may have something to do with the anxiety of the Attorney-General to have the clause postponed. When the Bill was before us last week, the Attorney-General was particularly anxious that clause 1 should be passed at once as a merely formal clause, but I immediately asked that it should be discussed, with a view to its improvement by the omission of certain words. The amendment of which I have given notice would have the effect of confining the original jurisdiction of the High Court to the matters contemplated by section 75 of the Constitution.

Mr. WATSON.—We ought first to settle the jurisdiction.

Mr. GLYNN.—And this is a convenient clause on which to do so.

Mr. DEAKIN.—In this matter I am entirely in the hands of the Committee. If honorable members are of opinion that we are in a position to deal with the questions raised on this purely index clause, I am prepared to deal with it, though to me that course appears most undesirable. When the Bill was last before us, I regarded it as a clause which might have been passed without question, because it must necessarily be amended to correspond with any alterations the Committee may make in other parts of the Bill. If clauses are altered substantially, the index to the Bill must necessarily be altered, and consequently I then regarded it as a matter of no importance. But the honorable and learned member for South Australia, Mr.

Glynn, sought on this clause to raise the question of the jurisdiction with which the court was to be invested, and that appeared to me so undesirable a course that I now propose a postponement of the clause instead of asking honorable members to pass it as a matter of form. If we deal with the question of jurisdiction, surely we had better deal with it on the clauses which specifically endow the court.

Mr. THOMSON.—What clause?

Mr. DEAKIN.—The clauses as we come to them. If the Committee prefer, however, to deal with the question of jurisdiction before touching the question of the number of Judges, I am prepared to postpone clause 3 along with clause 1. But I do not think that the most desirable method of procedure. I fear that the connexion or proportion to be established between the jurisdiction and the strength of the Bench cannot, even in the minds of professional members, be clear and beyond dispute. It is a matter on which every two professional men, in the Chamber or out of it, may well entertain different opinions. One professional man might say that if we gave the whole original jurisdiction asked for, it would mean another Judge or another two Judges, while a second professional man of equal experience might be of opinion that we could give that jurisdiction without adding a single member to the Bench. So far as I can judge, the discussion of the jurisdiction, and we must discuss it—the Bill—is not likely to effect the minds of honorable members in regard to the strength of the Bench in any precise way.

Mr. WATSON.—It will very materially.

Mr. DEAKIN.—If so, I am prepared to bow to the decision of the Committee; but my own opinion is that the discussion will not and cannot have such an effect. I will take no unfair advantage of the Committee, even though honorable members are under what appears to me to be a misapprehension. Therefore, if it be the general desire, I will agree to the postponement of clause 3 until the clauses dealing with the jurisdiction have been disposed of. If honorable members believe that the consideration of those clauses will afford them a better foundation for a specific decision as to the number of Judges to be appointed, I bow to their wish, though I think they are mistaken.

Sir JOHN QUICK (Bendigo).—Before we determine the number of Judges to be

appointed, we should make up our minds as to the amount of work which they are to be called upon to perform. It is of no use to decide to appoint five Judges, and then to determine what work they shall do; we must determine the work to be done before we say how many Judges are to be appointed. I disagree with the Attorney-General when he says that the number of the Judges is not relevant to the amount of work to be assigned to the Court.

Mr. DEAKIN.—I did not say that.

Sir JOHN QUICK.—If we assign to the Court only the constitutional original jurisdiction and an appellate jurisdiction, it will not have the same amount of work to perform as if the additional and optional jurisdiction relating not only to Federal matters, but to such matters as Admiralty cases and disputes between residents of the States, which belong absolutely to the States Courts, were assigned to it. The Bill also provides for the removal of suits in Federal matters from the States Courts to the High Court.

Mr. DEAKIN.—I am prepared to omit that provision.

Sir JOHN QUICK.—If that provision is not omitted, and power to try criminal cases is also given to the Court, the Judges will have to be even more numerous than is now proposed. Five Judges will not be enough, and before the end of a year there would be a demand for an addition to their number.

Mr. GLYNN.—Would it not be better to test the question of jurisdiction upon this clause?

Sir JOHN QUICK.—I do not think it would be convenient to do so.

Mr. GLYNN.—If we do not test it on this clause, it will be necessary to postpone a great many clauses.

Sir JOHN QUICK.—I suggest the postponing of clauses 1, 2, and 3. Before we proceed further, we should deal with the question of jurisdiction. Afterwards we can decide how many Judges will be required.

Mr. CONROY (Werriwa).—In support of the view put forward by the Attorney-General, I would remind the Committee that if we come to a decision as soon as possible as to whether the Court is to be merely an appellate court or a court of large original jurisdiction as well, we shall know how to deal with a number of subsequent clauses. I think we cannot too soon determine the jurisdiction of the Court. If

it is to be almost wholly an appellate jurisdiction, many of us will say that three Judges are enough; but, if it is to exercise the wider jurisdiction provided for in the Bill, all legal members know that more than five Judges will be required. It will, however, be difficult to consider many of the clauses until we know what the jurisdiction of the Court is to be. I can understand honorable members saying that five Judges would be required even for an appellate court, on the ground that it would be better that the Judges should have a certain amount of spare time than that suitors should practically be denied justice by the delay and consequent expense in hearing causes. On the other hand, if the jurisdiction provided for by clause 40 is conferred, five Judges cannot be enough. If the Committee intend to determine the question of jurisdiction on clause 1, well and good. But if before dealing with the question of jurisdiction it is decided to limit the number of Judges, a great many of the clauses will have to be re-drafted, and the Attorney-General could not be expected to say on the spur of the moment what clauses should and what clauses should not be amended.

Mr. McCAY (Corinella).—I agree with other honorable members that the question of jurisdiction is the vital substance of the Bill, upon which its other provisions hinge, and I suggest to the Attorney-General that, to get at the root of the matter, Parts I., II., and III., should be postponed, and that we should commence at clause 31 in Part IV. Although those parts are in their proper places, so far as the drafting of the Bill is concerned, they involve a hundred questions our decisions upon which will depend upon our determination in regard to Part IV.

Mr. GLYNN (South Australia).—I ask the Attorney-General to accept the suggestion of the honorable and learned member for Corinella. It would be better to test the question of jurisdiction on clause 31 than, for reasons into which I need not enter now, to meddle with clause 1.

Mr. THOMSON (North Sydney).—I hope that the Attorney-General will agree to the postponement. I am sure that we do not think that he would take advantage of the Committee, but it is known that the question of jurisdiction and the number of the Judges are both agitating the minds of many honorable members, and as, if we

decide to limit the jurisdiction of the Court and to reduce the number of the Judges, the reconstruction of a large portion of the Bill will be necessary, I think it would be well to postpone all clauses which might require redrafting until we have dealt with those questions.

Mr. WILKS (Dalley).—According to the legend inscribed on the pavement in the vestibule—"In the multitude of counsellors there is safety," but that saying is not borne out by what we have seen this evening. I am anxious to do what is right in connexion with this Bill, but the conflicting counsels of the legal members of the Committee leave me very much in a quandary. I do not agree with the honorable and learned member for Bendigo that if the Court were merely an appellate one there would not be enough work for five Judges, because my experience of Judges is that they are always overworked, and that the Bench is always undermanned. I think it would be better to decide the question at issue now, and thus save the waste of time which would be involved by dealing with clauses which might afterwards have to be re-considered.

Motion agreed to; clause postponed.

Mr. DEAKIN.—I have looked through the Bill, and have come to the conclusion that the suggestion of the honorable and learned member for Corinella is, under the circumstances, the right one to adopt. My only apprehension is that there may be a disposition to determine the questions raised by the provisions of Part IV. without the full apprehension of the consequences which attach to any amendment of them. However, the responsibility in that matter will be mine, and if I am not able to bring my own conclusions home to honorable members in connexion with those clauses, I should be unable to do so in connexion with other clauses. I move—

That clauses 2 to 30 be postponed.

Motion agreed to; clauses postponed.

Clause 31—

In addition to the matters in respect whereof original jurisdiction is conferred on the High Court by the Constitution, the Court shall have original jurisdiction in respect of all matters—

- (a) arising under the Constitution, or involving its interpretation;
- (b) arising under any laws made by the Parliament;
- (c) of Admiralty and maritime jurisdiction;
- (d) relating to the same subject-matter claimed under the laws of different States.

Provided that, with respect to matters which are by the laws of the Commonwealth required to be instituted in courts of summary jurisdiction or other courts of inferior jurisdiction, the original jurisdiction of the High Court shall not be exercised except by way of removal of the matter from the Court in which it is pending into the High Court and thereafter hearing and determining it in the High Court.

Mr. DEAKIN.—I wish to remind honorable members, before they commence to discuss this clause, that it is not proposed to make the jurisdiction herein conferred exclusively that of the High Court. The proposal is to allow the Judges of the High Court to deal with the subject-matters set forth in the clause, but not to exclude the States Courts from dealing with them. The original jurisdiction conferred on the High Court by section 75 of the Constitution is printed in small type at the foot of page 7. It is not competent for us to either reduce or alter that jurisdiction. But section 76 gives us the right to extend it by adding the subject-matters set forth in the clause. Our first intention was to give to the High Court all the original jurisdiction with which it was possible to endow it; but, upon further consideration, and having regard to the debate upon the second reading, I propose to move the omission of paragraph (c), which confers jurisdiction in respect of Admiralty and Maritime causes. The effect of the amendment will be that all such cases must be commenced, in four of the States in the Supreme Courts, and, in New South Wales and Victoria, in Admiralty Courts. We realize, even in regard to the provision allowing the power of removal from the States Courts to the High Court, the arguments for leaving Admiralty and Maritime jurisdiction—which may involve the detention of a ship, and should be exercised with extreme rapidity—with the States Courts. It is true that, even if paragraph (c) remained in the clause, the States Courts would not be deprived of their jurisdiction in respect to those matters, but the arguments of honorable members, when the second reading was under discussion, showed that, in their opinion, the States Courts are so circumstanced that they are well able to deal with this class of cases, and the omission of the paragraph does not amount to more than a convenient reduction of the original jurisdiction of the High Court. But I hope the Committee will not strike out the remainder of the clause, because all that it does is to provide that when we

have a High Court in existence litigants may commence suits of this kind before that tribunal. It does not do away with any of the jurisdiction at present existing in the States Courts, but leaves litigants free to take their choice.

Sir JOHN QUICK.—But that liberty is taken away by clause 41.

Mr. DEAKIN.—I propose to ask the Committee to strike out clauses 42 and 43, and the greater part of clause 44, retaining only such parts as it may be necessary to attach to the remaining clauses. I want the Committee to carefully consider before they amend the clause, what will be the effect of their action. They will prevent the Judges of the High Court from dealing in the first instance with cases which arise under the Constitution, or which involve its interpretation, or cases which arise under the laws of the Commonwealth, or cases which relate to the same subject-matter claimed under the laws of the different States. Surely in many instances it is likely to prove most desirable, if not necessary, that cases which arise under the Constitution or involve its interpretation, or cases which arise under the legislation passed by this Parliament, should be brought before the High Court, not only on appeal, but in the first instance. It is not intended to compel litigants to go to the High Court, and we shall not impose any inconvenience upon them if they wish to resort to their own States Courts; but if the Committee strike out the clause they will deprive the High Court of an opportunity of dealing, in the first instance, with cases arising under the Constitution, or involving its interpretation, or cases arising under the laws made by the Commonwealth Parliament.

Mr. MCCAY.—The Constitution contemplated that possibility.

Mr. DEAKIN.—Yes, just in the same way that it contemplated the possibility of there being only three Judges. But many of those who voted in favour of both these possibilities did so, not because they believed that to be the best course to pursue, but because they knew that the Parliament of Australia would be intrusted with the creation of the Federal Courts. Now, I am submitting to the Parliament of Australia reasons not why it should exclude States Courts from jurisdiction, but why it

should not exclude the High Court from jurisdiction in two classes of cases which, besides questions of appeal, it might prove desirable to submit for the opinion of the High Court. If a Justice of the High Court happened to be available in any State, and a question affecting the Constitution arose, why should we direct that a case must, in the first instance, be taken before the State Court? Why, in a matter peculiarly of Federal jurisdiction, should the doors of the High Court be closed against litigants? A litigant might consider that the case in which he was interested was one specially suitable for reference to the High Court, and one which it might be very undesirable to submit to a State Court.

Mr. McCAY.—Probably the other party would think otherwise.

Mr. DEAKIN.—Why allow the plaintiff the choice of his court under the States laws and deny it here?

Mr. THOMSON.—The defendant has the second choice under the Bill.

Mr. DEAKIN.—Yes; but that provision is to be altered. The ordinary choice of courts under the States laws is not to be departed from. What is now proposed is not contrary to the ordinary practice. It seems to me necessary to advance special reasons when the Committee are asked to say that cases arising under our Constitution, and involving its interpretation, must first be taken before a State Court and not direct to the High Court.

Mr. HIGGINS.—Is it proposed to give power to litigants to bring their cases before the States Courts?

Mr. DEAKIN.—Yes, under the amendments which we intend to propose, the amplest opportunity will be afforded to litigants in cases arising under the Constitution, or involving its interpretation, or arising under the Federal laws, to go first to the States Courts, if they prefer to do so. While that liberty is left to every person who believes himself aggrieved, why should we shackle their choice?

Mr. McCAY.—Why should the litigant be allowed to go to the State Courts in cases such as those described and not in other cases?

Mr. DEAKIN.—Because we cannot provide Federal Courts in all the States. If the Treasury could bear the strain of the expenditure involved, the proper course would be to provide Federal Courts in all the States, but we accept the existing

jurisdiction, and take the utmost advantage of it. Therefore, following the dictates of economy, we do not propose to close the States Courts against suits which arise in this manner. At the same time I would ask honorable members why they think it necessary to close the High Court against original jurisdiction in these cases?

Mr. McCAY.—Why open it?

Mr. DEAKIN.—Because the High Court is the most suitable tribunal to determine questions arising under our Constitution or under the laws of the Commonwealth.

Mr. HIGGINS.—Let the High Court determine those questions as a Court of Appeal.

Mr. DEAKIN.—It will still be a Court of Appeal, but there is no reason why it should not deal with these cases as a court of original jurisdiction with the same freedom as if it were a Court of Appeal only. Consequently, if we endow the Justices of the High Court with this original jurisdiction we shall enable those who prefer the High Court to bring directly before it any case arising out of the Constitution, or involving its interpretation. If the litigant is not satisfied with the decision of the single Judge on circuit before whom the case may first be tried, he may appeal to the High Court sitting in Banco.

Mr. PAGE.—How does the Attorney-General propose to get over the difficulty if only three Judges are appointed?

Mr. DEAKIN.—If honorable members decide at a later stage not to go one step beyond what the Constitution requires, and to appoint only three Judges—if they will not take the further step which I think is necessary and desirable and appoint five Judges—all we can do is to provide that in the case of an appeal from the decision of one Judge, the remaining two Judges must be in agreement, or the original judgment shall stand. That is the only recourse we have. In that case we shall have the matter tried before the whole Federal Bench: first by the one Judge, and then by the remaining two Judges, and at least two Judges must be in agreement. Consequently, the number of Judges is not directly involved in this question. The point is whether honorable members are willing to give litigants an open choice between their own State Courts and the visiting Justice of the High Court, who may be on circuit in a State, or to shut the door of the High Court and declare that

litigants must in the first instance repair to the States Courts.

Mr. McLEAN.—If the work of the Court is increased, will it not involve an increase in the number of Judges?

Mr. DEAKIN.—That may happen hereafter.

Mr. McCAY.—Then why not say at once that it is intended to appoint five Judges?

Mr. DEAKIN.—The difference is this—that, before the number of Justices can be increased beyond that fixed in the Bill, it will be necessary to come down to Parliament and satisfy it that other Judges are necessary.

Mr. CONROY.—That will have to be done.

Mr. DEAKIN.—Opinions differ. I am confronted by two absolutely antagonistic statements from the opponents of this Bill. One section say that there will be no business for the High Court to transact, whilst other honorable members say that there will be so much business that we shall have to double the number of Judges. Who am I to believe? I prefer to follow my own opinion, namely, that the whole of the business likely to be done in the High Court for some years to come, under the measure as framed, can be transacted by the number of Judges proposed.

Mr. THOMSON.—Why open two shops in order to sell the same article?

Mr. DEAKIN.—Why should we, when we have to open a shop to carry on a wholesale business—that of hearing appeals—prevent it from carrying on a retail trade as a court of original jurisdiction?

Mr. THOMSON.—Because it will involve more expense.

Mr. DEAKIN.—It will involve no more expense. It may be the fault of my comprehension, but I cannot see how the expense will be increased. Supposing the honorable member had a case which involved the interpretation of the Constitution, he could, under our proposal, avail himself of his own State Courts, and from their decision appeal to the High Court.

Mr. THOMSON.—I mean that there will be more expense involved in providing the High Court with all the necessary paraphernalia.

Mr. DEAKIN.—I beg the honorable member's pardon. May I, at this early stage of the debate, put in one modest but earnest appeal that the blessed word "paraphernalia" shall not find a place in this discussion, unless its meaning is first

defined. When I endeavoured to induce some of the critics of the Bill to indicate in what way the cost of the Court would be increased to the large extent they represented, I was told that the extra expense would be involved in providing "paraphernalia." When I asked the meaning of that word, I was told "paraphernalia."

Sir JOHN QUICK.—Will not the Circuit Courts involve great expense? They will be part of the paraphernalia.

Mr. DEAKIN.—The word "paraphernalia" cannot apply to the Circuit Courts. It may be, in one sense, made to apply to certain necessary parts of the machinery of the Court, but it always has a secondary meaning suggesting unnecessary and expensive ornamentation. I may say at once that there is no proposal for any unnecessary or ornamental expenditure in connexion with the High Court. The only proposal here is for the provision of the necessary machinery.

Sir JOHN QUICK.—For sending Judges all over the continent to exercise primary jurisdiction.

Mr. DEAKIN.—That depends on the number of Justices. If honorable members decide to cut down the number, the original jurisdiction of the High Court will be available to only a limited extent, because three Judges cannot go on circuit as often as five. The circuits and their extent will be determined by the number of Judges, and not by the jurisdiction of the Court. By conferring this additional original jurisdiction upon the High Court, honorable members will not necessarily increase the expense, but they will increase the opportunities enabling litigants to avail themselves of the Court. Very few opportunities will, however, be afforded in the more distant States for the exercise of the original jurisdiction of the High Court if the number of Judges is reduced.

Mr. McCAY.—That is to say, if we appoint fewer Judges than is proposed, the original jurisdiction conferred on the Court will be practically a dead letter.

Mr. DEAKIN.—No. I do not mean that, but the original jurisdiction can only be exercised to a limited degree because the Judges cannot visit the various States with the same frequency as if the Bench were stronger, and, therefore, fewer opportunities will be presented to local litigants. If the number of Judges is cut down from five to three, I shall still argue

in favour of the endowment of the Judges with original jurisdiction, because wherever they may be they should have it. Where they are, litigants should be able to take a constitutional case before them in the first instance, should such a case arise. If they are not there it cannot be put before them then.

Mr. GLYNN.—They could deal with those cases under section 75 of the Constitution.

Mr. DEAKIN.—But I wish the Court to be able to deal with these cases under section 76 in addition. If the suitor does not desire to wait for the visit of a Justice of the High Court, he has the option of taking his case before his own State Court. The Justices of the High Court will visit the different States at regular intervals, so that litigants will have their choice between that tribunal and the States Courts.

Mr. A. McLEAN.—Will the Judge have any knowledge of what cases are to come on?

Mr. DEAKIN.—Yes.

Mr. A. McLEAN.—Then proceedings must have been commenced previously.

Mr. DEAKIN.—At certain dates there will be regular visitations by a Justice of the High Court. If occasion requires, there may be visitations at other times, but there will be certain fixed dates upon which a Justice of the High Court will visit different States. When he is there, why should we say to litigants, "You shall not go to him. If you wish to commence an action involving a constitutional question, which is pre-eminently a Federal question, you must do so in a State Court?"

Mr. WATSON.—What is the object of giving that opportunity only to a small percentage of suitors?

Mr. DEAKIN.—In answer to the honorable member I would point to the experience of the Justices of the different States Courts when upon circuit. As honorable members know, it occasionally happens that a Judge of a State Court upon circuit arrives at a town in which he is presented with a pair of white gloves to symbolize the fact that there are no criminal cases to be tried, and often there may be only two or three civil cases listed. When High Court Justices visit some of the less populous States, it is just possible that they may be presented with white gloves, and have only a short appellate list with which to deal. But such contingencies, if they ever arise, will be much rarer if we

allow suitors an opportunity of bringing their cases in the first instance before visiting Justices of the High Court, because, then, the possible range of jurisdiction will cover not only the appellate, but this extra-original jurisdiction. Thus suitors who prefer the Federal to the State Court will be able to come before the Justices of the High Court, and there will be fewer instances of visits being made at which few suitors present themselves.

Mr. MCCAY.—Is there some mysterious attraction about these visiting Justices?

Mr. DEAKIN.—If not, there is no harm done.

Sir EDWARD BRADDON.—But more money is spent.

Mr. DEAKIN.—No. If we have a Court it must sit at certain times and places. We do not increase the expense of that tribunal by enlarging its original jurisdiction. The only argument that can be urged against me, is that if we give this original jurisdiction we may find the High Court circuit and other sittings crowded with business, and have an application from the Government of the day to Parliament to appoint additional Judges. In such a contingency it will rest with the Parliament to say whether it prefers to appoint additional Judges or to decrease the jurisdiction of the Court.

Mr. THOMSON.—It cannot do that.

Mr. DEAKIN.—Why not? Do honorable members who make that statement believe that the High Court will be called upon to transact a great deal of business?

Mr. THOMSON.—We had better begin on a small scale and expand.

Mr. DEAKIN.—I would rather see the High Court begin its existence by having to transact a large amount of business than by having a smaller amount than it is able to deal with. Let us give litigants the choice between the States Courts and the Federal Court.

Sir JOHN QUICK.—It will involve unnecessary expense.

Mr. DEAKIN.—In what way? If we have only three Judges armed with appellate and certain original jurisdiction, we must still make arrangements to allow of their visiting the States at various times. What extra expense would be involved in empowering the Court to deal with a little more business than it could otherwise transact? It will cost a suitor no more to

pay a barrister to appear before this Court than it will to pay him to appear before one of the States Courts.

Sir EDWARD BRADDON.—What special convenience will be conferred upon suitors under the Government proposal?

Mr. DEAKIN.—The convenience of having, in addition to the ordinary States Circuit Courts, the Federal Circuit Courts.

Mr. A. McLEAN.—If we vest the court with this original jurisdiction, does the Attorney-General think that three Judges will be sufficient?

Mr. DEAKIN.—If the Committee insists upon the appointment of only three Judges the extra amount of original jurisdiction vested in the Court will not overburden them. If honorable members reduce the number of Judges to three, I still prefer to vest them with this original jurisdiction in the interests of the suitors.

Mr. GLYNN (South Australia).—Evidently the Attorney-General is beginning to think that the sooner these clauses are eliminated the better. This is the first occasion upon which I have seen a Minister rise—before a single word has been said against a clause—to enter upon an elaborate defence of it.

Mr. DEAKIN.—There were one or two interjections.

Mr. GLYNN.—Evidently the suspicions of the Attorney-General are aroused, and he is becoming doubtful of the wisdom of retaining the clauses relating to the original jurisdiction which it was proposed to confer upon the High Court. Since last week, acting upon the excellent suggestions of the honorable and learned member for Bendigo, he has “caved in” to some extent by cutting out of the Bill, without a single word of further debate, the provisions which sought to centralize jurisdiction in Admiralty and Maritime matters. Those provisions meant nothing more than the centralization of justice. The Attorney-General talks about giving litigants the option of going to the High Court, or to the States Courts. But the Government proposal simply means that a suitor in a distant State, instead of having recourse to the Judges of his own State, will be dragged before the High Court which will probably be sitting in the very heart of Australia. It is really a question of centralization with its accompanying great expense. The Attorney-General has shown that he is doubtful of the expediency of conferring upon that tribunal all the

powers that we can confer under the Constitution, because he has given notice to eliminate some of the provisions relating to the power of removal of causes—provisions which were expedients adopted to extend the jurisdiction of the High Court. He is now willing to excise clauses 42 to 44 inclusive, under which a defendant is given power, before a defence is entered, to remove as of right a cause from the jurisdiction of the States Courts to that of the High Court. The Attorney-General has made an elaborate defence before being attacked. He has yielded to the suggestions put forward by the honorable and learned member for Bendigo, and, on his own initiative, he proposes to excise the clauses relating to the power of the removal of causes.

Mr. DEAKIN.—The honorable and learned member for Indi supported the suggestion to limit the power of the removal of causes.

Mr. GLYNN.—Then why not go further, and accept the suggestions of the honorable and learned member for Indi in their entirety? In his speech that honorable member suggested cutting down the original jurisdiction of the Court to the matters referred to in the Constitution.

Mr. ISAACS.—I said that I agreed with the honorable and learned member for Bendigo as to the removal of causes, and as to the wisdom of not depriving the States Courts of any jurisdiction which they already possess.

Mr. GLYNN.—That practically means that we should not confer upon the High Court any greater jurisdiction than is already assigned to it. Under the Constitution that Court is given original jurisdiction in regard to five matters. The Attorney-General has said that the Judges must go to the various States to sit, because we must give them original jurisdiction irrespective of whether we like it or not. But I do not suppose that one case will arise in two years, perhaps not one in ten years, under section 75 of the Constitution.

Mr. L. E. GROOM.—What about cases in which a writ of mandamus or prohibition is sought?

Mr. GLYNN.—Very few cases will arise under that section. None will arise under any treaties or as affecting Consuls. There may be cases against the Commonwealth, but these can be dealt with by the States Courts. This is an original jurisdiction that is not exclusive

Under this Bill actions may be taken in the States Courts, so that very few cases will arise under section 75 of the Constitution, because though the original jurisdiction cannot be taken away from the High Court to the extent that it has been vested by the Constitution, in most of these matters jurisdiction is actually possessed by the States Courts. That is so in cases of State against State, or even in the case of an action against the Commonwealth.

Mr. DEAKIN.—Surely the States Courts could not entertain an action in which State was against a State.

Mr. GLYNN.—Yes; they could do so even before the Constitution was passed. It has been the opinion of the highest Judges that a suit could have been brought in any State if that State had been made the defendant. There may have been a disinclination to do anything of the sort, but the power existed before this Constitution was framed. Any State could sue another State in its own Court, and any citizen of a State could sue another State in its own Court. It is true that actions of the kind may be very infrequent. Although we are always talking of these matters in this House, I do not remember a single case in which a State has taken action against another State. So far as that provision is concerned, its exercise will be very infrequent; but it will be concurrent with a power already existing in the case of States, though, of preference, no doubt a suitor may occasionally wish to go to the High Court. Perhaps, a writ of mandamus may be asked against an officer of the Commonwealth, but up to the present we have not conferred the power under any Act of Parliament to issue a mandamus against the Commonwealth. Last year, when I tried, during the discussion upon the Claims Against the Commonwealth Bill, to have a provision inserted under which the Minister for Trade and Customs might be made to deliver up documents, upon which he had been sleeping perhaps for months, the Government were horrified at the idea of a power being given by prerogative writ to compel action by a Minister of the Crown.

Mr. WATSON.—There would not be the same objection to giving the power to the High Court of the Commonwealth.

Mr. GLYNN.—I do not see that the change of Court would make the slightest difference. Suppose an application were made to compel a Minister to disgorge

moneys he held over—and in this connexion I need only refer to the proceedings of this afternoon in connexion with the Sugar Bonus Bill? An application of that kind may be made by a State to proceed against the Commonwealth.

Mr. WATSON.—To a State Court? I object.

Mr. GLYNN.—I would remind the honorable member that there might be as great a chance of a Federal leaning in the High Court as of a State leaning in a State Court.

Mr. WATSON.—I should prefer the Federal leaning.

Mr. GLYNN.—We should have an applicant representing, as it were, the State and a defendant representing the Commonwealth, and why, if we desire equality of opportunity, should we say that the Federal Court is to be the one in which proceedings must be taken?

Mr. WATSON.—Because it concerns Federal affairs?

Mr. GLYNN.—Not Federal affairs exclusively, but affairs arising under the Constitution which cover, not the rights of the Commonwealth alone, but the rights of the Federation, which includes the States.

Mr. WATSON.—Such cases should be decided by an Australian Court.

Mr. GLYNN.—I think the honorable member sometimes confuses the Constitution with the Commonwealth. The Federal Courts are to be the guardians not of the Commonwealth, but of the Constitution, and the Constitution declares the right not only of the Federal Executive, or of the Federal State, as we may term it, but the rights of the States which are units in the Federation. A Federal court therefore is no more a court of the Commonwealth—though it is a court of the Constitution—than is a State Court. The obligation of the laws is as imperative upon the States Courts as upon Federal Courts, because as a matter of fact they all have their source in an Imperial law equally binding upon all.

Mr. WATSON.—There must be a wide margin for the personal equation in every instance.

Mr. GLYNN.—If we follow the lead of America in this matter we shall find that original jurisdiction is there confined to cases in which a State sues a State or a State sues the Commonwealth or where Ambassadors, public Ministers, or Consuls are concerned. In no other case

is original jurisdiction given to a Federal Court in America.

Mr. WATSON.—Cases arising out of Federal laws.

Mr. O'MALLEY.—The Circuit Courts have original jurisdiction.

Mr. GLYNN.—In no other cases is original jurisdiction given to the Supreme Court of America. Original jurisdiction is given to the Federal Circuit Courts for reasons which are not applicable here. In America, there was no power under the Constitution to confer Federal jurisdiction upon States Courts, and for that reason they were obliged in the first year, I think in 1789, at the same time as they created the Supreme Court of America, to create a series of Federal Courts to localize justice. But under our Constitution, anticipating that there would be no necessity for many years to come to create Federal Courts, power is expressly taken, to vest jurisdiction in the States Courts. Still it is true that the Supreme Court of America has original jurisdiction in exceedingly few cases. We have, by our Constitution, given original jurisdiction to the High Court in those cases, and in one or two more. Surely it will not be said that the efficiency of our existing courts is not adequate for the discharge of original matters that may arise? Surely it would be far better for honorable members to allow the Supreme Court of a State, for instance, to hear an appeal from a court of summary jurisdiction upon a matter involving some point arising under the Customs Act? Whether we give original jurisdiction or not to the High Court in matters arising under section 76 of the Constitution summary jurisdiction will still remain in the summary courts of the States, so that a Customs information would be heard, not by a Federal Court, but the court of summary jurisdiction. Would it not be better, therefore, that in the first instance an appeal from a conviction in a Customs case should be heard by the Supreme Court of a State than by a Federal Circuit Judge going once in four or six months to a State to hear cases? In the first place we should get the point decided by three Judges, and the chances would then be that unless there was a divergence between the decisions of various States upon some question the matter would not be taken to the High Court of Australia. But, if the matter is taken before a single Federal Judge on circuit, in nine cases out of ten

the chances are that it will go on to the High Court.

Mr. O'MALLEY.—No, it is the other way according to the experience of America.

Mr. GLYNN.—The honorable member is again bringing in the experience of America, forgetting that under our system we shall have one circuit Judge, whilst in America the Circuit Court consists of three Judges. In America the Circuit Court is practically a court of final appeal.

Mr. DEAKIN.—In some cases.

Mr. GLYNN.—In nearly all cases.

Mr. CROUCH.—What is the full strength of the Supreme Court of America?

Mr. GLYNN.—There are nine Judges of the Supreme Court of America, but the Circuit Courts act as courts of appeal and courts of original jurisdiction. I think there are three Judges sitting at these Circuit Courts—the District Judge and two Judges of the Supreme Court of America. In all cases where they do not certify that a point ought to be reserved or unless the Supreme Court of America on special application, as of grace, grants an appeal, which very seldom occurs, the decision of the Circuit Court in America is final. So that really in America the Circuit Court would be equal to our proposed High Court.

Mr. DEAKIN.—Indeed it would not.

Mr. GLYNN.—I think it would, because as I have mentioned in nine cases out of ten an appeal would not go beyond the Circuit Court.

Mr. DEAKIN.—That does not make it equal.

Mr. GLYNN.—I am not contending that it would be of equal ability, but that it would be equal in point of efficiency, which means expedition and cheapness. The question of ability is a matter of the personnel of the court, and we cannot predicate that the Australian Court will be better than the American Court or, say, that the American Court is better than the Australian Court will be. Before we can speak upon that point we must wait until we see the calibre of the Judges appointed to the High Court, and the less political such appointments are the better they are, as a rule.

Mr. DEAKIN.—I was speaking of their jurisdiction.

Mr. GLYNN.—Of course they are not equal in that respect, because they have not the ultimate appellate power. But, in addition to the powers they have to which I

have already referred, and the fact that the tribunal consists of three Judges, nearly all the removals in America are not to the Supreme Court, but from the States Courts to the Circuit Courts. Nearly all the removals there are from District Courts which are Federal Courts or from States Courts, which are allowed to exercise Federal jurisdiction under certain conditions, to the Circuit Courts. This shows that they are tribunals of almost equal importance to the High Court which we propose to establish. It is shown also that in America these tribunals promote the decentralization of justice. It is certain that if we allow original jurisdiction here we allow it to be exercised by a single Judge upon circuit, and the cases must wait until the circuit is made, which in America occurs only once in six months. Consequently if the decision is to be that of a single Judge in a majority of cases it will mean the carrying of the cases on to the High Court with consequent additional expense. The Attorney-General will surely be influenced by an authority such as Cooley on this question. Cooley is a writer on purely constitutional measures, not like Story and some others who are general writers on American laws, and who incidentally deal with constitutional questions. Books which are directed purely to matters of constitutional interpretation and constitutional rights will, I, think, be admitted as authorities of greater weight than those in which such matters are incidentally referred to in a general discourse upon law. After mentioning that as an interpreter of the Constitution that must be a Court of Appeal, that the Supreme Court is necessary to secure uniformity as an appellate tribunal, and that the same principle does not apply to original jurisdiction, Cooley says:—

These reasons do not, however, apply to the original jurisdiction over a case, but only to the formal application in the case of the rule of law that shall govern it. The full purpose of the Federal jurisdiction is subserved if the case, though first heard in the State Court, may be removed at the option of the parties, for final determination, to the Courts of the States.

That is the opinion of one of the chief constitutional writers in America on the working of their Constitution, and surely honorable members will accept that as a weighty authority—that justice, except in a few matters arising under the Constitution, should be left to the

Mr. Glynn.

States Courts. There is another authority, who should to some extent influence the Attorney-General, and that is Mr. Garran. I am not referring now to the work which has so justly merited the eulogium of every one who has looked at it—Messrs. Quick and Garran's work on the Constitution—but to a little work entitled *The Coming Commonwealth*, published before the inauguration of the Commonwealth, by Mr. Garran, who is now secretary to the Attorney-General, and who probably has had something to do with the framing of these Judiciary and Procedure Bills. What does Mr. Garran say?—

In practice it will probably be found that the original jurisdiction will only be required in a limited class of cases; for instance, where the Commonwealth is a party, where one State is proceeding against another, or where the representatives of other countries are affected.

These are, of course, cases in which original jurisdiction is given under section 75 of the Constitution. Mr. Garran goes on to say—

In other cases it will probably be better to leave the original jurisdiction wholly to the State Courts subject to the right of appeal to the Federal Court.

That is what we are asking for, and I give it on the authority of the Secretary to the Attorney-General. That appears in a book published just before the Convention began to sit in order to influence the judicial provisions of the Constitution.

MR. DEAKIN.—Those were his first thoughts.

MR. GLYNN.—I think that his first thoughts happen to be his best thoughts in this case. Let us look at what would be the effect of conferring this jurisdiction upon the States Courts. It would mean that in every case where legislation had been passed under section 51 of the Constitution the Federal Circuit Judge would have equal power to hear disputes with State Judges. That would include all taxation matters—

MR. L. E. GROOM.—Jurisdiction has been given in the Customs Act and the Excise Act.

MR. GLYNN.—Original jurisdiction is given as a temporary provision, but in summary matters it is given absolutely. The Government have up to the present time point-blank refused to bring in a Bill conferring full original jurisdiction on the Courts of the States. In a piecemeal way they have given jurisdiction in various Acts. They have given jurisdiction in

the Customs Act, and—forced upon them by the House—in the Post and Telegraph Act. It was a jurisdiction, as at first proposed, only conferred until the High Court was created. Surely honorable members will remember that in several Bills—the Property for Public Purposes Acquisition Bill, the Post and Telegraph Bill, and others—the Government proposed to give only temporary jurisdiction to the States Courts, and that the provision was that automatically on the establishment of the High Court the Federal jurisdiction conferred on the States Courts was to cease? The Government have not proposed to give the States Courts the full jurisdiction. As a matter of fact, I believe that the States Courts have jurisdiction, in spite of them; but they have shown a disinclination to absolutely confer the jurisdiction so that it should be beyond all doubt. If we confer this original jurisdiction on the High Court, and a question on a promissory note arises, the jurisdiction will be vested in the Circuit Courts as well as the States Courts. I ask honorable members to say how can matters of Insolvency and Bankruptcy be determined by a Circuit Judge? It is not an ordinary issue, to be determined at a single sitting. It is not a question of fact which goes before a jury. Bankruptcy proceedings extend over months. There are the adjudication, the first hearing, various examinations before receivers and accountants, occasional references to the Bankruptcy Judges, and the final hearing. Generally the proceedings extend over many months, and require very elaborate machinery. How, then, can it be said that in a matter of that sort the Federal jurisdiction can be properly exercised by the Federal Circuit Court? It cannot be done unless you go to the High Court. The result will then be as has been indicated—a complete centralization of jurisdiction. So far as the Bill is alleged to give more efficient decisions in Federal matters, or to expedite proceedings, or to secure economy, it is a perfect farce. It will be inefficient for the reasons I have mentioned; it must be more expensive, and as the Judges cannot go on circuit more than, perhaps, once in six months without delaying the appellate jurisdiction, it will lead to considerable delay in the meting out of justice. I should like to refer the Attorney-General to a very recent authority. In the *Annals of the American Academy of Social and Political Science* for March last—

a volume which only came out by the last post—I find a very excellent article by Professor Harrison Moore, who has already published a very fair work on our Constitution.

Mr. DEAKIN.—It is an admirable article, which I have read.

Mr. GLYNN.—I am sorry that the honorable and learned gentleman had not an opportunity to read the article last week. If he had then thought it an admirable article he would have proved his conviction by not bringing in the Bill. Professor Harrison Moore points out, as we have endeavoured to do, that there is no immediate necessity to create the High Court; at all events to arm it with very extensive jurisdiction. He says—

The establishment of the High Court is likely to be deferred.

He mentions that probably the country would not stand the appointment of political Judges—I do not know what right he had to make that remark, because, of course, there is no talk about doing that—and he goes on to say—

Again, the legal issues presented to the courts can hardly be of the same supreme importance as those which have arisen in the United States, where again and again the courts have been faced with problems affecting the national security. Finally, the Constitution can be amended with comparative ease.

In fact, the object of his article is to show that the problems which are likely to affect us for many years to come will be very few, and are not likely to be big national ones, which require extensive jurisdiction in our courts, and he says that the work can be properly done by the States Courts. Of course, we shall be told again that we want a purer tribunal. Let us not idealize the Supreme Court of America too much. Mr. Woodrow Wilson, whom I am sure the Attorney-General respects as an authority, has stated that it has almost invariably taken its colour from the prevailing political opinion of the day. We have heard an apostrophe from the Attorney-General on two occasions to the genius of that court. Even in Marshall's time it was federalist, because the federalist party was then in power. In his work on *Congressional Government*, Mr. Woodrow Wilson says—

It has been during comparatively short periods of transition, when public opinion was passing from one political creed to another, that the decisions of the Federal Judiciary have been distinctly opposed to the principles of the ruling political party.

Let us not be led too much by this excessive eulogy which has been given to the High Court, and imagine that the States Courts are not likely to be free from undue influence in coming to their decisions. We know that the Supreme Court of America, for ten years after Marshall's time, a democratic Government being in power, gave decisions that were purely democratic. I have not endeavoured to impugn the purity of the Federal Court, but whenever the States Courts are mentioned, we are immediately met with the statement that we cannot trust the interpretation of the Federal laws to them. When honorable members use that class of argument, I ask them to prove the assertion that the Federal Court is likely to be purer than the States Courts in the administration of justice. When I go to authorities in America, I find that the Supreme Court there has not been so absolutely pure. Being a single court, and having a final voice, it did of course reconcile decisions. Whether the judgment was sound or unsound, it had to give the last word, and therefore it did lay down finally what was the interpretation of the law, but it was sometimes affected by the prevailing opinion of the party in power—in Marshall's time by Federal views, and for ten years afterwards by purely democratic views. That is a class of argument which we have not used, but it has been used by the Government, and for that reason I refer to it. I hope that honorable members will excise the clause, and confine the original jurisdiction of the High Court to matters arising under section 75 of the Constitution. By doing so they will justify a smaller Bench, expedite justice, render it cheaper, and, on the whole, secure the requisite Federal efficiency.

Mr. ISAACS (Indi).—I sincerely hope that the Committee will not eliminate the clause except to the extent which the Attorney-General has indicated. I think we ought to consider also some of the concluding words. I do not know whether he really intended to include the question of removals in his observations with regard to some later clauses. I think it is rather consequential on what he said.

Mr. DEAKIN.—I propose to ask the Committee to retain the power of removal for special cause—that is why I did not mention those—but to delete the power of removal as of right.

Mr. ISAACS.—The honorable and learned gentleman does not mean that he is going to retain the concluding words with regard to removals—at all events, in their present form?

Mr. DEAKIN.—That is another matter.

Mr. ISAACS.—Confining my observations to the substance of this clause, I think it is only right that it should be retained. Under the Constitution the High Court has original jurisdiction in all matters—

Arising under any treaty.

That is to say, no matter between whom they may arise or under what circumstances—

Affecting Consuls or other representatives of other countries.

In which the Commonwealth or a person suing or being sued on behalf of the Commonwealth is a party.

No matter what the question is or under what law it arises—whether it arises under the Customs Act, or the Post and Telegraph Act, or the Excise Act, or under the Constitution itself—if the Commonwealth or any person representing the Commonwealth sues an individual, the High Court will have original jurisdiction, and *vice versa*, if any individual sues the Commonwealth under any circumstances the High Court will have original jurisdiction. So that nearly all the cases with which we have been familiar in the past under Federal law will be within the original jurisdiction of the High Court, whether we give this additional jurisdiction or not. Honorable members will not eliminate original jurisdiction if they strike out this clause. We shall require to have the opportunities for deciding these cases; we shall require to have the Judges in sufficient number—whether it be three, four, or five—and with sufficient opportunities to decide these cases, and all that these other clauses do, as far as I can see, is to give the same opportunity to private individuals as between themselves or between corporations and private individuals, to go to the High Court to get decisions that an individual suing the Government, or the Government suing an individual would have. Therefore, I think it means very little difference, if any, so far as I can see as regards expense. You must have the Court sufficiently equipped, furnished with means, and established with the proper opportunities to decide these cases, in original jurisdiction, mark you, as between the

Government and the private individual. And it seems to me only to be right to afford litigants the opportunity, if they so desire, to go to the High Court in the first instance, when they will, perhaps, be quite satisfied without any further appeal; and if there is any further appeal, it cannot go to the Privy Council.

Mr. THOMSON.—What is the use of duplicating courts?

Mr. ISAACS.—If I have succeeded in conveying my meaning aright, we are not duplicating any court. The High Court must be there in any event; it must be there for the purpose amongst others—a purpose that cannot be taken away, because it is embedded in the Constitution—of deciding such cases as we have heard of in the past.

Mr. THOMSON.—It does not follow that we need provide a High Court in every State if the States Courts are invested with the jurisdiction.

Mr. ISAACS.—Perhaps I have not conveyed my meaning yet. I have no intention to support a proposal to prevent the States Courts from deciding these cases, and to make this jurisdiction exclusive in the High Court.

Sir JOHN QUICK.—The Bill does that.

Mr. ISAACS.—Not in this clause. While I should support the States Courts having the fullest means of deciding these particular cases, because it is impossible, with the means at our disposal, to provide a High Court machinery to sufficiently cover the ground; on the other hand, I say that we cannot take away from the High Court the power of deciding questions arising under the Federal laws, and under the Constitution. Whether it is a civil or a criminal matter, we cannot deprive the High Court of the jurisdiction, and we must furnish it with the means of deciding the cases. Supposing that we have the High Court; supposing that we have a Judge there with inalienable power to decide these cases as between the Commonwealth and the individual, we are not increasing the expense, so far as I can see, by one penny by saying that the same Judge, with the same opportunities before him, shall decide any similar question between two private individuals. That is all I mean to convey.

Mr. CONROY.—We cannot take the Judge to the individual.

Mr. ISAACS.—He is there.

Mr. CONROY.—The Supreme Court of the State where the individual is, has also the power, so that this Bill is duplicating power.

Mr. ISAACS.—The Supreme Court of the State is located in the capital. It has to visit various parts of the State. So that the honorable and learned member might as well say—there being local courts in the different parts of a State—“Why take the Supreme Court to those parts?” The same argument would deprive all the Supreme Courts of the States of their original power, because you have in the various parts of the States, Courts of General Sessions, Courts of Quarter Sessions, District Courts, and County Courts, all doing the same work. It is impossible for an honorable member to look at the jurisdictions exercised in his own State without seeing that there is an alternative power given to act to the various courts; but at the same time you do not shut a man out from going to the Supreme Court. And it seems to me, that you should say to litigants—“You are not forced to go to the State Court; you are not forced to go to the High Court; you can go to which you like. There it is. The doors are open. There is not a penny more expense. The Judge is there.”

Mr. A. McLEAN.—The honorable and learned member cannot convince me that there will not be a penny more expense.

Mr. ISAACS.—You have the jurisdiction in all these local courts. Do not forget that. We have had in the past cases which would have come under the jurisdiction of the High Court, as given in the Constitution. All Customs cases such as those of which we have heard would be within the original jurisdiction of the High Court in any event.

Mr. CONROY.—What court would carry on the appeals if the Judges were occupied with other matters?

Mr. ISAACS.—What courts carry on the appeals in the States Supreme Courts when the Judges are on circuit?

Mr. CONROY.—If we are to have the same number of Judges as the States Supreme Courts have, I agree with the honorable and learned member.

Mr. ISAACS.—I must try to keep within the bounds of the clause before the Committee. We were told that we were not to discuss clause 3—that we were not to consider the number of Judges

until we had decided the work that they would have to do. My honorable and learned friend now wants to draw me into a discussion upon clause 3, irrespective of that. I am prepared to discuss the question of the number of the Judges if we are in order in doing so. As to that, I agree with the Attorney-General, that to do the work set out by the Attorney-General himself, we cannot do with less than five Judges. We cannot do justice to the smaller States without that number. It seems to me that to say that there shall be three Judges sitting in one of the larger States, and that people shall be compelled to bring their appeals to that Court, will be wrong to the other States. To make the High Court a peripatetic Court of three Judges, wandering around without doing other work, is almost impossible to contemplate. When we come to the clause in question, I shall be prepared to deal with it, but I am talking of this question of jurisdiction; and it seems to me that we do not sufficiently recollect the new jurisdiction that already exists by virtue of the Constitution. It is not as though we were taking a class of cases—say cases arising under Federal Acts of Parliament or under the Constitution—and giving them absolutely to the High Court for the first time; because, as I have pointed out, the vast number of these cases, perhaps the majority of them, will be within the grasp of the High Court whenever it is constituted.

Mr. GLYNN.—Are they not mostly matters of summary jurisdiction—under section 75, sub-section (3) for instance.

Mr. ISAACS.—Does the honorable and learned member mean cases in which the Commonwealth is a party? Surely that embraces all cases in which those conditions occur.

Mr. McCAY.—They will be mostly cases of individuals.

Mr. ISAACS.—They may not be. They may be cases of great importance where, say, under the Customs Act, a person sues for a refund of customs duties paid.

Mr. GLYNN.—Many of them are matters concerning individuals.

Mr. ISAACS.—I happen to be engaged in one or two cases myself, and I know perfectly well their nature.

Mr. L. E. GROOM.—There may also be cases for the recovery of duties paid under the Excise Act.

Mr. McCAY.—They are very rare actions: the majority of them are otherwise.

Mr. ISAACS.—No one can tell what the majority of such cases will be. I know that there are a number of important actions pending now, in which the High Court would have jurisdiction. Therefore, I say that by voting against this clause, honorable members will be cutting away the rights of individuals in suits between themselves, whereas we cannot help giving the right—we are in presence of a right which we cannot take away—in cases where an individual is a party on the one side or the other, and the Commonwealth is the opposite party. Then there are cases between States and the Commonwealth in which a writ of mandamus or injunction is sought against an officer of the Commonwealth. That is a matter in which the High Court will have jurisdiction in any event, and it is a class of case in which the Commonwealth ought to be represented as a Commonwealth. It seems to me that we shall be doing a wrong, and doing something anomalous unless we pass this clause. Without referring to the larger consideration to which the Attorney-General alluded it seems to me that we should not be doing right if we did not permit the High Court—the grand expositor of this Constitution in Federal matters—to have the opportunity of hearing cases if litigants choose to come to that tribunal and say—“We desire to have this matter determined by the High Court.” The litigants may be perfectly ready to abide by the judgment of one Judge of the High Court. They may not want to go any further.

Mr. A. McLEAN.—One of them will be content.

Mr. ISAACS.—Of course in one sense my honorable friend is right. But both parties may be content, and may not want to go any further with the case. Persons are very often satisfied, and say—“I have had this case fairly fought out: I am satisfied to have had a judgment of a Judge of the High Court,” and no appeal is taken. I think that the extra expense involved is infinitesimal. That is the view which I wish to put before the Committee.

Mr. McCAY (Corinella).—I have listened with great interest to the view of the honorable and learned member for Indi, but I think that throughout the whole of his remarks he has been assuming the real point

at issue between the two parties in connexion with this clause. He has really not only been assuming that it is desirable to give to the High Court what we cannot stop it from having, the original jurisdiction conferred by the Constitution; but also to put that jurisdiction into active operation by providing courts and Judges to hear these suits, and thereby, so far as possible, taking the jurisdiction away from the States Courts, to whom we can give original jurisdiction at the present time.

Mr. CROUCH.—Did not the second reading of the Bill assume that?

Mr. McCAY.—It did not assume it as far as I am concerned.

Mr. L. E. GROOM.—Does the honorable and learned member contemplate a court without original jurisdiction?

Mr. McCAY.—I contemplate doing without a High Court for the present. The second reading of the Bill has affirmed the principle that there shall be a High Court, but this Committee has a perfectly free hand to decide what the character of that Court shall be, within the limits prescribed by the Constitution. What I say is, that if we are to have a High Court, let us limit it to the functions so magnificently described during the second-reading debate, when we were told that the Commonwealth Court was to be constituted to harmonize all the conflicting currents of judicial decision throughout Australia. We want only an appellate court to do that; and not a court of original jurisdiction, where the jurisdiction is exercised by individual Judges. To say that we are giving the High Court original jurisdiction in these matters, is not correct. We cannot help the High Court from having that jurisdiction. But the Court may be so constituted that the original jurisdiction will not, as a matter of fact, be exercised by it, but primarily by the Supreme Courts of the States, if we give the jurisdiction to them.

Mr. DEAKIN.—Surely litigants ought to have the opportunity of going to the High Court in the first instance if they choose.

Mr. McCAY.—Litigants will not want to go to the High Court in 99 cases out of 100 unless it is as convenient to them as the Supreme Court of their State will be. That Court for all practical purposes is at the door of most litigants, and continually at their demand; and unless you make the

High Court of Australia as available as the Supreme Court of a State it will not get the original jurisdiction. Suits involving original jurisdiction will not be brought before it. Every additional piece of jurisdiction you confer upon the High Court means a very considerable increase of expense to the Commonwealth—that is, to the States and to their constituents. Unless you are going to say that the Judges of the High Court exercising original jurisdiction are to be such a superior class of persons as compared with the Supreme Court Judges of the States, that their decisions will be accepted as final without appeal, there will be no new benefit offered to litigants going to the High Court in the first instance. The Attorney-General is on the horns of a dilemma in this matter.

Mr. A. McLEAN.—I think he is on the wrong horn.

Mr. McCAY.—If he has five Judges of the Supreme Court he will not be able to provide enough Circuit Courts to make the attendance of the High Court Judges sufficiently frequent to enable them to compete—other things being equal—with the States Courts so far as the personal convenience of litigants is concerned.

Mr. DEAKIN.—The States Courts are not equal.—The honorable and learned member is looking only to Victoria.

Mr. McCAY.—The Attorney-General is wrong if he refers to the calibre of the Judges.

Mr. DEAKIN.—Both the calibre and the number.

Mr. McCAY.—In South Australia they have only three Judges.

Mr. DEAKIN.—In Tasmania only three.

Mr. McCAY.—There is not the same population in either South Australia or Tasmania, and three Judges for the latter State form a larger proportion than do five or six Judges for Victoria. If we are to have sufficient Judges to make the visits of the High Court to the various portions of the Commonwealth sufficiently frequent to suit litigants, I am afraid that five Judges will not be enough, assuming, as the Attorney-General seems to assume, that all the business will flow to the High Court. If, on the other hand, there are not sufficient Judges to provide sufficiently frequent Circuit Courts, the business will not flow to the High Court. It seems to me that five

is a betwixt and between number—not sufficient for the one purpose, and too many for the other. I am influenced by the view I take of the Bill as a whole; and, although the second reading has been carried, we are still in a position to question the extent of the jurisdiction. Every additional piece of original jurisdiction is an additional excuse for increasing the expense, either with regard to the number of Judges or with regard to the frequency of the Circuit Courts, with, if I may be permitted to use a forbidden word, all their “paraphernalia.” It is quite true, as the honorable and learned member for Indi pointed out, that a very large number of the cases which occur are already within the original jurisdiction of the High Court under the Constitution. So far as one is able to judge, I should say that, at any rate, two-thirds of the cases up to the present are within that original jurisdiction. These cases have been dealt with by the States Courts, and I have not heard any excessive complaining about the decisions given. The point has been emphasized that a State Court might decide one way, whilst another State Court decided another way.

Mr. DEAKIN.—That has happened.

Mr. McCAY.—There have been differing decisions; but it is not original jurisdiction, but appellate jurisdiction which is required to cure that difficulty, always assuming that appeals will go to the High Court and not to the Privy Council. For myself I do not think that appeals will go to the High Court in preference to the Privy Council, but I am assuming they will, for the purpose of argument. If it be urged that, considering all the original jurisdiction already conferred on the High Court, it will not matter much if we do confer a little more, that must be on the assumption that courts of sufficient frequency and sufficiently widely distributed are to be provided in order to transact all the business instead of leaving it to the States Courts. The argument is that, with all this jurisdiction, more Judges are wanted. The proper question ought to be—What is the least number of Judges with which we can do? There is no need to provide for frequent Circuit Courts to enable the jurisdiction to be exercised, so long as we have States Courts able to exercise it, and so long as the financial circumstances of the States are as at present. We should be exercising

a wise discretion if we did not confer extra jurisdiction, not so much from the point of view of the expense, as from the point of view of the excuse for expense that would be offered. We have heard a great deal about the mandatory character of the section in the Constitution as to the establishment of the High Court; but there is nothing mandatory as to the constitution of the Court. It seems to me that every option the Constitution gives, is being exercised in connexion with this Bill, except the option of delaying until a convenient time the establishment of the High Court.

Mr. O'MALLEY (Tasmania).—There is a saying to the effect that—“Fools rush in where angels fear to tread.” It seems to me that the specially organized and particular opponents of this Bill, who voted against its second reading, are determined to make the measure as inefficacious as possible. Honorable members from New South Wales would appear to know a tremendous lot about the working of such courts as that under discussion, but I venture to wager £50 that no man here has been in a Federal Court, or had a law suit there, except myself. The honorable and learned member for South Australia, Mr. Glynn, described the American Supreme Court as poisoned by political influences before its construction. But we ought to remember that Lord Salisbury, the late Prime Minister of England, said that if there was one thing he envied America, it was her Supreme Court; and I heard Lord Rosebery, one of the ablest men to-day in England, express similar sentiments in Pittsburg years ago. Why should I or any other citizen of the Commonwealth be deprived of the right to commence an action in a Federal Court? Is it because my legal friends wish me to run up such a bill in a State Court that I shall not be able to give security on appeal to the High Court? Why should litigants, say, on the West Coast of Tasmania, be deprived of the right to have their cases heard in the Federal Circuit Court in preference to the Supreme Court of that State? In the case of *Sarah Hill* against *Sharon*, heard in the Supreme Court, California, the plaintiff was successful in having herself declared the wife of the defendant, and on that decision would have participated in the division of over five millions of money. Mr. Justice Field, of the United States Supreme Court, came to Sacramento and upset

that decision. Did Mr. Terry, the counsel for plaintiff, appeal to Washington? No; he at once surrendered on the ground that as the question had been decided by one of the United States Judges, it was not worth while appealing.

Mr. CROUCH.—Did that court consist of one Judge or three Judges?

Mr. O'MALLEY.—The court consisted of one Judge from Washington. Then honorable members may remember the case of the United States marshal who shot Terry, because the latter threatened to shoot the Judge. Legal members, with very few exceptions, know nothing about Federal judicial power. In the United States, in case of doubt, the Supreme Court always overrides the State Court. The whole must be greater than the part, and the State is only a part; but the great misfortune is that the majority of Victorian representatives still believe that Victoria runs the Commonwealth, and do not seem able to reason beyond the bounds of that State. In Western America we had land cases, horse-stealing cases, murder cases, and constitutional cases tried in these Circuit Courts, and I have never known a case which was presided over by a Judge from Washington appealed against. My contention has been that Federal jurisdiction ought to be given to the States Supreme Courts, and that three Judges are all that is necessary for the High Court; but, if in the judgment of the Committee five High Court Judges are necessary, I am not going to stand in the way of their appointment. In the United States, if a citizen of Arkansas has a law suit with a citizen of Texas, he takes it into the Federal Circuit Court. Why? Because he knows that when he gets a decision it will be to the satisfaction of both parties. But some honorable members want the democrats of Australia to fight their cases through every State Court before bringing them to the High Court. Many a man, however, would be too poor to be able to put up the requisite security for an appeal to the High Court, although he could get an attorney to appear for him if he could go to the Court direct, and it would be a denial of a fundamental right of democracy to prevent him from doing so. Surely, every one of the Judges whom the Ministry appoint will have the confidence of the people! The honorable and learned member for South Australia, Mr. Glynn,

spoke of men being biased, but do honorable members remember the Dred Scott case in America? At that time the people of the States were almost in arms, and there was immense excitement. Charles Sumner, Wendall Phillips, and others declared in the grand old Faneuil Hall in Boston, where hang the pictures of Washington, Hancock, and Otis, that they would never surrender a fugitive slave, but Chief Justice Taney, of the Supreme Court, decided that they must send the niggers back from Massachusetts. Was that an instance of yielding to popular clamour? And the same firmness has been shown in many other instances. Such a case occurred only the other day. The Goulds, the Rockfellers, the Vanderbilts, and the Pierpont Morgans—people who could buy up Australia, and yet have enough afterwards to be rich—formed a syndicate called the Northern Securities Company, but when the legality of such a trust was questioned before Judge Thayer, he upset the whole business, though the States Courts were afraid to tackle the case. All the newspapers in the States, with the exception of Randolph Hearst's, are in their hands, yet this Judge gave a decision in a case involving billions against the monopolists and in favour of the people. The honorable and learned member for Werriwa is trying to upset an institution which will be the climax of the Federation. We must have the Executive, the Legislative, and the Judiciary to complete the Commonwealth power. The present Chief Justice Fuller gave up a practice of £30,000 to accept his present position at £2,100. All the Judges of the United States Courts are men who were successful practitioners for at least 25 years. Perhaps some of our friends here think that they are men who could be bought for a £5-note. There is the feeling in some countries that if you are an American you can be bought. Only the other day a big business man told me that President Roosevelt could be bought for a few thousand pounds, and yet I suppose the President could buy and sell any five men in Victoria, and have money enough left to throw at the birds. I hope that honorable members will awake from their parochialism and their narrow provincialism, and stand up for a High Court which will be a credit to the whole Commonwealth.

Progress reported.

ADJOURNMENT.

ESTIMATES : SUPPLY OF NEWSPAPERS.

Motion (by Mr. DEAKIN) proposed—

That the House do now adjourn.

Mr. CONROY (Werriwa).—I wish to know from the Attorney-General when we are likely to have the Estimates. It is now the 16th day of the last month of the financial year, and it is highly desirable that they should be laid before us as soon as possible. If we continue to drift as we have been doing we shall lose all control of the expenditure. In England, and at one time it was so in nearly all the States, the Estimates for the forthcoming year are always laid on the table at the beginning of the year. I do not ask for a detailed account of the revenue and receipts during this year, but the latest figures on that subject, so far as they are obtainable, should also be put before us. When we are asked to vote money after it has nearly all been expended, our supervision is practically worthless.

Mr. O'MALLEY (Tasmania).—I have to complain, Mr. Speaker, that the Melbourne *Herald* is not placed in the labour members' room on the days upon which Parliament is not sitting. If it is considered necessary, the members of the labour party will take up a collection in order to provide the funds necessary to insure the regular delivery of the newspaper in their room.

Mr. DEAKIN (Ballarat — Attorney-General).—In answer to the honorable and learned member for Werriwa, I may say that the Estimates have been in preparation for some little time, and will be ready shortly. As the honorable and learned member must be aware, it is not the custom to lay the Estimates upon the table until they can be accompanied by the returns of the expenditure for the financial year immediately preceding. These returns cannot be completed till after the end of the current month.

Question resolved in the affirmative.

House adjourned at 10.40 p.m.

Senate.

Wednesday, 17 June, 1903.

The PRESIDENT took the chair at 2.30 p.m., and read prayers.

MAIL CONTRACTS.

Senator Lt.-Col. NEILD asked the Postmaster-General, *upon notice*—

Will he take the necessary steps to lay upon the table of the Senate all correspondence that has passed between the Imperial and Commonwealth Governments relating to the proposed new mail contracts, especially having regard to the employment of coloured labour on mail steamers?

Senator DRAKE.—The answer to the honorable senator's question is as follows:—

The papers will be laid on the table of the Senate in due course.

POST OFFICE: WOOLLAHRA.

Senator Lt.-Col. NEILD asked the Postmaster-General, *upon notice*—

Will he take the necessary steps to lay upon the table of the Senate all papers relating to the erection of new post and telegraph offices at Woollahra, New South Wales?

Senator DRAKE.—The following is the answer to the honorable senator's question:—

The papers are very voluminous, and the cost of making copies to place upon the table of the Senate would be considerable. There is no objection to placing a précis on the table, and the whole of the papers can be perused by the honorable senator if he desires to do so.

CUSTOMS FINES.

Senator WALKER (for Senator PULSFORD) asked the Postmaster-General, *upon notice*—

1. What was the amount of fines collected in Victoria, year by year, during the ten years ending with 1900, and in 1901 to 8th October, for breaches of the Victorian Customs Act?

2. What is the aggregate amount of the fines collected in Victoria for breaches of the Federal Customs Act to the latest date for which it can be given?

Senator DRAKE.—The answers to the honorable senator's questions are as follow:—

1.—

Year.	Imposed by Department.	Imposed by Courts.	Total
	£	£	£
1891	872 11 6	895 13 0	1,768 4 6
1892	357 18 6	328 19 3	686 17 9
1893	471 6 2	448 10 0	919 16 2
1894	1,808 2 5	7 11 6	1,815 13 11
1895	6,563 2 0	365 2 6	6,928 4 6
1896	996 10 2	234 4 6	1,230 14 8
1897	1,704 13 7	170 15 0	1,875 8 7
1898	780 4 6	60 0 0	840 4 6
1899	1,388 9 5	—	1,388 9 5
1900	464 8 0	—	464 8 0
1901 (to 8/10/01)	834 6 0	235 2 0	1,069 8 0
Fines imposed before 8/10/01 but collected since ..	117 18 3	75 0 0	192 18 3
	16,365 10 6	2,760 17 9	19,126 8 3

2.—

8th October, 1901, to 31st December, 1901	£10	0	0
1st January, 1902, to 31st December, 1902	157	6	6
1st January, 1903, to 3rd June, 1903	350	5	0
	£517	11	6

CUSTOM-HOUSE : HOBART.

Senator WALKER (for Senator MACFARLANE) asked the Postmaster-General, *upon notice*—

1. When will the new Custom-house in Hobart be occupied?

2. The reason for the many months delay since its completion?

3. Are there any other buildings in the Commonwealth unoccupied for the same reason?

Senator DRAKE.—The following are the answers to the honorable senator's questions:—

1. Early in the next financial year.

2. Because it was not deemed necessary to incur the expense which was not provided on the Estimates. The building was commenced by the State Government before Federation, and has since been completed by it, except furniture, fittings and out-houses, for which a Federal vote is required.

3. No.

GOVERNOR-GENERAL'S SPEECH : ADDRESS IN REPLY.

The PRESIDENT.—I have to inform the members of the Senate that His Excellency the Governor-General has fixed three o'clock on Friday next at the Treasury-building to receive the address in reply to his opening speech.

STANDING ORDERS.

In Committee (consideration resumed from 12th June, *vide* page 875) :

Standing Order 273.

Motions — "That the Committee do now divide," "That the Chairman do report progress and ask leave to sit again," and "That the Chairman do now leave the chair," shall be moved without discussion, and be immediately put and determined, and no such motion shall be repeated within fifteen minutes of any of these motions having been negatived: Provided that the senator in charge of a Bill or resolution, or a Minister of the Crown, may at any time move to report progress and ask leave to sit again.

Upon which Senator Staniford Smith had moved by way of amendment—

That after the word "divide," line 2, the following words be inserted:—"which motion shall not be carried unless by a majority of four."

Senator HIGGS (Queensland).—I think it necessary very briefly to state the circumstances which surround the proposal before the Committee, in order that honorable senators who were not present last Friday may know what we are about to do. The standing order under consideration enables the motion, "That the Committee do now divide"—which is a closure motion—to be applied to any debate. Those who oppose that standing order failed to carry a provision that there should be a two-thirds majority in favour of such a motion, and it is now proposed by Senator Smith that the closure must be carried by a majority of not less than four. I submit that that is a just proposal. It would be in the power of a majority of four, if they so wished, to close the mouths of those senators who had not spoken to the question under consideration. I learn that the Standing Orders Committee of the House of Representatives have considered a proposal of this kind, and have rejected it absolutely. That House has not in its draft standing orders anything approaching the proposal now put forward by our Standing Orders Committee. Surely if the House of Representatives, consisting of 75 members, can get along without a standing order of this kind, a more limited House like the Senate, consisting of only 36 members, can do without it.

Senator CHARLESTON.—The House of Representatives has not tried it yet.

Senator HIGGS.—I do not know the meaning of that interjection. The honorable senator is like a boy who throws a stone into a yard. He does not aim at anything, but hopes that he will hit something. No other legislative body in the world has such a standing order as this. Let us understand how it came to be put into operation in the Legislature of South Australia. I understand that there was there a gentleman named Ash.

Senator PLAYFORD.—The standing order was in operation long before Ash came into the House of Assembly.

Senator Sir JOHN DOWNER.—It was in operation before Ash was ever thought of.

Senator HIGGS.—I learn from a member of the House of Representatives that the only time that he saw this standing order used was when Mr. Ash conceived it to be his duty to "stone-wall" at great length a Factories Bill which was under consideration. I believe that he kept the House of Assembly up all one night, and that the

members, with the exception of the Minister in charge of the Bill and the Chairman, left the chamber. Strangers were excluded from the gallery, and the affair became such a scandal that it was deemed absolutely necessary to put the standing order into operation. If I am mistaken on the point I have been wrongly informed, and some South Australian senator will be able to correct me. But I have had occasion to look at the debates of the South Australian Parliament, and, democratic and liberal as the people there generally are, the majority did some autocratic and tyrannical things. They took up a very dictatorial attitude towards a small minority opposed to them.

Senator PLAYFORD. — If this standing order has only been used once in South Australia, how can it be said that the majority was tyrannical on many occasions?

Senator HIGGS. — I said that the majority in the South Australian Parliament had been guilty of tyranny in several respects. I saw that in one debate when Senator Symon was speaking, though the matter was of extreme importance, somebody objected, and the debate was closed.

Senator Sir JOHN DOWNER. — That would have been on an informal motion.

Senator HIGGS. — However, it did not prevent him from saying what he had to say later on. But under a rule of this kind Senator Downer will see that if a representative of Western Australia or any other State brings forward a motion, makes his observations, and sits down, another honorable senator can get up and say, "I move that the Senate do now divide"; and if there is a majority against the mover of the motion, the Senate will divide, and an end will be put to further debate.

Senator Sir WILLIAM ZEAL. — The mover must be a bad lot, then.

Senator HIGGS. — The honorable senator knows that if the Senate were in an excited state, the mover of the motion might not have a bad case and might yet be closed up. Take a state of feeling such as existed in Melbourne on what was called "Mafeking Night." I believe that every individual who came into Melbourne that night had to put on his colours, or submit to be buffeted about by the populace. I should not be surprised to hear that Senator Fraser was one of those who pulled a man out of a cart in Bourke-street because he did not wear his colours.

Senator FRASER. — I am getting too old for that sort of thing now.

Senator HIGGS. — The honorable senator would have done it when he was a younger man. There are times when people become intolerant. Their minds are made up; they think that the very last word has been said on a particular subject; that they have all the wisdom, and that nobody need say anything else because there is no other side to be put. We want to give the minority an opportunity of being heard. I may not be in a minority always. I know that some honorable senators think that I am looking after my own interests in this matter, but it is possible that I may be in a majority some day, and I might want to close up Senator Playford. I wish to be prevented from doing that sort of thing. I feel certain that honorable senators from New South Wales and other States, which have had no experience of such a standing order as this, will not tolerate anything of the kind, and will vote for Senator Smith's amendment.

Senator Sir JOHN DOWNER (South Australia). — The honorable senator who has just sat down says that there is no such stringent provision as this in the standing orders of any Parliament in the world, except that of South Australia. He must have forgotten the closure rules of the British House of Commons, which are infinitely more stringent. Prevention is often considered better than cure. In the House of Commons the rule provides that any member may move at any time "That the question be now put," and the Speaker rules. If there is a division on the question, the only qualification is that 100 members, out of a House consisting of 670 members, shall vote in favour of the closure motion. I venture to say that there is no danger in this provision. It has been proved to work well in the Senate, as well as for a great number of years in the Parliament to which I have been more accustomed. The standing order was not instituted in South Australia in consequence of the conduct of Mr. Ash. I went into the South Australian Parliament in 1878, and the rule had been in force a great many years before that; in fact, I believe it is as old as the original standing orders of that State. The informant of Senator Higgs told him two things which were utterly inconsistent with each other. One was that this standing order had only been used there in a case of very exceptional abuse, when a man kept

members up all night wasting time. In the next breath he spoke of the dictatorial way in which the minority of South Australia were used by the majority. I appeal to all my honorable friends who come from South Australia to say with me that there has never been any dictation there any more than there has been here; and no one can assert that our proceedings in the Senate have not been conducted with great decorum. We have been conducting our proceedings with this standing order in force all the time, and no one can say that it has been abused. In South Australia it has never been complained of by anybody, and during the number of years I was there there was no party on either side of the House that wished to get rid of the rule. But I do not think the matter is of very much importance. We are not a very large body in the Senate. There are only 36 of us. But we do not want a set of circumstances to arise, under which we shall be kept here all night, supposing any honorable senator, becoming recalcitrant and troublesome, endeavours to delay business, rather than produce any result, or to delay producing results. We may pass the standing order with confidence, inasmuch as it has been in operation for many years in another Parliament, has never caused any trouble there, and has met with universal approbation. Now it is proposed that the closure motion shall be carried by a majority of at least four. When real obstruction has set in a large number of members go away. The attendance gets thinner and thinner, and it might be a matter of immense difficulty to get a majority of four at the very time when the closure motion was most wanted.

Senator MILLEN.—Would it not be better to close up if the Senate gets into that condition?

Senator Sir JOHN DOWNER.—My honorable friend knows the emptying powers of a Member of Parliament who has got up to talk all night simply for the purpose of obstruction. We know that very well. I think it is a very wise standing order as it stands at present, and the amendment proposed ought certainly not to be agreed to.

Senator HIGGS (Queensland).—I wish to say, in reply to the statement of Senator Downer, that this standing order has never been abused in South Australia, that we have in this Chamber two honorable senators representing that State, Senators Baker and McGregor, who have told us that it has

been abused on occasions. Senator Baker said that it had hardly ever been abused, and Senator McGregor told us that there were exceptions to the general rule that it had not been abused.

Question—That the words proposed to be inserted be inserted—put. The Committee divided.

Ayes	...	...	13
Noes	...	...	15
Majority	...	...	2

AYES.

Barrett, J. G.	O'Keefe, D. J.
Dawson, A.	Pearce, G. F.
De Largie, H.	Smith, M. S. C.
Glasse, T.	Stewart, J. C.
Higgs, W. G.	Styles, J.
McGregor, G.	Teller.
Neild, J. C.	Millen, E. D.

NOES.

Baker, Sir R. C.	Fraser, S.
Best, R. W.	Gould, A. J.
Cameron, C. St. C.	Playford, T.
Charleston, D. M.	Saunders, H. J.
Dobson, H.	Walker, J. T.
Downer, Sir J. W.	Zeal, Sir W. A.
Drake, J. G.	Teller.
Ferguson, J.	Clemons, J. S.

Question so resolved in the negative.
Amendment negatived.

Senator PEARCE (Western Australia).—I move—

That the words "Provided that a vote on the question, 'That the Committee do now divide,' shall require at least thirteen affirmative votes" be inserted after the word "determined," line 6. I shall not labour the matter. What I now propose is practically the New South Wales Legislative Assembly provision. It is a very fair proposal, and should need no words from me to commend it.

Senator DAWSON (Queensland).—I think we should have some intimation from Senator Drake and those who show so much enthusiasm in supporting the infamous gag, as to how they feel disposed to treat the new amendment. Many of the proposals we have made are exceedingly fair, and the least we have a right to expect from the representative of the Government is an intimation as to whether he is prepared to accept them or not. I believe Senator Higgs has already referred to the matter, but I take advantage of this opportunity to mention the remarkable fact that the Standing Orders Committee of the House of Representatives, representing a House of 75 members, cut out every one of these closure standing

orders. And yet we have the Standing Orders Committee of the Senate submitting an infamous standing order of this description, and the Government supporting it.

Senator MILLEN.—Does not the Government invariably do in one Chamber what they oppose in the other?

Senator DAWSON.—I am not prepared to answer that question in general terms, but in this case they are certainly doing one thing in the House of Representatives and quite another here. While I have nothing but commendation for the action of the Standing Orders Committee of the House of Representatives, words fail me to describe the action taken by the Standing Orders Committee of the Senate in recommending the adoption of this standing order.

Senator DRAKE (Queensland — Postmaster-General). — I should like in this matter to be able to rely upon members of the Standing Orders Committee for a general support of the standing orders recommended in the report which they have submitted to the Senate, but I find that they do not agree amongst themselves. We have been told that, according to the practice adopted in South Australia, when this standing order is put into operation Ministers and those who have already spoken do not vote for the motion.

Senator DAWSON.—In Queensland they do quite the opposite.

Senator DRAKE.—We have never had this standing order in Queensland, and therefore I am unable to see how cases quoted from Queensland history can apply. If there is to be a minimum vote of thirteen in favour of the motion "That the Committee do now divide," and if Ministers and those who have already spoken are not to vote—

Senator PEARCE.—Will the honorable and learned senator allow me to point out that he has laid down a different practice in this Chamber.

Senator DRAKE.—I have not laid down any practice. We are told that it is the invariable practice in South Australia that Ministers, and those who have already spoken, do not vote for such a motion, and it seems to me that if we are to adopt the South Australian practice, and to require a minimum vote of thirteen to carry this motion, the whole thing will be rendered nugatory. If, on the other hand, we do not adopt that practice, by insisting upon a minimum vote of thirteen in support of this

motion we make it more stringent than if we allow the standing order to remain as it is, with the understanding that the South Australian practice is to be followed. I hope Senator Pearce will not press his amendment.

Senator MCGREGOR (South Australia). —It is all very well for Senator Drake to speak of what has been the invariable rule in South Australia. The honorable and learned senator has become very credulous all of a sudden. He must know that the rule to which he referred was not followed in this Chamber. Honorable senators from South Australia ought to know that it has not always been followed in that State. There have been men in the South Australian Parliament who were prepared to vote when even the Constitution would prevent them, and it is within my knowledge that members of the South Australian Legislative Council who had already spoken upon a question voted when it was to their interest to have the motion put—"That the House do now divide." Senator Downer says that what we have proposed would make the standing order impracticable. But why would it make it impracticable? The honorable and learned senator has said that in the House of Commons, which honorable senators are so fond of quoting and following, it requires 100 to apply the "gag." I cannot call it anything else. If 100 are required in the House of Commons where the attendance, unless in very exceptional cases, is never more than between 200 and 300, surely 13 in the Senate, where the attendance is very often up to 30, is not an excessive vote to require in favour of such a motion. It does not matter a great deal to me, but when there are honorable senators from other States who have suffered from the application of the closure I think some consideration should be given to their views.

Senator Sir WILLIAM ZEAL.—They have not suffered in this Chamber.

Senator MCGREGOR.—I understand that Senator Zeal, when President of the Legislative Council of Victoria, used in this Chamber to put such a motion himself. I have been told that it was quite usual for the honorable senator to tell a member of the Legislative Council of Victoria that he had said enough already. He had the closure in his own hands, and the honorable senator, while President of the Legislative Council, was a standing order unto himself,

and, I believe, a very good one. Here we have a reasonable request that at least thirteen senators shall assent to any motion of this description. If there are not thirteen senators present prepared to vote for stopping a debate, no great harm can be done by allowing the debate to continue until the absentees had an opportunity to return. Therefore, I hope that the Committee will support the amendment. I do not waste very much time in the Senate, and I hope the gag will not be applied to me here as it was applied to me in the Legislative Council of South Australia where, we are told, it has been the invariable rule for Ministers not to vote on a motion for the application of the closure.

Senator MILLEN (New South Wales).—The Postmaster-General has addressed to the Committee an argument from which he has attempted to show that the practice ruling in one State Parliament will necessarily be adopted here. But why should the practice of the South Australian Parliament, more than that of any other State Legislature, be taken as necessarily indicating the practice which will be adopted here? In the New South Wales Legislature, where a provision somewhat similar to that proposed by Senator Pearce is in vogue, it has been the invariable practice of Ministers to vote, as I contend that they ought to vote, on such a question. No honorable senator, whether a Minister or otherwise, should shirk his responsibility by retiring from the Chamber when a vote of this character is submitted. Whatever may be the result of this amendment, I hope that no such practice as that which I am astonished to learn is countenanced in South Australia, will be adopted in the Senate. I think the suggested minimum of thirteen is most reasonable. We require that a quorum shall be present for the transaction of our business, and is it too much to ask that there shall be at least thirteen senators voting in the affirmative on a question involving a somewhat similar principle?

Senator DAWSON.—The application of the gag will stop the whole of the debate.

Senator MILLEN.—The honorable senator reminds me that a very much more important question is involved than that of whether an individual senator shall be allowed to continue his speech. The whole debate upon what might be an important question might be terminated in this way;

and is it too much to ask that before such a thing can take place, at least thirteen honorable senators shall have expressed their concurrence? I propose to vote for the amendment. If any alteration is to be made, it is far better that it should be in the direction of increasing the latitude of honorable senators rather than of restricting them in debate.

Senator PLAYFORD (South Australia).

—The honorable senator who has just resumed his seat did not hear the discussion which took place last week, or he would not have said that in South Australia Ministers invariably leave the chamber when what has been called this "infamous gag" is applied. I have never known of an instance in which they failed to vote on the question. The rule is that they vote against the application of the gag. That was the position taken up by Ministers in South Australia during my experience as a member of the State Legislature from 1868 until I entered the Senate. There may have been one or two instances in which they did not follow that rule, but that was the practice. It is very singular that Senator Dawson should call this an "infamous gag." He quite forgets that when the South Australian labour party was organized, they were thoroughly familiar with the standing orders governing the State Parliament; and they thought this such a wise provision that they adopted it in their own standing orders. Thus this "infamous gag" is the gag of the labour party in South Australia. The fear that this standing order will be unfairly applied is altogether without reason. Even Senator McGregor cannot say that the similar provision in the South Australian standing orders was unfairly applied to him on the occasion when he was speaking in the State Legislative Council. He was unmistakably "stone-walling" at the time, and the closure was rightly applied in that instance. He cannot bring forward any case in which it was not rightly applied there. It is much better that we should leave the standing order as it is, for I feel sure that in a Chamber like this it will never be applied unless it is richly deserved by the party against whom it is directed.

Senator CLEMONS (Tasmania).—I regret that I cannot share the enthusiasm that Senator Playford evidently entertains for all the doings of the South Australian Ministry. I am also unable to find myself in agreement with the Postmaster-General,

who has indicated a ready willingness to submit himself, for all futurity, to the practice and precedents of the South Australian Parliament. That is an attitude of which I cannot approve, and which, I think, is utterly unworthy of the Postmaster-General. I have consistently voted for this standing order, believing that in doing so I was maintaining majority rule. I still propose to maintain majority rule. There are two ways in which a minority might carry out their desire. A minority might have their way in the Senate if they were allowed to continue a debate in spite of the wishes of the majority, and they might also have their way in preventing a debate. Unless at least thirteen vote for the application of a provision like this, we shall have practically minority rule. The reason why I support this amendment is because I believe in majority rule, and because I object to a minority of less than thirteen deciding any question in the Senate. The amendment is a wise one, although I do not know whether those who are most anxious for its adoption know what it really means. It may be argued that thirteen is an arbitrary number. It is not, because we have to recognise that twelve form a quorum in this Chamber. It is because thirteen is one more than the number required to form a quorum that I am going to vote for the amendment.

Senator WALKER (New South Wales).—Under our Constitution twelve honorable senators are required to form a quorum, but the amendment practically proposes that when twelve honorable senators are present we should not transact any business if some honorable senator moves "That the Committee do now divide." In such circumstances some honorable senators might leave the chamber, just as we have seen them do before. If there were sixteen senators present, and twelve voted for the motion, "That the Committee do now divide," while four voted against it, when there would be a majority of eight in favour of the question, it would still be impossible for the Committee to close the debate. In other words, four honorable senators would out-vote twelve, because the amendment is that at least thirteen shall vote for the application of the "gag," as the standing order has been called. It is true that in the House of Commons there must be 100 affirmative votes for the application

of the closure. That is practically one-seventh of the total number of members. In the Senate a seventh would be a little over five, or say six senators, so that, by requiring that at least thirteen honorable senators shall vote in the affirmative, we shall make the rule quite as difficult of application as it is in the House of Commons.

Senator DAWSON.—In the House of Commons 40 is sufficient to form a quorum.

Senator WALKER.—*May* sets forth that the rule in the House of Commons is as follows:—

Pursuant to the Standing Orders Nos. 25 and 26, whilst the Speaker, or the Chairman of Ways and Means, is in the chair, after a question has been proposed, if a member rising in his place moves "That the question be now put," that question shall be put forthwith without amendment or debate, unless it appears to the Chair that the motion is an abuse of the rules of the House, or an infringement of the rights of the minority; and if, when a division is taken, it appears by the numbers declared from the Chair that not less than a hundred members voted in the majority in support of the motion, it is decided in the affirmative.

Thus, practically, one-seventh of the total number of members of the House of Commons must vote in the affirmative to allow the closure to be applied, and if we provide that there shall be at least six votes cast in the affirmative, we shall relatively carry out the practice of the House of Commons. The amendment proposed by Senator Pearce is really worse than that which was moved by Senator Smith. I shall vote against it.

Senator STEWART (Queensland).—We have listened with very great pleasure to Senator Walker's arithmetical calculations, but if we are to compare the House of Commons with this Chamber, we must make the comparison complete in every way. Twelve honorable senators, or one-third of the total strength of the Chamber form a quorum, and Senator Pearce proposes that the number of affirmative votes cast in favour of the motion, "That the Committee do now divide," shall be one more. Forty members form a quorum in the House of Commons, or slightly over one-sixteenth of the total number of members, and yet the number of affirmative votes necessary to impose the closure is 100, or two and a half times the number of the quorum. If we followed that rule we should, therefore, require 30 affirmative votes. It is only necessary to carry out the analogy to the full extent in order to see how

ridiculous it is. I have often said that it is absurd to compare our procedure with that of the House of Commons. We are here representing a new country and a new Constitution. We are building from the foundations, and we should build according to our own ideas. I am very much surprised that, in a Chamber where so many of the foremost constitutionalists of Australia find a place, an attempt should be made to deprive the representatives of the people of the rights which are conferred upon them by the people. I have often seen, in connexion with legal procedure, the words "*ultra vires*." I do not know their exact meaning, but I have a faint impression that they mean that some individual has done something which he has no right to do. In any case, it appears to me that the Senate is attempting to do something which, under the Constitution, it has no power to do. That is the position I take up. Senator Fraser is a great admirer of the Constitution, but by supporting this standing order, it appears to me that he is trampling it underfoot. Why are we sent here? Are we not elected for the purpose of representing the ideas and wishes and aspirations of our constituents?

Senator FRASER.—Some of us do so very badly.

Senator STEWART.—The honorable senator has formed a very correct estimate of his own capacity, I regret to say. We are here sent by our constituents to represent their case here, and yet a majority of honorable senators desire in this standing order to usurp the power which belongs to only the constituencies. For instance, if my constituents sent me to Melbourne to support a certain proposal, the majority of the senators could deprive me of my right to speak. What is the object of this standing order? Is it not to stifle discussion? If Senator Dobson had twenty witnesses to examine in a court who could each testify to a particular thing, what would he think if after the tenth witness had been examined the Judge quietly said, "Mr. Dobson, I do not want to hear any more evidence; my mind is made up?"

Senator DOBSON.—There is no analogy.

Senator STEWART.—Certainly there is. The honorable and learned senator would complain, and very fairly, that an injustice was being done to his client. The evil of the rule appeals to him immediately when it is applied to a case in a court, and it is

intensified a hundredfold when it is applied to a question in the Senate, where the interests of the community are at stake. Seeing that nothing better can be done, I intend to support the amendment. It is, I think, a very fair compromise. It is not asking for very much. It places the power of stifling discussion in the hands of thirteen senators in a House of 25. What more do the friends of the gag want? Surely that is quite sufficient for them? If they want anything more they must be epicures in the matter of gagging.

Senator GLASSEY (Queensland).—I am surprised at the opposition which is shown to this very reasonable amendment. I do not believe in closure rules. I have always voted against their application in Queensland, and I shall always vote against their application in the Senate. I am very anxious to ascertain the motives which actuate honorable senators to favour the adoption of the closure. During the last two years has there been any sound reason advanced why the closure should be applied? It has been applied once or twice. To my regret it was applied once against the Government when I was very anxious that they should win. It seemed to me to act unfairly on that occasion. If there was no strong justification for the application of the rule during that long session, when most controversial measures were debated, why is it now desired that it should be embodied in our code of standing orders? It appears to be feared by some honorable senators that something serious may happen, and that it will be well to have this weapon available to silence those whom they do not wish to hear on a question. Supposing that, in a reasonably full Senate, we are discussing a question of very great moment, affecting, it may be, the welfare of the people of Australia—at any rate, the people of some State. What objection can there be to a rule requiring that thirteen honorable senators shall support a motion to close such a debate. Some honorable senators have found fault with the Postmaster-General because he supports the standing order. I presume that, as acting leader of the Senate, he is bound, in fairness, to take the course which he has taken. I know that he has smarted more than once under the very stringent rules of the Legislative Assembly of Queensland. I have smarted there time and again, and I

am not anxious to smart in the Senate. I am very much disappointed that honorable senators cannot see their way to support this very reasonable amendment.

Senator Lt.-Col. GOULD (New South Wales).—Any question relating to what is termed “the gag” is always received most unpopularly in a House, because honorable members do not like to interfere with the fair opportunity of every member to express his opinions in his own way, so long as he shows fair consideration for the opinions of others. In New South Wales I had experience of the application of “the gag,” and I believe that, like Senator Millen, I always voted against its application. The Standing Orders Committee prepared this code with the desire of meeting as many cases as might possibly arise in the future. We had to bear in mind that if we determined upon having a rule of this kind it could only be enforced by a majority of the senators present. The statement of Senator Clemons that he supports the provision because he believes in majority rule will be seen to have no weight at all. Supposing that we had a rule to the effect that no clause of a Bill should be passed unless at least thirteen senators voted in the affirmative, should we not be reducing our legislation to a farce? The Constitution says that twelve senators shall form a quorum, and shall be empowered to transact all the business which may be presented. If we were to provide that no question should be decided in the affirmative unless thirteen senators had so voted, we should be doing the very thing which Senator Pearce suggests with regard to the closure! The strong sense of justice in the majority of the senators will always prevent any unfair use being made of “the gag.”

Senator DAWSON.—Cannot the honorable and learned senator see that the application of “the gag” does not silence one senator, but all discussion, and that the senator who offends is not punished?

Senator Lt.-Col. GOULD.—If a question has not been discussed fairly and fully, there will probably be a number of honorable senators who will desire to speak, and who, if for no other reason than that, will oppose the application of the rule, unless they recognise that such gross abuse is being made of the privilege of speech that it is better to close the debate than to speak themselves. In Committee a senator can speak as often and as long as he likes, and

if we had no closure rule, four or five determined men could prevent the Committee from coming to any decision within a reasonable time. We do not desire that sort of thing to happen. We wish to be in a position to say to honorable senators—“You have debated this question for a long time. You know that you are defeated, but as you are determined to “stone-wall” and make it almost impossible to pass the clause under discussion, we will put an end to the debate at once.” I am not a believer in applying the gag where it can be avoided. But I do not think that we should be justified in introducing such an amendment as that proposed. If we have 25 senators present it would mean that the closure motion could be enforced, but if there were only 16 or 17 senators present there would be no possibility of closing the debate, if there were a few who were determined that it should not be closed. Senator Higgs has been fighting this question very determinedly. On reference to the report of the Standing Orders Committee, however, I find that on the 4th July, amongst other senators present at a meeting of the Standing Orders Committee was Senator Higgs. The minutes of the committee for the day say—

Standing Orders 263 to 331 agreed to.

They were agreed to without amendment or debate. Those standing orders embraced the one under consideration. So that Senator Higgs’ new-born zeal was not evinced at that meeting of the Standing Orders Committee. Although he was present when this rule was debated he directed no attention to it. He could have had a discussion upon it there and then, and might have caused the committee to come to a different decision, but he did not see fit to debate it.

Senator HIGGS.—Would the honorable and learned senator have altered his view if I had then suggested an amendment?

Senator Lt.-Col. GOULD.—I do not know what arguments the honorable senator would have adduced. As to the question of majority rule, I would point out that if a majority of thirteen be required to stop a debate, by the same parity of reasoning there should be thirteen to decide any question put to the Senate. To insist on that would be to reduce the whole business to an absurdity. I intend to vote against the amendment, although I have every objection to interfering with honorable

senators' speeches. But the majority have a right to some consideration when there is "stone-walling" going on. Four or five men could effectually "stone-wall" in a Senate of sixteen senators, and it would be quite impossible if this amendment were carried to put an end to a debate of that kind unless a large number of those present walked out of the chamber.

Senator Sir JOHN DOWNER (South Australia).—The principle of our Constitution is that every question before the Senate shall be decided by a majority; not an absolute majority, but a majority of those present. The number fixed by the Constitution as necessary to constitute a meeting of the Senate is twelve. That number being fixed as a quorum by the Constitution, the Act goes on distinctly to say, in section 23, that—

Questions arising in the Senate shall be determined by a majority of votes, and each senator shall have one vote.

We do not depend on a standing order to say that the quorum shall consist of twelve. The Constitution says that the number of the senators shall be 36, and that the quorum shall be twelve. The jurisdiction intrusted to the Senate can be exercised by twelve senators.

Senator STEWART.—The Constitution did not contemplate the gag.

Senator Sir JOHN DOWNER. — The Constitution does not decide questions arising in the Senate, but in making standing orders controlling our proceedings we must be careful not to insert any provision that would be distinctly *ultra vires*. Assuming the standing orders not to be *ultra vires*—and I think there can be no doubt about that—then comes the question: Is there any power to put in this limitation which is sought to be imposed? The amendment, under cover of regulating proceedings in the Senate, says that the quorum to determine a certain question shall not be twelve, but shall be at least fourteen. The amendment thus requires to carry a motion more than the quorum settled by the Constitution for deciding the most solemn questions over which the Senate can exercise jurisdiction. Leaving out the question of the "gag," about which Senator Stewart holds strong views, and assuming that it is a correct principle to prevent debate being stopped, the amendment before us at present is not only beyond our power to pass, but is, I submit, unreasonable, because it requires that, in

order to exercise the power of necessary control over debate, the number of honorable senators present shall exceed the number which the Statute has authoritatively fixed as a quorum for conducting business.

Senator Lt.-Col. NEILD (New South Wales).—I find that the amendment is on all fours with a standing order which has been in force in the State from which I come, for nine years. Strangely enough I find that it was passed there on the 11th July, 1894, so that it has actually been in force in the New South Wales Legislative Assembly—which is the largest deliberative body in Australia—for nine years. It has been found to work admirably there. Seeing that we have had an account given of the experience of another State where the Parliament is smaller than the New South Wales Parliament, and in view of the fact that in a Parliament, which at the time the standing order was passed numbered 141 members and now numbers 125, it has been found to work admirably, and it has never been proposed to alter it—I, for one, think I shall be justified in supporting this proposal.

Senator CHARLESTON.—What about the constitutional point?

Senator Lt.-Col. NEILD.—I do not think there is anything in the constitutional point. In fact, it is not a constitutional point, but merely a little legal sophistry. The amendment is not a proposal to alter the quorum of the Senate, which remains the same as laid down in the Constitution.

Senator PLAYFORD.—It would prevent the Senate from determining a question by a majority of votes.

Senator Lt.-Col. NEILD.—There is no proposal to alter the Constitution in an amendment upon a standing order to the effect that a certain number of votes shall be required before the rule shall be effective. The question of the quorum has no more to do with it, than the price of wax matches in Kamtschatka. It is a mere legal sophistry to say that the quorum fixed by the Constitution is interfered with by determining that a certain majority shall be required to carry a certain motion. I submit that the very eagerness displayed by a section of the Senate to obtain this power is the best possible evidence of the risk to which minorities will be subjected if this amendment is not adopted. I have listened attentively to the debate, and have heard

senator after senator with a fine flavour of toryism—I am a bit of a tory myself, but not of this kind—making a dead set to do what? To destroy the right of free speech on the part of minorities. It is not the majority for whom standing orders of this kind are required. It is the minority who should be principally considered, because the majority have the power of voting, whilst the minority have nothing but the power of speech by means of which to advocate their opinions, and to seek to attain that for which the people sent them here to struggle. For these reasons I think that there should be a fixed number required to carry the motion of closure. I am not wedded to thirteen. Thirteen is a very unlucky number in the view of some people. I do not want to establish a “Thirteen club” or anything of that sort here. I do not mind if the number is fixed at eleven or twelve, and, if the present amendment is not passed, I shall be willing to make one to fix the number at such a figure. If it were fixed at eleven or twelve, the point submitted by Senator Downer would be destroyed. But I am absolutely against placing the power of closure within the control of a bare majority, no matter how many are present. Are we going to say that when business is being conducted with a statutory quorum of twelve senators, seven are to have the power to shut up the other five, and not allow them to be heard, nor allow the views of those who sent them here to be represented by one word in the records of the Chamber? Such a proposal is abhorrent to any one’s sense of constitutional rule and parliamentary methods.

Senator FRASER.—Should the seven be allowed to retard the business of the Senate?

Senator Lt.-Col. NEILD.—Do honorable senators seriously suppose that it would be better to have the Senate counted out than to allow a senator to express the views he is sent here to represent. The matter is a great deal more serious than some honorable senators appear to think. It means that for fear one senator may make his observations at undue length all other senators may be prevented from expressing their opinions. Such procedure strikes at the very base of all argument. There are people in the world who are afraid to hear discussion. If such people take advantage of this rule and move the closure, and it is carried,

others will have to submit without one word of discussion. That is a very much more serious thing than that there should be a little prolixity on the part of one honorable senator. To suggest that honorable senators who are sent here from the four winds of the Commonwealth are to have their mouths closed because there happens to be one more opposed to them than there is on their own side, is a proposition that cannot possibly, upon reconsideration, meet with the support of a majority in this Chamber. I again repeat, that if this proposal for an affirmative vote of thirteen be not assented to, I shall be prepared to vote for any less number. In New South Wales, the affirmative vote required is 40 out of a House of 125 members. Whether the number fixed here be 10, 11, 12, or 13, I care not, but there should be some specified affirmative vote required before the right of free speech, which is supposed to be guaranteed by the Constitution, is taken away from honorable senators.

Senator FRASER (Victoria).—“The right of free speech” is a splendid sounding phrase, especially in the ears of the labour party. But what would be said if the minority were to permanently override and gag the majority? In plain English, what is desired now is that Parliament shall be controlled by the minority. We have had to listen to many grandiloquent phrases about “gagging,” and all the rest of it, and while I admit that there are some very decent men amongst the labour party, I think they need to be educated, and that they did not get enough of the mother’s birch in their young days. Are we to conduct our business by minority or majority? Honorable senators appeal to their constituents, forsooth, for sanction to defy the majority, but they have no such sanction, and will never get it. The constituents are wiser in their generation than to allow a small minority to override the majority in Parliament. They may at times not like what majorities do, but they come round in a little time to the view that it is safer to trust the majority than to trust the minority. I think that our safest course will be to oppose the amendment, however simple it may appear. I agree with Senator Downer and others who say that the amendment is in contravention of section 23 of the Constitution, which provides that the majority in the Senate shall rule.

Senator PEARCE (Western Australia).—I think that legal members of the Senate should be very careful before getting up to make rash statements about the meaning of the Constitution. There is just a possibility that some unsophisticated layman like myself may, perhaps, attempt to show that they have given a verdict upon the question without having looked into it very fully. That is one reason why we should have an Appeal Court. On this occasion I think that Senator Downer has been led astray by Senator Playford, his compatriot, presenting him with this wonderful mare's nest when he had no time to closely examine it. Section 23 does not contain the final word in the Constitution upon this question. If section 23 had stood alone, Senators Downer and Playford might jubilate; but we have to turn to other sections. In section 49 I find the following:—

The powers, privileges, and immunities of the Senate and of the House of Representatives, and of the members of the Committees of each House, shall be such as are declared by the Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom and of its members and Committees at the establishment of the Commonwealth.

Senator PLAYFORD.—That is subject to the general rule that we cannot go beyond what our Constitution provides.

Senator Sir JOHN DOWNER.—That does not get us one bit further.

Senator PEARCE.—I have not said my final word yet. I say that one of the privileges of members of the Senate is the privilege of debating questions, and a privilege we acquire, I take it, from the House of Commons is that of speaking to a question, and it cannot be affected except upon the lines laid down by the practice of the House of Commons until we have fixed our own standing orders. I am very doubtful whether the word "questions" as appearing in section 23 would refer to a motion "That the Senate do now divide," because it seems to me that such a motion is merely part of the procedure of the Senate, or of a rule laid down to enable questions to be dealt with. We are discussing now the procedure for dealing with the questions referred to in section 23, and not one of those questions itself. Section 50 of the Constitution provides that—

Each House of the Parliament may make rules and orders with respect to—(1) The mode in which its powers, privileges, and immunities may be exercised and upheld: (2) The order and conduct

of its business and proceedings either separately or jointly with the other House.

Senator PLAYFORD.—That does not take away the right to decide questions by a majority vote.

Senator PEARCE.—That is a section of the Constitution giving us power to lay down rules for the order and conduct of our business. Section 23, to which Senators Downer and Playford have referred us, provides that—

Questions arising in the Senate shall be determined by a majority of votes, and each senator shall have one vote.

I would ask Senator Downer whether all questions arising in the Senate are decided by a majority of votes? I do not need to tell the honorable senator that they are not, and that there are some questions which have to be decided by an absolute majority of the Senate. If honorable senators will turn to section 57 of the Constitution they will find that, after stating the provision made for a disagreement between the two Houses, the section provides—

The members present at the joint sitting may deliberate, and shall vote together upon the proposed law as last proposed by the House of Representatives, and upon amendments, if any, which have been made therein by one House and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives shall be taken to have been carried.

Senator Sir JOHN DOWNER.—That has nothing to do with it.

Senator DRAKE.—That is not a question arising in the Senate.

Senator PEARCE.—There is also a provision for the suspension of the standing orders, and it was determined again and again in this Chamber during last session, that to carry such a motion an absolute majority of the Senate was required. Section 23 of the Constitution deals with questions of laws—questions concerning Bills—and there must be a majority to carry those questions. It would, perhaps, be unconstitutional for us to say that they should be carried by a two-thirds majority, or by a majority of four. But when we come to deal with standing orders for the conduct of business in the Senate, I contend that we have unlimited power under section 50 to make such standing orders as we please for the purpose. If it were not so, will honorable senators contend that the framers of the Constitution were ignorant of what they were doing when they passed section 23?

If they were not, why did they not in section 49 insert the words "subject to the limitation laid down in section 23"? The reason is that they recognised fully that they had laid down no such limitation. I recognise that certain members of the Senate have made up their minds upon this amendment, not upon its merits, but simply because they intend to use the power given by the standing order "willy-nilly," and no argument will move them. I see nothing at all in the constitutional objection which has been raised to the amendment, and I ask honorable senators to support it.

The CHAIRMAN.—I think it is only fair that when an important question has been raised I should give some ruling upon it. I admit both the difficulty and the importance of this question. Section 23 of the Constitution says—

Questions arising in the Senate shall be determined by a majority of votes, and each senator shall have one vote.

Under section 50 of the Constitution it is provided that—

Each House of Parliament may make rules and orders with respect to the order and conduct of its business and proceedings either separately or jointly with the other House.

In my opinion the word "questions" in section 23 refers to questions involving some principle or other which are to be dealt with by the Senate, and it does not include matters merely of procedure, as to how the Senate shall conduct its business. The matter immediately before us refers to what may be done in Committee, but in the Senate itself the same rule will apply. The amendment is taken from the New South Wales standing orders, and we have to look for guidance in regard to those standing orders to the New South Wales Constitution Act. The Constitution Act of New South Wales contains a provision similar to that in the Commonwealth Constitution. Section 23 provides that—

The presence of at least twenty members of the Legislative Assembly, exclusive of the Speaker, shall be necessary to constitute a meeting of the said Legislative Assembly for the despatch of business, and all questions, except as herein excepted—

That refers to questions as to absolute majorities—

which shall arise in the said Assembly, shall be decided by the majority of votes of such members as shall be present, other than the Speaker, and when the votes shall be equal the Speaker shall have the casting vote.

Having quoted the terms of the Constitution of New South Wales, which are somewhat similar to our own, I turn to the standing orders of the New South Wales Legislative Council. Standing Order 175 provides that—

At any time during the proceedings of the House, or during the proceedings of a committee of the whole, any member may move without notice or debate "That the question be now put"; and such motion shall then be put without debate, but shall not be decided in the affirmative unless by a vote of a least 40 members in favour thereof, and if such motion be carried the Speaker or the Chairman of Committees, as the case may be, shall forthwith put the question to the vote: Provided that whenever it is decided that any question shall be put, the mover of the matter pending shall be permitted to speak in reply (where any reply is allowed) for 30 minutes before the question be put.

I do not mean to say that the precedent I have quoted necessarily concludes the matter; but it affords some guidance to the Senate. Having regard to the terms of our Constitution, and the specific power which is therein set forth that we are to make our own standing orders as to the regulation and conduct of our business, I think that the amendment is essentially one relating to the conduct of our business, and is therefore in order. Incidentally I may state that, in my opinion, the word "questions" in section 23 of the Constitution relates to questions involving practically some important matter of principle and not of procedure.

Question—That the words proposed to be inserted be inserted—put. The Committee divided.

Ayes	15
Noes	13

Majority	2
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AYES.	
Barrett, J. G.	Neild, J. C.
Best, R. W.	O'Keefe, D. J.
Dawson, A.	Pearce, G. F.
De Largie, H.	Smith, M. S. C.
Glassey, T.	Stewart, J. C.
Higgs, W. G.	Styles, J.
McGregor, G.	Teller.
Millen, E. D.	Clemous, J. S.

NOES.	
Baker, Sir R. C.	Playford, T.
Cameron, C. St. C.	Saunders, J. H.
Charleston, D. M.	Walker, J. T.
Dobson, H.	Zeal, Sir W. A.
Downer, Sir J. W.	
Drake, J. G.	
Ferguson, J.	Teller.
Fraser, S.	Gould, A. J.

Question so resolved in the affirmative.
Amendment agreed to.

Senator HIGGS (Queensland).—I move—

That the words "and provided further that no such motion shall be put unless the Chairman be satisfied that the question has been sufficiently discussed" be inserted after the word "votes."

Senator Downer has mentioned the House of Commons practice in this regard, and my proposition is that we should adopt it. At page 212 of *May*, 10th edition, it is set forth that—

Pursuant to the Standing Orders Nos. 25 and 26 whilst the Speaker or the Chairman of Ways and Means is in the chair, after a question has been proposed, if a member rising in his place moves "That the question be now put"

That is similar to our own provision "That the House do now divide"—

that question shall be put forthwith without amendment or debate, unless it appears to the Chair that the motion is an abuse of the rules of the House, or an infringement of the rights of the minority;" and if, when a division is taken, it appears by the numbers declared from the Chair that not less than a hundred members voted in the majority in support of the motion, it is decided in the affirmative.

I propose to leave it to the Chairman of Committees or to the President, as the case may be, to decide whether the rights of the minority are being infringed on such occasions. I should even be prepared to leave the matter in the hands of Senator Zeal, who, when President of the Legislative Council of Victoria, used to say to a member "You sit down, you are only repeating what another honorable member has already said."

Senator Sir WILLIAM ZEAL.—That is a fable.

Senator HIGGS.—I saw the statement in the *Sydney Bulletin*, and therefore it must be correct. I say that I would be prepared to leave it "even" to Senator Zeal, because he has been such a strong opponent of any interference with the rights of a bare majority to close the mouths of honorable senators. I am afraid that certain honorable senators forget that those who have not spent such a long series of years in political life as they have done, may occasionally have something to say. These honorable senators have had a long career—some of them have been in politics for half a life-time—and have made up their minds in regard to all political questions.

Senator MCGREGOR.—They are fossilized.

Senator HIGGS.—I do not say that they are fossilized, but there are certain grooves along which their thoughts run, and it is very difficult to get them out of those

grooves. I would urge them not to say that this standing order should be passed without the addition of a provision such as I have proposed. I am sure that in such a crisis as that described the other day by Senator Playford, when honorable senators generally were thoroughly tired of the whole debate, the Chairman would be satisfied that the question had been sufficiently discussed. Unfortunately, the debate regarding this standing order has ranged almost completely round the case of honorable senators who might desire to obstruct business, and take up the time of the Senate by "interminably talking," as Senator Zeal said just now. Those are the honorable senators whom the Senate is trying to get at. But we also want to protect honorable senators who may desire to speak to a question, but have not had an opportunity of doing so.

Senator DRAKE.—I am perfectly satisfied that if thirteen honorable senators supported a motion "That the Committee do now divide," it would be upon an occasion on which it was perfectly clear to the Chairman that the subject had been thoroughly discussed. I do not know that the amendment would have very great effect in view of the amendment just carried, but I have no objection to it, because I do not think thirteen honorable senators will be prepared to terminate a discussion in a case in which it is not apparent to the Chairman of Committees that the matter has been sufficiently discussed.

Senator CHARLESTON (South Australia).—It seems to me to be very singular that honorable senators of the labour party who have been fighting against majority rule in the Senate should now propose that the Chairman of Committees shall decide as to when any honorable senator has spoken too long or too frequently upon a particular subject. If this amendment be carried, a word from him will be sufficient to cause a division to be taken.

Senator DRAKE.—There must be thirteen members of the Senate voting "Aye."

Senator CHARLESTON.—After the Chairman has said that the discussion has lasted long enough, a vote has to be taken, and thirteen senators must vote in the affirmative.

Senator PEARCE (Western Australia).—Senator Charleston has got into a fog. In the first place, a senator has to move "That the Committee do now divide." The

Chairman cannot interrupt the debate and say—"We shall take a vote." He has to decide whether, in the interests of the minority, that question should be put to the vote. I rose chiefly to express my astonishment that Senator Drake, after fighting us as he did, should be prepared on a question of minor importance to concede this right to one senator. Surely, if he is prepared to concede to the President or the Chairman the right to say—"I consider that this motion infringes the right of the minority, therefore I shall not put the question," he ought to be prepared to concede that right to thirteen senators? He is taking up a very inconsistent position.

Senator Lt.-Col. GOULD (New South Wales).—I do not think that the proviso ought to be made, because it will prejudice the position of the minority who wish to continue the debate. In the first instance the Chairman would have to decide whether, in his opinion, the motion should be put. Any senator who had not been paying very much attention to the debate might be influenced by the opinion of the Chairman, who had heard all the discussion, and for that reason he would probably vote for the motion. It would be a mistake to put the Chairman in that position. The motion does not involve debate. It has to be put at once, and the rights of the minority are protected by the provision that thirteen senators must vote in the affirmative. Almost the full strength of the Chamber is behind the senator whom any one is trying to stop. I feel sure that it will not be possible to get thirteen senators to vote unfairly to close any one's mouth. But certainly the "Yes" or "No" of the Chairman will put the question before the Committee with added force. I do not wish to see such a power placed in the hands of one man.

Senator CLEMONS (Tasmania).—It seems to me that Senator Higgs has made a mistake. The first part of the standing order says that the motion shall be made without discussion, and immediately put and determined; but it is now proposed in this amendment that—

No such motion shall be put unless the Chairman is satisfied—

In the interests of the Committee, as well as in the interests of the Chairman, I object to the amendment. I do not think it is fair to put him in the position of deciding the question whether the motion shall be put.

I voted for a majority of thirteen being necessary to enforce the closure. But I shall not vote for allowing, practically, the Chairman alone to decide the question.

Senator Sir RICHARD BAKER (South Australia).—I suggest that this question ought to be looked at from the Chairman's point of view as well as the member's point of view. Is it not very unfair to ask the Chairman to unnecessarily place himself in possible antagonism to three or four senators who think that they ought to be allowed to continue the debate? It will bring the Chairman into unnecessary friction with senators, and that is not fair to him.

Senator HIGGS (Queensland).—I was very much surprised to hear such a speech from Senator Baker. When a senator accepts the position of President or Chairman of Committees he knows quite well that at some time or other he will by reason of his decisions have against him certain senators. For instance, last session, because the President voted in Committee in a certain way, certain senators got an animus against him, and it still lives in their breasts and is likely to do so for years. Every presiding officer has to undertake that risk. Evidently in the interests of the minority, members of the House of Commons demand that their Speaker shall take the risk of incurring the animosity of individual members. It is only human nature for a senator to think that the Chairman is wrong when he rules against his own view. Since, apparently, honorable senators are determined that a majority of thirteen shall silence those who have not spoken, it is only fair that we should adopt the House of Commons practice, and let the Chairman, who sits there as an umpire, decide whether the question shall be put. If, as Senator Baker suggested, two or three senators are likely to be actuated by animus against the Chairman, it is quite possible that in a time of heated discussion thirteen or fifteen senators may be actuated by that feeling and try to stop a senator. The President or the Chairman is always more cool and collected than any other senator, and he can see whether there is an attempt on the part of a simple majority to infringe the rights of the minority. Surely it is not asking too much of the presiding officer to undertake that duty? If at any time three or four senators are filled with animus against the Chairman, the majority will always see that he gets

fair play, as they have done in the past. I do not like the standing order at all, but, since the majority demand that it shall be passed, they might give the minority the benefit of the House of Commons procedure in its entirety.

Senator Sir JOHN DOWNER (South Australia).—I think it is very undesirable to put the Chairman or the President in the very invidious position of having to decide whether or not a subject has been sufficiently debated. To say that that decision will be received with equanimity at all times is to deny that knowledge of human nature which we all possess to some extent. Nothing is more necessary than that the presiding officer should be kept in a strictly impartial position, and should not be charged with the invidious duty of expressing opinions on subjects which we have to decide.

Amendment negatived.

Senator HIGGS (Queensland).—I am only anxious to see that a senator who has not spoken to the question and who desires to speak shall get an opportunity to address the Chamber before the gag is applied. I do not ask that he shall be allowed to speak more than once to the question, but I do ask that he shall get an opportunity of speaking once.

Senator WALKER.—Nine hours' speeches.

Senator HIGGS.—If a senator is likely to speak for nine hours, he will probably take the opportunity of speaking before the time comes for the application of the closure. I shall make another attempt to insure that the minority shall get a chance. I move—

That the following words be added—"Provided further that such motion shall not be put if any senator present who has not spoken wishes to speak and rises in his place to do so."

Senator DRAKE.—I could not accept that amendment, because it seems to me to go dead against everything that the Committee has done up to the present time.

Question put. The Committee divided.

Ayes	10
Noes	18

Majority	8
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AYES.

Dawson, A.
De Largie, H.
Glassey, T.
Higgs, W. G.
McGregor, G.
O'Keefe, D. J.

Pearce, G. F.
Stewart, J. C.
Styles, J.

Teller.

Smith, M. S. C.

Noes.

Baker, Sir R. C.
Barrett, J. G.
Best, R. W.
Cameron, C. St. C.
Charleston, D. M.
Clemons, J. S.
Dobson H.
Downer, Sir J. W.
Drake, J. G.
Ferguson, J.

Fraser, S.
Gould, A. J.
Neild, J. C.
Playford, T.
Saunders, H. J.
Walker, J. T.
Zeal, Sir W. A.

Teller.

Millen, E. D.

Question so resolved in the negative.

Amendment negatived.

The CHAIRMAN.—It will be necessary to strike out the word "such" and to insert the words "mentioned in this standing order." The part of the standing order upon which we have been engaged will then read—

And no motion mentioned in this standing order shall be repeated within fifteen minutes of any of these motions having been negatived.

Amendments (by Senator DRAKE) agreed to—

That the word "such," line 6, be omitted; and that after the word "motion," line 9, the words "mentioned in this standing order" be inserted.

Senator PLAYFORD.—I should be glad if the Chairman would now read the standing order as amended.

The CHAIRMAN.—It reads as follows:—

Motions—"That the Committee do now divide"—"That the Chairman do report progress, and ask leave to sit again;" and "That the Chairman do now leave the chair," shall be moved without discussion, and be immediately put and determined; Provided that a vote on the question "That the Committee do now divide" shall require at least thirteen affirmative votes, and no motion mentioned in this standing order shall be repeated within fifteen minutes of any of these motions having been negatived: Provided that the senator in charge of a Bill or resolution, or a Minister of the Crown, may at any time move to report progress and ask leave to sit again.

Standing Order, as amended, agreed to.

Standing Order 274 agreed to.

Standing Order 275—

An order for a call of the Senate shall be made for any day not earlier than fourteen days from the day on which such order shall have been made.

Senator PEARCE (Western Australia).—I suggest that the term be made 21 days instead of fourteen. In the case of senators from the distant States fourteen days is insufficient notice.

Amendment (by Senator DRAKE) agreed to—

That the word "fourteen" be omitted, and the words "twenty-one" inserted in lieu thereof.

Standing Order, as amended, agreed to.

Standing Orders 276 to 279 agreed to.

Standing Order 280. (Senators not attending during the day).

Senator PLAYFORD (South Australia).

—This refers to a call of the Senate. Should we not provide in this standing order for fining, or in some other way punishing, a senator who does not attend after receiving due notice? It is rather farcical to send out such a notice and yet provide no punishment whatever for those who do not attend, though they may be able to do so. If there is no penalty the standing order is useless.

Standing Order agreed to.

Standing Order 281 agreed to.

Standing Order 282—

The senators to serve on a select committee may be nominated by the mover, but if three senators so demand they shall be selected by ballot.

Senator CLEMONS (Tasmania).—This standing order should be amended in order to allow select committees to be chosen by ballot in all cases. The method of selection by ballot is very properly provided for in Standing Order 347. I can anticipate no practical difficulty. It is wrong to cast upon any three senators, it might be, the odium of demanding a ballot as against the mover of a motion for the appointment of a select committee. As it stands, the standing order requires that three senators shall immolate themselves by casting themselves into the breach, and doing something which may be unpleasant. I move—

That the words "may be nominated by the mover, but if three senators so demand they" be omitted.

Senator Sir RICHARD BAKER (South Australia).—This standing order follows the practice which we have adopted ever since the Senate has been in existence. Every committee we have appointed has been chosen on the motion of the mover. That has been the case with the House Committee, the Library Committee, the Standing Orders Committee, and all other select committees. If there is no objection it seems to me that the course proposed in the standing order will facilitate business.

Senator PLAYFORD (South Australia).

—It may expedite business, but when a

senator wishes to get a particular person appointed to a committee he has to do a very unpleasant thing. He has to move that the matter be decided by ballot, and thus has to place himself in antagonism to the mover of the motion for the committee. There is no possible objection to the course proposed in this standing order applying to formal committees like the Library Committee and the House Committee. In the South Australian Parliament the personnel of select committees is decided by ballot. That is the fairest way, and it avoids any unpleasantness. When an honorable senator moves the appointment of certain senators to form a select committee, other honorable senators do not like to oppose him, although they may feel that he has made a mistake in the composition of the committee which he proposes. It is a great deal better to have a ballot by which the Senate will be able to act freely in selecting the men to be appointed to a committee. When a member of the Senate, in moving, for instance, that a Bill be referred to a select committee, chooses the members of that committee, he will probably choose those who hold opinions similar to his own. I think it is far better to adopt the South Australian practice, under which all these committees are balloted for. I shall support the amendment.

Senator Lt.-Col. NEILD (New South Wales).—The argument appears to be that because some one may be destitute of sufficient moral courage to do that which he believes to be right, the Senate is to be burdened with the process of going through a ballot on a motion for the appointment of a select committee, when in not one case in a dozen will there be any conflict of opinion. Senator Playford seems to think that the amendment proposes that the names of the members nominated to a select committee shall be submitted, and that we shall then go to a ballot, but Senator Clemons has not proposed that any names shall be submitted. If no names are submitted, how can a reasonable result be arrived at? Someone moves for a select committee, and then, without any names being submitted or the Senate having any knowledge of the honorable senators who may be willing to serve on the committee, we go to a ballot. What kind of nonsense is that? Last session the only select committee appointed on a private motion was one to take evidence with reference to steam-boat

communication with Tasmania, and there was absolute difficulty in obtaining seven members of the Senate to serve on that committee. If we have a ballot without names being submitted, it may result in the selection of members of the Senate who will not serve. We shall have carried the motion for the committee, and will have failed to appoint them. This is an entirely new proposal. Apparently it is not new in South Australia, but what is proposed in the standing order is the practice of the House of Commons, the House of Lords, and I take it of the vast majority of Legislatures—that a senator proposing the appointment of a select committee shall name the senators whom he proposes shall serve on that committee, and then, if it is desired, a ballot is taken. Under the standing order it is proposed that three honorable senators may demand a ballot, and I should be willing to permit any one member of the Senate to demand a ballot, but certainly the names of those who are willing to serve should be submitted in order that honorable senators in balloting may know what they are doing. I take it that there is sufficient moral courage amongst members of the Senate to demand a ballot without such a demand being regarded as a reflection on the mover of the original motion for a committee. On the argument which has been used we should lack the moral courage to move an amendment to any question. If I were in order I should be prepared to move an amendment to provide that one voice should be sufficient to demand a ballot. I am willing to meet Senator Clemons to that extent, but I say that to have a ballot without having the names of honorable senators first submitted seems to me perfectly childish.

Senator PLAYFORD (South Australia).—It is not a question of moral courage at all, and there is no difficulty about the naming of the members of the committee under the practice which I suggest. It is found to be a very simple process indeed, because the mover of the select committee always issues his list, and those opposed to him issue their list. The question then goes to the ballot, and the majority decide. The mover of a committee would go round to ascertain whether certain members of the Senate would be willing to serve upon his committee, and those opposed to his views would probably do the same, and there would then be the

two lists upon which the majority would decide. That is certainly the best way in which to appoint all these committees.

Senator Sir JOHN DOWNER (South Australia).—I do not think there is the slightest difference between the two propositions. As Senator Playford has pointed out, in our practice the names are not in the first instance mentioned, and there is simply a motion for a committee. If there is a motion for a ballot, and it is carried, the House proceeds to take a ballot. All the invidiousness arises when the mover of the motion for a committee submits his list of names. According to the argument which has been used, it would then be difficult for any one else to submit any names other than those already submitted. It is said that there would be a feeling of delicacy in doing anything of that kind. But under the South Australian practice, whenever either the Government or the Opposition have proposed a committee, there has never been the slightest delicacy or hesitation in opposing the list of names submitted. What difference does it make whether the mover of a motion for a select committee mentions in his motion the names of honorable senators whom he desires to serve on the committee, or, a motion having been carried for the appointment of a select committee, a list of names is submitted?

Senator CLEMONS.—That is not the point.

Senator PLAYFORD.—There can only be a ballot under the standing order if three honorable senators demand it.

Senator Sir JOHN DOWNER.—I agree with Senator Neild that a demand for a ballot by one honorable senator should be sufficient. It may be that a ballot is not desired, and that when the names are mentioned there is no objection to them; but if the standing order is altered in the way suggested there must be a ballot, and time will be wasted in voting upon a matter upon which everybody is agreed. I was referring merely to the question of invidiousness, and to submit a list of names in antagonism to one already submitted is certainly more invidious than to demand a ballot. From the point of view of convenience, I prefer the standing order as proposed, and if there is any invidiousness in the matter it exists in each case.

Senator DOBSON (Tasmania).—I do not think that the amendment proposed will improve the standing order as submitted. I

see no reason for departing from what is almost the invariable practice of the House of Commons, and the practice also of most of the States Legislatures, simply because in one State there happens to be the rule now proposed. We have it on the authority of two honorable senators that that rule is a perfect farce, the list handed round being in almost every case accepted. The ballot is taken and time is wasted in arriving at a conclusion in that way which could be arrived at upon a simple motion. If the time comes when the mover of a motion for a committee in connexion with a contentious matter has not selected his committee fairly, any three members of the Senate could protest and demand a ballot. I doubt whether one honorable senator should be allowed to demand a ballot. Let us adhere to the usual practice, unless it is shown to be wrong, and do not let us depart from the usual practice, when it is shown that the departure proposed works out in exactly the same way as the rule ordinarily followed.

Senator CLEMONS (Tasmania).—The arguments of the last speaker seem to me to be very much confused. The honorable and learned senator started by saying that the whole thing would be a farce. What he intended to convey, I think, was that it would be a farce to have a list submitted and a ballot taken, because the whole thing would have been cut and dried. But my whole object is to secure a ballot in all cases, and that is what Senator Dobson has entirely overlooked. Under the standing order we could not get a ballot unless three honorable senators demanded it.

Senator DOBSON.—We do not want a ballot unless three honorable senators demand it.

Senator CLEMONS.—I do. I say that this thing has become a farce under the present practice, because owing to the fact that three honorable senators must demand a ballot under our rules no ballot is asked for, and the nomination of the mover of the committee is accepted in nine cases out of ten. I think that there should be a ballot, and I think the means of securing a ballot should be made as simple as possible. Senator Playford has pointed out how this can be done. We have heard some ludicrous remarks about the difficulty of obtaining a ballot unless somebody nominates certain senators, but there is no difficulty in the world in obtaining a ballot because a list

is sent round, and Standing Order 347 prescribes the method of taking a ballot.

Senator DOBSON.—It is no trouble, but it is a waste of time.

Senator CLEMONS.—I am glad the honorable and learned senator admits that it would be no trouble. If that is admitted I wonder that any honorable senator should object to a ballot. If it is worth our while to appoint a select committee, the personnel of that committee should not be determined merely by the nomination of the honorable senator who moves for it. It should not be competent for any honorable senator to name the seven members of the committee to be appointed, and to find that in every case he had succeeded practically in obtaining their selection.

Senator Sir WILLIAM ZEAL.—It could be dealt with by ballot under Standing Order 347.

Senator CLEMONS.—It is my desire that we should deal with the matter by ballot. I am anxious that the appointment of select committees should not be a farce. If we allow them to be appointed merely on the nomination of the mover—and we have seen that practice adopted here—we shall allow their selection to become farcical. We should at least leave it open to any honorable senator to move that the matter be dealt with by ballot.

Senator GLASSEY (Queensland).—I strongly object to the adoption of the ballot in the Senate. Honorable senators should have sufficient courage to openly declare their intentions, not only in regard to the appointment of committees, but in reference to all matters that come before us. I do not believe in the ballot here.

Senator FRASER.—Does the honorable senator favour open voting at elections?

Senator GLASSEY.—That is another matter. We are the representatives of the people, and to attempt to shield ourselves in any way by means of the ballot would be to display a kind of moral cowardice altogether unworthy of us.

Senator WALKER.—The adoption of the ballot system might save time.

Senator GLASSEY.—On the contrary, it would not save time; but I do not object to the proposal from that stand-point, for it is not a very valid objection. I contend that inasmuch as honorable senators are chosen to serve the people they should be prepared to let the people see exactly how they vote in every capacity. If the

appointment of a select committee were desired, and certain honorable senators were nominated to act upon it, it would be quite possible for an honorable senator having a distinct bias against any one of them—but wanting the requisite courage to openly say so—to shield himself by means of the ballot and to vote against that honorable senator whilst at the same time appearing to him to be a very nice fellow. That kind of conduct should not be tolerated by us. I always opposed the adoption of the ballot system in the State Legislature of Queensland, and I shall vote against its adoption here.

Senator FRASER (Victoria).—I think honorable senators will agree that I sometimes display a good deal of courage, but I must confess that I should not care to rise as one of three honorable senators to oppose the nomination of five or six others named for appointment on a select committee. To do so would be to give the honorable senator objected to a direct slap in the face. Such a course should be unnecessary.

Senator Lt.-Col. NEILD.—Should we rather hit him on the sly?

Senator FRASER.—No; but we should conduct our proceedings in a decorous manner. We might think that some better nomination could be made, and by means of the ballot we should be able to record our vote without creating any disturbance or unpleasantness.

Senator PLAYFORD.—The honorable senator does not like to unnecessarily hurt people's feelings.

Senator FRASER.—Exactly. Why should we do so when there is no necessity for anything of the kind. When there is a necessity to speak out we should not hesitate to show our courage. Courage is sometimes a very high attribute, but there are many occasions in which its display is out of place. I see no great objection to the original proposal, except that under it three honorable senators would have to rise in their places to demand a ballot. The selection of a committee is sometimes a very serious matter. A committee may be appointed to deal with questions to which the Senate attaches great importance, and it may involve a great deal of expenditure. Therefore, the best way of making a selection would be by the corporate vote of the Senate as proposed by the amendment.

Senator DRAKE.—I have not heard of any great objection to the practice which has been followed in the case of sessional committees, which are appointed at the beginning of each session. We have endeavoured to secure the separate representation of each of the States upon those committees, and to see that honorable senators are so distributed over them that as far as possible each shall have something to do. That is a matter requiring careful arrangement and much consideration, and I do not think that result would be obtained by the adoption of the ballot system. If that system were followed, we should probably have the same names recurring in the list of members of all the committees, while a number of honorable senators would not be asked to perform any duty in connexion with them. Some select committees are of very great importance. An honorable senator who is deeply interested in some particular subject and moves for the appointment of a committee to consider it, has generally taken care to ascertain who will be willing to serve on that committee.

Senator PLAYFORD.—And whose views are similar to his own.

Senator DRAKE.—Perhaps so. No doubt he seeks to have the different States represented on the committee, and to a very great extent he may also desire to insure the presentation of a report in a particular direction. Surely if it were a contentious matter of that kind, and if the object of the honorable senator were to obtain a committee which would bring up a report of a particular character, three honorable senators could be found ready to move that the committee be appointed by ballot. I think, therefore, that the standing order provides fairly for these two cases. So far as the sessional committees are concerned, I have not heard a single complaint with regard to their composition. I have not heard the slightest whisper of any dissatisfaction. In nominating them I endeavoured to meet the general desire of the Senate.

Senator FRASER.—Sessional committees might be excepted.

The CHAIRMAN.—They are excepted.

Senator DRAKE.—If it refers to select committees other than sessional committees there can be no difficulty.

Senator Sir RICHARD BAKER (South Australia).—I should like to point out that no reference is made in chapter 5 to the

way in which committees to be created under that chapter shall be appointed. It is simply set forth that a Standing Orders Committee "shall be appointed"; that a Library Committee "shall be appointed," and so forth. It was not intended that the mode of appointment should be set out there; the matter was left to the particular chapter with which we are now dealing. On behalf of the Standing Orders Committee, I may say that it was intended that the most convenient practice—the practice which would take up as little time as possible—should be adopted. I do not think it would make any material difference whether we required three or only one honorable senator to demand a ballot. If there is any desire for a ballot it should be granted, but if there is not, why should not the mover be allowed to propose that the committee be appointed.

The CHAIRMAN.—The honorable and learned senator is right; sessional committees are not excepted.

Senator PEARCE (Western Australia). I should like the Committee to consider whether it would not be well to adopt a provision similar to that which exists in the standing orders of the House of Representatives of the United States, which provide that—

Unless otherwise specially ordered the Speaker shall—

appoint certain committees. We have followed very much the same wording in providing that—

Unless otherwise ordered all select committees shall consist of seven honorable senators.

If the words "Unless otherwise ordered" were inserted at the beginning of Standing Order 282 the matter would be left in the hands of the Senate. Surely, in the case of sessional committees we do not need to follow the course which has been indicated by Senator Clemons. The Senate represents the States, and it is desirable that each State should have a representative on every committee. It should not be made possible for the representative of two States to compose a select committee to report upon any subject.

Senator Sir RICHARD BAKER (South Australia).—All committees which are not committees of the whole Senate are select committees. They may be standing committees or committees appointed to inquire into a Bill, but they are selected. A committee of the

whole Senate is not selected because it consists of every Senator. Any committee which is selected out of the Senate is a select committee.

Senator Lt.-Col. GOULD (New South Wales).—I hope that the Committee will not adopt the proposal of Senator Clemons. It has been pointed out very clearly that the object of allowing the mover to nominate the committee is to save time when there is no objection to the personnel. In other cases it may be better that the committee should be selected by ballot. The Senate has first to determine whether it will appoint a committee and incur all the incidental expense. The mover generally takes good care to nominate those men who he thinks are generally in accord with his views, but who nevertheless are prepared to see that a fair inquiry shall be made into the subject-matter. All the proceedings are reported, and if any undue bias is shown there is the corrective which comes afterwards when the Senate has to deal with the report. If a ballot be taken, it will be quite impossible to insure that a committee shall be composed of a representative from each State, and the probability is that more senators will be chosen from one State than from another. I am not, however, carried away with that argument, because I wish the fact to become recognised that it is the duty of a senator, no matter what State he represents, to do what is fair to all the States. Take an ordinary case where a senator moves for a select committee, and nominates three or five men from one State, and two from another State. If I recognised that the subject-matter of the inquiry was one of general importance, and that the nominees were generally fair men, and the Senate seemed to think it was desirable to hold an inquiry, I should not object, because I believe that the committee would act straightforwardly. We represent the Commonwealth as a whole, and the sooner senators recognise the fact that they represent all the States, the better it will be. I think that the balance of advantage is in favour of leaving the standing order as it is. I am under the impression that the standing committees of the House of Commons are appointed under similar circumstances. In New South Wales it has been the inviolable practice for the mover to nominate those whom he desired to serve on any select committee, but it was open

to any member to demand a ballot, and, if he did, his action was not regarded in an unfriendly light.

Senator DRAKE.—I quite agree with the spirit of the remarks of Senator Gould, but I think he has rather misunderstood me as to the reason why I have tried to put a senator from each State on each of the standing committees.

Senator Lt.-Col. GOULD.—That is all right for sessional committees.

Senator DRAKE.—If, for instance, a question as to the best course to adopt with regard to printing arises, there will be on the Printing Committee a representative from each State, who will be able to state the local practice. In the case of ordinary select committees, it should not count for much that one senator is from one State and another senator is from another State. It is desirable to do away with that distinction as much as possible.

Senator CLEMONS (Tasmania).—When I moved the amendment I had in my mind the cases of select committees, which are obtained by a private senator on his own nomination. I have no desire to interfere with the proper right of the Ministry to nominate certain committees at the beginning of each session, nor do I wish to interfere with the right of the President to nominate a particular committee under chapter 5. I do not desire to interfere with the chapter that deals with standing committees, which are totally different from select committees. What I desire to secure is that no select committee shall be granted to a private senator without a ballot being taken. I am prepared to alter my amendment. I can see no way of securing that object except by moving to insert this proviso—

Provided that in the case of a select committee, other than any ordinary standing committee, the senators to serve on the committee shall be selected by ballot.

The CHAIRMAN.—I thought that we had followed the House of Commons practice, and distinguished between select committees and standing committees. Clearly there is a difference between standing committees and select committees in the House of Commons practice. If it is desired that that alteration should be made, it will be necessary to insert a new standing order in chapter 5 when it is reached. The only thing we can do is to remodel No. 282 with

that object, and a portion of No. 283 will certainly have to be transferred to chapter 5.

Senator PLAYFORD (South Australia).—We had better make it clear at once that a select committee "shall" be nominated by the mover. If no senator makes a nomination, what is to take place? The word "shall" should be substituted for the word "may." It will be well to distinguish between sessional committees and select committees. I am quite willing to allow ordinary committees to be nominated by the movers, and, if necessary, to leave out the concluding words of the standing order.

Senator DRAKE.—Seeing that we are dealing with all these committees in this chapter, the standing order might be amended to read in this way—

The senators to serve on the Standing Orders Committee, Library Committee, House Committee, Refreshment Committee, and Printing Committee may be nominated by the mover, but if three senators so demand other select committees shall be selected by ballot.

We all agree that the standing order should remain as it is with regard to the standing committees.

Senator Lt.-Col. NEILD.—There might be a necessity for appointing some other sessional committee.

Senator DRAKE.—We might use the term "sessional committee" if it is clearly understood to cover all committees appointed for that purpose.

Senator Lt.-Col. GOULD (New South Wales).—Would it not be advisable in the first place to deal with the proposal of Senator Clemons to omit certain words? If we take that course we shall get a test division and know exactly where we are. If it is in favour of his contention it will be easy to frame a proper standing order to meet his case.

Senator PLAYFORD (South Australia).—I should like Senator Clemons to withdraw his amendment to enable me to move the substitution of "shall" for "may."

Senator Sir RICHARD BAKER (South Australia).—May I suggest that it will save time if we take a test division, and that if Senator Clemons succeeds in carrying his amendment, the matter be referred back to the Standing Orders Committee to redraft this standing order?

Senator Lt.-Col. NEILD (New South Wales).—I support the amendment suggested by Senator Playford. I am delighted that at last

he has come to see the force of the argument which I put forward, that it is positively necessary that the mover of a motion for the appointment of a select committee shall nominate the members of it. Otherwise the Senate will be balloting in the dark. All sorts of observations were made as to the wisdom of what I said, but my point of view is put in a concrete form by Senator Playford, whose suggested amendment I have much pleasure in supporting.

Senator PLAYFORD (South Australia).—I wish to point out to Senator Neild that I suggested the amendment because I thought it was the wish of the Senate to make a distinction between ordinary standing committees—which it is right and proper that the Government should nominate—and select committees appointed at the instance of an individual senator.

Senator DRAKE.—The shortest way of expressing the opinion of the Committee would be to vote on a proposal to omit the words "select committees," with a view of substituting the words "sessional committees."

Senator Sir RICHARD BAKER (South Australia).—All committees are sessional, and last merely for the term of the session. I think that it would be better for honorable senators to leave the standing order alone.

The CHAIRMAN.—Perhaps we can test the feeling of the Committee by voting on a proposal to strike out the words "a select committee." If those words are omitted the standing order will go back to the Standing Orders Committee to be redrafted.

Senator Sir RICHARD BAKER (South Australia).—If the words mentioned are struck out it is to be understood that the Committee of the whole Senate desires that the Standing Orders Committee shall re-draft these standing orders so as to provide that standing committees shall be appointed on the motion of the mover, and that all other committees shall be appointed by ballot?

Senator CLEMONS (Tasmania).—My desire is to provide that in the selection of all committees, except those prescribed by chapter 5, and other committees that may be appointed under similar conditions to those, a ballot shall be taken. Senator Baker will see that a certain number of committees are specified in chapter 5—the Standing Orders Committee, the House Committee, the Printing Committee, and the Committee of Disputed Returns and

Qualifications. The practice, even if it be not prescribed by our standing orders, is that the Government nominates the standing committees, and the President nominates the Committee of Disputed Returns and Qualifications. It is quite conceivable that there may be other committees similar in character to those which ought to be similarly appointed. I do not propose to deal with any committees that have an official stamp upon them. The committees that I am aiming at are those which are nominated by a private senator. I wish the members of such committees to be balloted for.

Senator Sir JOHN DOWNER (South Australia).—When we were discussing this matter in the Standing Orders Committee we took a great deal of trouble about it. We had the South Australian Standing Orders before us, and also the standing orders of other legislative bodies, including those of the Imperial Parliament. We came to the conclusion that what we propose is the shortest possible way of getting through the business. The suggestion of invidiousness never occurred to us, and after having heard the discussion that has taken place it does not appeal to me now. There will be no secrecy in voting by ballot in the Senate. It will practically be open voting. At present the practice is that the names of the senators who are to be members of a select committee are handed round. The list of various parties are submitted for the consideration of honorable senators, and there is no more secrecy about it than if the names were nominated openly. The first thing that a mover for the appointment of a standing committee does is to pass round the names of the members he suggests. What does it matter whether the names are chosen in that way, or whether they are balloted for? If the names suggested by the mover commend themselves to the Senate, why waste time in having a ballot? If they do not suggest themselves to the Senate, another list can be passed round.

Senator PLAYFORD (South Australia).—We are told by Senator Downer that the Standing Orders Committee gave a considerable amount of attention to this standing order, and that they had under consideration the South Australian Standing Orders, those of the House of Commons, and of other legislative bodies. I turn to the part of the committee's report dealing with the consideration of this standing order, and I

find that Senator Downer was not present on that occasion, and that the standing order was passed without comment.

Senator Sir JOHN DOWNER. — Could I not work at the standing orders when I was not there?

Senator PLAYFORD. — It seems to me that there was no discussion of the question; there certainly was no division. I believe that what Senator Clemons has suggested will meet the wishes of the majority of the Senate, and that it would be advisable to make an alteration in the direction indicated.

Senator HIGGS (Queensland). — A great deal of impatience was shown when I was discussing a certain proposal this afternoon, and I now feel inclined to move — "That the Committee do now divide."

The CHAIRMAN. — The Committee can test the question at issue by voting on a proposal to strike out the words "a select committee."

Amendment withdrawn.

Amendment (by Senator CLEMONS) proposed —

That the words "a select committee" be omitted.

Question — That the words, "a select committee," proposed to be omitted, stand part of the standing order — put. The Committee divided.

Ayes	16
Noes	7

Majority	...	9
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AYES.

Baker, Sir R. C.	Higgs, W. G.
Barrett, J. G.	McGregor, G.
Best, R. W.	Neild, J. C.
Cameron, C. St. C.	Pearce, G. F.
De Largie, H.	Stewart, J. C.
Dobson, H.	Zeal, Sir W. A.
Downer, Sir J. W.	
Drake, J. G.	<i>Teller.</i>
Glassey, T.	Gould, A. J.

NOES.

Charleston, D. M.	Smith, M. S. C.
Dawson, A.	Walker, J. T.
Millen, E. D.	<i>Teller.</i>
Playford, T.	Clemons, J. S.

Question so resolved in the affirmative.

Amendment negatived.

Amendments (by Senator PLAYFORD) agreed to —

That the word "may," line 2, be omitted, with a view to insert in lieu thereof the word "shall."

That the word "three," line 2, be omitted, with a view to insert in lieu thereof the word "one."

Senator Lt.-Col. NEILD (New South Wales). — I move —

That the following words be added — "A senator proposing a select committee shall be a member thereof."

That is the standing order in New South Wales and in other States, and it is certainly the rule in the Imperial Parliament.

Senator Sir RICHARD BAKER (South Australia). — It is undoubtedly the rule and the practice, but the Standing Orders Committee, in considering this matter, thought it was not wise to bind the Senate. It might happen that in the opinion of the Senate the particular honorable senator moving for the appointment of a select committee might not be a proper person to be a member of it. The matter is of small importance, because in 99 cases out of 100 an honorable senator moving for a committee would be appointed a member of it. I desire merely to point out that the standing order has not been submitted in the form in which it is before the Committee, inadvertently. The Standing Orders Committee considered the point, and came to the conclusion to which I have referred. I might add that in one instance in South Australia the mover of a select committee was not appointed a member of it.

Senator CHARLESTON (South Australia). — If an honorable senator moves for the appointment of a select committee, and is desirous of serving upon it, having the power to nominate the members of the committee, he will nominate himself.

Senator Lt.-Col. GOULD. — He should not be allowed a committee unless he is prepared to sit upon it himself.

Senator CHARLESTON. — If afterwards an honorable senator who, while agreeing that the inquiry proposed should take place, believes that the honorable senator who has moved for the committee should not take part in it, he can demand a ballot, and the senator who is objected to may be left off the committee if the majority think that desirable.

Senator CLEMONS (Tasmania). — I intend to oppose the amendment for the very good reasons which Senator Baker has told us guided the Standing Orders Committee. It by no means follows that an honorable senator who asks for the appointment of a select committee should be a member of it, or will be a desirable person to appoint as a member of it. I see

no reason why, because an honorable senator chooses to move for the appointment of a select committee, he should be exempted from the ordinary rule of ballot. Senator Gould has suggested that an honorable senator moving for the appointment of a select committee should be prepared to do his work by acting upon the committee. In nine cases out of ten a committee is moved for by an honorable senator because he desires to secure a certain position. I do not agree that because the Senate consents to the appointment of a select committee, it is to be assumed that the honorable senator who moved for it is better fitted than any other honorable senator to take part in its proceedings.

Senator Lt.-Col. GOULD (New South Wales).—Senator Neild in proposing his amendment is following the invariable practice adopted in appointing select committees. When an honorable senator moves for the appointment of a select committee to inquire into a certain matter, he will have seized himself of the particulars connected with it, and will be in a position to take the lead in the inquiry proposed. He does not invite a number of his fellow senators to form a committee to inquire into a matter to which he has given no special consideration. I think it is necessary that the mover of a motion for the appointment of a select committee should be a member of that committee, and he should recognise that if he asks for a select committee, it is a duty cast upon him that he shall be in a position to advise the committee on the subject of their inquiry, and to point out the sources from which evidence is available.

Senator CLEMONS.—Why should he funk the ballot?

Senator Lt.-Col. GOULD.—It is not a question of his funking the ballot, but the honorable senator moving for a committee will probably be better qualified than most other honorable senators to deal with the subject of inquiry. If an honorable senator is strongly imbued with the necessity for the appointment of a select committee to inquire into any matter, and moves its appointment, it will be a very extraordinary thing for the Senate to decide that the matter shall be inquired into, but that the honorable senator who moved for the committee shall take no part in it.

Senator DOBSON.—Suppose he jumps some other honorable senator's claim?

Senator Lt.-Col. GOULD.—Whose claim is it but that of the honorable senator who first puts the business on the paper? I think it would be very much better to follow the practice which has existed for so long. It is all very well to say that we should make new precedents, but most of the new precedents suggested are proposed by honorable senators who have had no previous parliamentary experience. It may be that they are better qualified to suggest the way in which business should be conducted than those who have had parliamentary experience; but when we can point, as in this matter, to the practice of the Imperial Parliament, we have a very good authority for following a practice which has already been adopted in all the States, and which I hope will be adopted by the Senate.

Senator MCGREGOR (South Australia).—I intend to oppose the motion for the reason actuating Senator Gould in supporting it. At present the honorable and learned senator is anxious that we should follow the Imperial practice, but a little time ago he did not care so much about it. Senator Gould must be very innocent in matters political, or they must be a very fine people in New South Wales, if it has never happened there, even to the honorable and learned senator himself, that after he has taken a very great deal of interest in discussing a question and is just on the point of moving for a select committee to inquire into it, some other member jumps up and does it before him. In such a case Senator Gould might be just the man to appoint to the committee, and might be qualified to act as chairman of it, and yet, under the amendment which the honorable and learned senator is prepared to support, there may be no room for him on the committee because some one else, merely for the sake of being on a select committee, and for the sake of taking the wind out of Senator Gould's sails, moves for its appointment, and under the amendment must be a member of it. If the appointment of a select committee is left to the good sense of the Senate, and anything of the kind I have suggested occurs, the other members of the Senate will, I think, have grace enough left to see through a dodge of that description, will appoint senators who are entitled to be members of the committee, and may even leave off the man who has

jumped another fellow's claim. I hope that the amendment will be negatived, and that the selection of these committees will be left entirely to the Senate.

Amendment negatived.

Standing Order, as amended, agreed to.

Standing Orders 283 to 299 agreed to.

Standing Order 300—

The evidence taken by any select committee . . . shall not be disclosed or published by any member of such committee, or by any other person.

Senator Sir RICHARD BAKER (South Australia).—I think it would be well to add the words “unless the Senate otherwise orders” at the end of this standing order. The Senate would thus have power under the standing orders to make public the evidence of committees. No doubt it would do so in any event, but I think the alteration is desirable.

Senator Lt.-Col. GOULD (New South Wales).—This standing order refers only to evidence which has not been reported to the Senate, and I was under the impression that it was designed to prevent any disclosure during the inquiries of a committee.

Senator Sir RICHARD BAKER.—But the Senate might desire to say that the proceedings should be reported.

Senator Lt.-Col. GOULD.—I think this standing order is designed to render it impossible for a member of a select committee to go behind the backs of his fellow committeemen and make a disclosure to an outside person. For example, a special inquiry might be proceeding in regard to which it was undesirable to give any information until its close; but some one might make a disclosure, and the facts would then become public property. If the Senate ordered a report to be given, it could be obtained at any time.

Senator Sir RICHARD BAKER.—Perhaps the amendment is not necessary. I shall not move it.

Standing Order agreed to.

Standing Orders 301 and 302 agreed to.

Standing Order 303—

The chairman shall read to the committee convened for the purpose the whole of his draft report. . . A senator objecting to any portion of the report shall propose his amendment at the time the paragraph he wishes to amend shall be under consideration, but no protest or dissent shall be added to the report.

Senator DRAKE.—This standing order contains something new, and I think some consideration should be given to it

before it is agreed to. I refer to the words contained in the last two lines, “but no protest or dissent shall be added to the report.” It is usual for a minority to be asked to embody their views, as a rejoinder, to the report, and although I have no fixed opinion in regard to this matter, I should like to hear some argument before agreeing to the standing order.

Senator PEARCE (Western Australia).

—I move—

That the words “but no,” line 6, be omitted, with a view to insert in lieu thereof “a.”

This amendment will test the question. I think it is most desirable that an honorable senator should have power to add a protest or dissent to a report. I do not know whether the Senate has agreed upon the principle involved, but as one who has been a member of a select committee, I think it would be a distinct advantage, both to the Senate and to the committee concerned, if a minority report could be presented.

Senator WALKER (New South Wales). I desire to confirm the view which has just been put forward by Senator Pearce. During last session I was a member of a committee in which the minority held a fairly strong view, but had no power to explain them in the report. I believe even now that the view held by that minority was the right one.

Senator Sir RICHARD BAKER (South Australia).—I wish to point out to honorable senators that this standing order follows the practice adopted, so far as I know, in every Parliament.

Senator WALKER.—In the Queensland Legislature?

Senator Sir RICHARD BAKER.—I am not prepared to say that the practice is followed in the Queensland Parliament, but I know that it is in the House of Commons and in the South Australian Legislature. It may not necessarily be right because that is so, but the theory of all parliamentary proceedings is that the majority rules. Undoubtedly protests and minority reports are brought up sometimes by Royal Commissions. They are also presented in the case of select committees, but they appear in the proceedings. The theory upon which this is done is that the chairman of a select committee prepares a report and submits it to the members clause by clause. When that is done any member of the committee may move to strike out any clause, and to insert some fresh provision.

Thus every member is in a position to make his protest known. The votes and proceedings of a committee, which are brought in with the report, set forth how many members support it, so that the same object is effected, although in a manner different from that suggested by Senator Pearce. If it is the desire of the Committee that power shall be given to a select committee to bring up a minority report, just as a minority report may be brought up by a Royal Commission, it will be necessary to alter the whole of this standing order. The procedure would have to be different, otherwise minority reports would be presented twice. We should have them in the Votes and Proceedings, and also as an addendum to the committee's report. It is not a matter of substance where the report of the minority appears, because not only the minority report but the opinion of every individual member of a select committee who differs from the chairman appears in the Votes and Proceedings. It is only a question of procedure.

Senator PLAYFORD (South Australia).—There is no provision in the South Australian Standing Order as to the addition of any memorandum of dissent to a report. It leaves the matter an open one. There is a great deal of force in Senator Baker's statement that when a report drawn up by the chairman is discussed clause by clause, and when the committee has the fullest power to move amendments, the members are able to give full publicity to their views, and therefore that there is not the necessity that exists possibly in the case of Royal Commissions to provide for minority reports. Very likely the reports of Royal Commissions would not be agreed to in the way prescribed in this standing order. There is no standing order regulating the way in which they shall work. They work as they please. I have been a member of various Royal Commissions, and I have had occasion, sometimes, to dissent from what has been done. In some of these cases, perhaps, one or two other members of the commission have shared my views; while others have dissented from the report of the majority on different grounds. It often happens that, by being able to state the grounds on which he dissents from a report, a member is able to bring before the people views which he holds upon particular questions which would otherwise not be put before them owing

to the fact that no regular procedure is followed by the commissioners. Under this standing order, however, a regular procedure is provided. Amendments can be moved in the draft report, new clauses can be proposed and added, and the Senate, as well as the public, are able to see what are the views held by those forming the committee. I think we might adopt the South Australian Standing Order, and refrain from providing that honorable senators shall not be allowed to append protests. An instance might occur in which they might wish to append a protest. Owing to reasons over which they had no control, they might have been absent when the report was being prepared; and, therefore, they might desire to embody their views in the form of a protest of some kind. Perhaps it would be as well to strike out the latter part of the standing order.

Senator DOBSON (Tasmania).—It appears to me that the amendment is somewhat unnecessary, and I am inclined to think that it would be mischievous. There is the fullest opportunity for every member of a select committee to express his views as to the adoption of the report or otherwise. It is generally brought up by the chairman, but it may be drafted by another member of the committee, and to every clause amendments can be moved, and frequently are moved. If any members do not think a matter of sufficient importance to move an amendment of course their views do not get so amply recorded in the proceedings as they otherwise might do. But any man who has or thinks he has good reasons to differ from the report can move an amendment to every line, and in that way he has the fullest opportunity to record his protest. Therefore, it appears to me that it is unnecessary to alter the rule which is in accordance with the practice. I am inclined to think that the amendment will work out in a mischievous manner. Suppose that a select committee is inquiring into some subject of intense feeling or of party politics. To gain time in expressing your opinion may be of great advantage. A member who did not exactly consent to the report adopted might give some hints as to making a protest. He might go outside the premises and hear of some telegram or public feeling in some part of his State, and then intimate to the chairman that he did intend after all to enter a protest. He might then set to work to compile a protest

based upon evidence and opinions of electors which he had heard practically after the report had been adopted. In that way, in one case out of a hundred or a thousand the amendment might absolutely work a mischief. Even if it is adopted, I think it ought to be provided that any such report or protest ought to be handed in immediately after the report has been adopted. I hope that the standing order will be passed as it is.

Senator MCGREGOR (South Australia).—I cannot understand the position which is taken up by Senator Dobson and others with respect to the reports of select committees. I have been on Royal Commissions and select committees. When the report of a Royal Commission is drawn up, every commissioner has the right to move amendments, and the Senate, if necessary, has just the same opportunity of seeing the evidence of a Royal Commission as it has of seeing the evidence of a select committee. Because it has been the practice in some Parliaments to allow no dissent from the report of a select committee, is that any reason why it should be adopted here? If any members of a select committee differ from the majority, they have the right to embody the difference in a protest or dissent. Supposing that a member of a select committee endeavours to amend the report and his amendments are defeated, does Senator Dobson imagine that in the Senate any senators will look through the record of proceedings to ascertain what positions different senators took up? They generally look to the report of the select committee, and leave the record of proceedings alone. It would be much to the advantage of the senators who disagreed from the report, and of other senators who might like to discuss the report to see in a concise form the reason for such difference.

Senator Sir RICHARD BAKER (South Australia).—I am afraid that this matter is not properly understood. Senator McGregor says that a member of a select committee who dissents from the report cannot make a protest. He can make a protest. Certainly it is not called by that name but it is just as effective. I have been on a great many select committees, and when I have disagreed with the chairman or the majority, I have always put my protest on record. On one occasion the chairman brought up a draft, and I moved that clause 1 be struck out and that another clause be inserted in lieu thereof, as the report of the committee. What

was that but a protest? My protest appeared, not in the report, but in the proceedings.

Senator MCGREGOR.—You can do the same in a Royal Commission.

Senator Sir RICHARD BAKER.—In a Royal Commission the practice is different, though I admit that the result is just the same. After all, we are really fighting a question of practice, not a question of principle. Either on a Royal Commission or on a select committee any one who disagrees can put his dissent on record, and it is brought up and is considered by the appointing body. Supposing that a select committee is appointed, and a senator is in opposition but is in a minority, all he has to do when the draft report is considered is to say—"I object to this clause, and I move another clause in lieu thereof," or, "I object to the whole of the report, and I move another report in lieu thereof." The whole of the protest or objection in both cases is put on record. I can see no difference in substance between them. If honorable senators wish to call the dissent of a member of a select committee a protest, I have not the slightest objection to their doing so. I do not see that there is very much objection to their putting it in as a protest, but I say that they ought to amend the whole of Standing Order 303 and adopt a new procedure. I have the standing orders of the Legislative Council of Victoria, the House of Assembly of South Australia, and the Legislative Assembly of New South Wales, and they are all identical.

Senator WALKER.—And Queensland?

Senator Sir RICHARD BAKER.—And Queensland, too, I have no doubt.

Senator DRAKE.—No.

Senator Sir RICHARD BAKER.—In the Queensland Standing Orders is there any statement to the effect that a protest can be added?

Senator GLASSEY.—Protests are always added.

Senator Sir RICHARD BAKER.—In practice is any protest ever added?

Senator DRAKE.—Yes.

Senator Sir RICHARD BAKER.—I think the honorable and learned gentleman is mistaken. I believe he is confusing the practice of Royal Commissions with the practice of select committees.

Senator DRAKE.—It is done in connexion with select committees of the Legislative Council of Queensland.

Senator Sir RICHARD BAKER.—Will the honorable gentleman show me any standing order in Queensland which says that a protest can be added?

Senator DRAKE.—No; the standing order of the Legislative Council is silent.

Senator Sir RICHARD BAKER.—Then the practice of the House of Commons prevails according to their standing orders, and no protest can be added. I may be mistaken; but I do not think that any protest has ever been added to the report of a select committee; it appears in the record of the proceedings. What difference in substance is there between the two things? None that I can see. It is only a question whether a dissenting senator shall enter his protest in the ordinary manner in which it has been done, in my opinion, not only in the House of Commons, but in every Legislative Assembly in Australia. The practice has been that no such protest shall be added to the report.

Senator DRAKE.—I withdraw my statement that in Queensland the standing order is silent. It says—

A member disagreeing with a report may require a statement of the reasons of his disagreement to be appended to the report.

Senator Sir RICHARD BAKER.—There is no doubt that they always are. Where I have dissented from the majority I have brought up a report of my own with my reasons, too. I have said—"For the following reasons I dissent from so and so," and my report was absolutely as complete as the report of the chairman.

Senator CLEMONS.—What happened to it? Was it ever read to the House?

Senator Sir RICHARD BAKER.—The same thing happened as if there had been a protest. The dissent with the reasons came before the House in the report of the select committee. If honorable senators will refer to the report of the Standing Orders Committee, they will see that every proceeding, including the divisions, is recorded, and that is done in the case of every select committee. However, I am not going to labour the question, as I do not think it is of much importance whether the dissent is called a protest or an objection. I can see no reason for departing from the ordinary practice of legislative bodies, which comes to exactly the same thing in effect as the practice of Royal Commissions.

Senator DRAKE.—The standing order of the Queensland Legislative Assembly is very clear—

A member objecting to any portion of the report shall propose his amendment when the paragraph which he wishes to amend is under consideration.

Then it goes on to say—

A member disagreeing with a report may require a statement of the reasons for his disagreement to be appended to the report.

That undoubtedly is the rider. During the last session I was in the Queensland Legislative Council quite a number of select committees were appointed, and riders were, I think, appended to the reports in a great many cases. It is clear that the standing order of the Legislative Assembly provides for a protest being appended to the report, and, unless my memory is quite wrong, the practice of the Legislative Council agrees with that standing order.

Senator HIGGS (Queensland.)—The value of a minority report is shown in the case of the Royal Commission that inquired into the sugar works and black labour question in Queensland. The majority of the members of that commission were in favour of black labour. If there is any advantage in the case of a Royal Commission, the same must apply to a select committee, because select committees are often appointed to avoid the expense attached to Royal Commissions. There was a minority report in connexion with the commission to which I have alluded, and also in connexion with the Mining Commission. The great value of a minority report lies in the fact that very often when people look at the report of a commission and see a minority report they may be led by the observations contained in it to regard matters in a somewhat different light than would be the case if they only read the report of the majority. If we refuse to allow a minority to make a report, we convey the impression that the report of the committee was unanimously agreed to. To ascertain whether there was a minority of a different opinion, the reader would have to look through the volumes of *Hansard* or the *Reports and Proceedings*. As the publishing of a minority report would only cost a few pounds extra—or it may be a few shillings—there is no reason why it should not be permitted.

Amendment agreed to.

Amendment (by Senator PEARCE) agreed to—

That the word "shall," line 7, be omitted, with a view to insert in lieu thereof the word "may."

Standing Order, as amended, agreed to.

Standing Orders 304 to 309 agreed to.

Standing Order 310 verbally amended and agreed to.

Standing Orders 311 to 318 agreed to.

Standing Order 319—

If the above-mentioned conditions have been complied with, the Clerk shall so certify on the petition, and the President shall lay the petition on the table.

Senator PEARCE (Western Australia).

—It has always seemed to me, although these standing orders are practically a copy of what appears in the Electoral Acts of the States, that they are unfinished to a certain extent. When a petition is laid upon the table, what happens?

Senator Sir RICHARD BAKER.—There is a standing order, No. 91, under the head of "Petitions" that provides what is to happen.

Senator PEARCE.—The point is—who is to move that the petition be referred to the committee? Whose duty is it? If no one moves that the petition be referred, how long is it to lie on the table before it is out of court? Suppose the petitioner cannot get a senator to move that his petition be referred, there is no provision as to the length of time during which it shall lie on the table before it becomes null and void. It may be hanging over the head of the sitting senator for the whole of his term. The Clerk lays the petition on the table, but if neither a member of the Government, nor the President, nor a private senator takes action, there is nothing to provide what is to become of it. We should add some such words as the following:—"Unless some senator moves in connexion with the said petition to refer the same to the Committee of Disputed Returns and Qualifications before the expiration of fourteen sitting days, the petition shall be void, and the deposit shall be returned."

Senator DRAKE.—That is rather severe, is it not?

Senator PEARCE.—Something of the sort is necessary. It may be invidious to ask the Government to take action, and the petition may be a frivolous one with which no private senator would care to connect himself.

Senator DRAKE.—Would not the petition automatically go to the committee in the same way as the Senate automatically goes into Committee after the second reading of a Bill?

Senator Sir JOHN DOWNER (South Australia).—Why can we not provide that the petition shall go on to the committee? We might insert some such words as—"and the President shall lay it on the table and shall forthwith refer it to the Committee of Disputed Returns and Qualifications." If we say that the petition shall be referred, some one would have to move to that effect. I think the President should refer it as a matter of course.

Amendment (by Senator PEARCE) agreed to—

That the following words be added:—"and shall forthwith refer the same to the Committee of Disputed Returns and Qualifications."

Standing Order, as amended, agreed to.

Standing Orders 320 to 324 agreed to.

Standing Order 325—

Every message from the Senate to the House of Representatives shall be in writing, or partly in writing, or partly in print, signed by the President and delivered by the Clerk or Clerk Assistant during the sitting of the Senate.

Senator Sir RICHARD BAKER (South Australia).—This standing order will have to be altered. Since it was drafted an arrangement has been made between the two Houses by which messages may be passed from one to the other, although both may not be sitting. That practice has been found to be most convenient. Therefore it will be better to strike out the words "during the sitting of the Senate." The effect will be that messages will be received by the House of Representatives while the Senate is not sitting, and *vice versa*; a practice which has been conducive to the prompt discharge of public business. I move—

That the words "during the sitting of the Senate," line 5, be omitted.

Amendment agreed to.

Standing Order, as amended, agreed to.

Standing Orders 326 to 330 agreed to.

Standing Order 331—

If upon such motion any three senators shall so require, the managers for the Senate shall be selected by ballot.

Senator PEARCE (Western Australia).—I think that, having decided that in the appointment of a select committee one member of the Senate may demand a ballot, to

be consistent we should omit the word "three" in this standing order. I move—

That the word "three," line 1, be omitted.

Amendment agreed to.

Standing Order, as amended, agreed to.

Standing Orders 332 to 339 agreed to.

Standing Order 340—

There shall be only one conference on any Bill or other matter.

Senator DRAKE.—I should like to know the reason which influenced the Standing Orders Committee in coming to this conclusion.

Senator Sir RICHARD BAKER (South Australia).—I shall state the reason. There must be some stage of finality in reference to all matters. Whether that is reached after one, two, three, or half-a-dozen conferences does not appear to me to be a matter of very much importance, because both Houses will be looking forward to the final stage for the settlement of a difference. Conferences have been found in England to be so unsatisfactory that they have been altogether abandoned, and they have not had a conference between the two Houses there for a great number of years—I think for 100 years. We must have some stage of the proceedings at which we shall finally agree or disagree. I am loth to mention the South Australian practice, because it has been so often referred to, but I may be permitted to say that in South Australia we found that a number of conferences served no good purposes, because the representatives of both Houses always put off coming to a final conclusion until the last conference. The object appeared to be for one side to hang on as long as possible in the hope that the other side might give way, and that resulted merely in a waste of time. That is the reason why the Standing Orders Committee of the Senate arrived at this conclusion, and I believe that the Standing Orders Committee of the House of Representatives arrived at a similar conclusion.

Senator WALKER.—How about Money Bills?

Senator Sir RICHARD BAKER.—This standing order has nothing to do with Money Bills. I doubt very much whether we shall ever have a conference upon Money Bills. Probably the points in dispute in connexion with Money Bills will be settled by messages between the two Houses. I am doubtful if we shall ever get to the

conference stage in dealing with such matters, and, even if we do, there will be no good purpose served in providing for too many conferences.

Senator DOBSON.—Besides, a conference may adjourn from time to time.

Standing Order agreed to.

Standing Orders 341 to 353 agreed to.

Standing Order 354—

(Document quoted may be ordered to be laid upon the table.)

Senator DRAKE.—This is a new standing order. A senator may be reading from a newspaper, or from some equally bulky document. Is it intended that he shall be required to lay that upon the table of the Senate immediately?

Senator CLEMONS.—If he quotes from it, why not?

Standing Order agreed to.

Standing Orders 355 to 366 agreed to.

Standing Order 367—

The President only shall have the privilege of admitting strangers into that portion of the chamber below the Bar. The members of the House of Representatives shall have the privilege of admission there without orders. The President may admit distinguished strangers to a seat on the floor of the Senate.

Senator CLEMONS (Tasmania).—This standing order departs from the practice adopted in the Senate since this Parliament opened. It has never so far been necessary for an honorable senator to obtain the permission of the President to take his friends into the gallery. I fail to see why we should adopt this standing order, and I intend to move an amendment which will leave to honorable senators the right which they enjoy at the present time. There is always plenty of room, and I do not see why we should have to ask the permission of the President to invite strangers to the gallery. I draw the attention of the Committee to the last portion of the standing order—

The President may admit distinguished strangers to a seat on the floor of the Senate.

That is a privilege which should be exercised by the Senate itself. I think we should reserve to ourselves the right to determine who are distinguished strangers. I move—

That the words "The President only," line 1, be omitted, with a view to insert in lieu thereof the words "Every senator."

Senator Sir RICHARD BAKER (South Australia).—This standing order is in accordance with our present standing order, and with the practice we have

so far followed. It is quite true that I have not asked the officials to bother me by asking my leave, and strangers are always admitted on the order of any honorable senator to that portion of the chamber outside the Bar. But supposing that in connexion with some question there is a great desire on the part of strangers to attend the Senate, how is the difficulty to be arranged? If every honorable senator may give orders for admission, which honorable senator must give way? So far as I am concerned, I have taken no trouble about the matter, and honorable senators have had the right in practice under a similar standing order to secure the admission of any of their friends. They will continue to have that right, but I think that we should provide for some proper procedure in case of a crush.

Senator DOBSON (Tasmania).—I hope that Senator Clemons will withdraw his amendment. The honorable and learned senator must know that some one must have control of that portion of the Senate which is outside the Bar, and on certain special occasions, which may not arise once in five years, if the amendment proposed is accepted each honorable senator may desire the admission of three of his friends, and we may have 30 or 40 people trying to get into seats which will accommodate only half that number. In a case of that kind, surely the President of the Senate should be given the power of control which has been vested in him in the past, and which, in most Legislative Chambers, is vested in the Speaker or the President. The fact that the President has not interfered so far, shows that the standing order will not be made use of unless upon some special occasion when the traffic—if I may use the expression—requires regulating, and then its regulation should be left in the hands of our presiding officer.

Senator CLEMONS (Tasmania).—It is, of course, very easy for honorable senators to raise a boggy of this kind, and by the aid of imagination to picture a state of things which will never happen. It is easy to say that the standing order is framed to provide for something which none of us will live long enough to see. We shall never see the time when this chamber will be so crowded that it will be necessary for the President to interfere to keep order. If we do, I have no doubt that the President will be found equal to the occasion. It is

argued that we should leave the standing order as proposed because it will be nugatory. Senator Baker has informed me that we have been working under a similar standing order, and I was not previously aware of that, but I do not believe in passing standing orders which are never to be enforced. Without any disrespect to the present occupant of the chair, I may be permitted to say that we might have a President of this Chamber who would exercise the power given to him under this standing order arbitrarily against some particular senator or a section of honorable senators. I shall persist in my amendment, as I am not alarmed by the boggy. Outside of that absurd fear, I see no reason why honorable senators should not exercise the privilege which has been so far conceded to them.

Senator Lt.-Col. GOULD (New South Wales).—I think the boggy in this matter is started by the other side. A standing order of this character is in the interests of the Senate itself. We have seating capacity here for perhaps 20 or 25 people. Members of the other House are supposed to come here sometimes, and there are 36 members of the Senate. If some very interesting subject were on for discussion, and each of the 36 senators desired to introduce two or three of his friends to listen to the debate, we could not accommodate that number of people. There must, therefore, be some authority to regulate the number to be admitted. If it is proposed that the rule shall be first come first served there will, of course, be an end of it. In the New South Wales Legislative Assembly a member goes to the Speaker and says, "I wish to introduce a friend to the gallery." The Speaker, as a matter of course, gives the member a card, and looks upon him as sponsor for the suitability of the person admitted. If the gallery is full he intimates that fact, and there is an end to the matter. It would be better to leave the power in the hands of the President. If it were left in the hands of honorable senators generally I might, for example, think that I could squeeze another stranger into an already overcrowded gallery, and endeavour to do so, to the great inconvenience of others present. At any time some very important matter might come before the Senate, the discussion on which very many people would desire to hear.

Senator STEWART.—Those who took the most interest in it would come early.

Senator Lt.-Col. GOULD.—There is no boggy about this standing order. It does not mean that any honorable senator will be under an obligation to the President. If there is room the President will invariably admit strangers; on the other hand, if there is no room, an honorable senator will be saved a great deal of trouble by being able to say to his friends, "The President will not issue any more cards." I think some objection might very well be taken to the latter part of the clause; but, as Senator Clemons has indicated that he intends to move an amendment in regard to it, I shall content myself by saying that I trust the Committee will not adopt the amendment now before the Chair.

Senator HIGGS (Queensland).—I hope that Senator Clemons will not press this amendment, because we have been working under a precisely similar standing order up to the present time. I understand that the Speaker of the House of Representatives enjoys the privilege which it is proposed to confer upon the President. At the opening of Parliament, from time to time, the galleries will probably be crowded, and without this standing order some honorable senators might bring in so many friends that others would not be able to find room for any. Although, like Senator Playford, I hesitate to mention the South Australian precedent, I would point out that it is the practice in the South Australian Legislative Council to leave this matter in the hands of the President, and that the practice has never been abused. For example, it is difficult to estimate how many ladies will desire to be present when Senator Dobson's Divorce Bill is under discussion, and it is absolutely necessary in our own interests that the President should have some control over the number of persons who will then be pressing for admission.

Senator STEWART (Queensland).—I intend to support the amendment.

Senator HIGGS.—The honorable senator is always in a minority.

Senator STEWART.—The honorable senator is surprised to find me supporting anything hailing from the quarter from which this amendment has come. No doubt we do not get much common sense from that point of the compass; but on

this occasion the honorable and learned senator seems to have struck the right chord, and I am going to assist him. I was always under the impression that honorable senators were permitted to introduce their friends into the seats at the rear of the Bar, but this standing order says that the President alone shall have the privilege of introducing strangers to that portion of the chamber.

Senator HIGGS.—The President has always had that power, but never enforced it.

Senator STEWART.—We might have a martinet in the position of President, and if the power is not used and not intended to be used, why should it be given? The first to come should be the first served. If people are extremely anxious to witness the proceedings in this Chamber, they will come early, and those who do so deserve to obtain seats. The galleries may sometimes be nearly full, and if this power is retained in the hands of the President, influential honorable senators, or perhaps those who are not members of the Chamber, will obtain the use of the seating accommodation behind the Bar, with the result that there will be no room for any one else.

Senator PEARCE.—That is very unlikely.

Senator STEWART.—I think it is extremely likely, and that it is better to leave this matter in the hands of honorable senators themselves. I shall support the amendment.

Senator PEARCE (Western Australia).—I should like to ask the President whether he interprets this standing order as an interference with the arrangement that has previously existed, or whether we are to understand that, even if the standing order be passed, we shall still have a kind of preemptive right to introduce our friends to the gallery? If that right is to continue, I shall have no objection to the standing order.

Senator Sir RICHARD BAKER.—I do not intend to alter the practice in the slightest degree.

Senator CLEMONS (Tasmania).—There are two reasons which actuate me in asking leave to withdraw the amendment. One is, that I have learnt for the first time during this discussion that we have been working under a precisely similar standing order. The other, which I need hardly indicate, is the all-powerful one—Senator Stewart.

Amendment, by leave, withdrawn.

Senator CLEMONS (Tasmania). — I move—

That the word "President," line 5, be omitted, with a view to insert in lieu thereof the word "Senate."

The Committee will agree that this is a more serious question. I think we should place the President, whoever he might be, in a somewhat invidious position if we were to ask him to say what stranger is so distinguished as to justify the Senate in affording him a seat on the floor of the Chamber. Such a question should be decided by the Senate itself. From the point of view of the distinguished stranger himself, I think the amendment is also desirable. It would be a greater mark of respect to him if the whole Senate conferred upon him the right to a seat on the floor of the Chamber.

Senator Sir RICHARD BAKER (South Australia).—The universal practice in representative Houses is to follow this rule. I would call the attention of the Committee to the fact that the Standing Orders Committee of the House of Representatives have adopted these identical words; but if the Committee chooses to amend the standing order by inserting the words "by leave of the Senate" after the word "may" line 6, I shall have not the slightest objection.

Senator CLEMONS (Tasmania).—I have no objection to that suggestion, and I ask leave to amend my amendment accordingly.

Amendment, by leave, amended accordingly.

Senator HIGGS (Queensland).—The objection to the original proposal made by Senator Clemons lies in the fact that when it was desired that a distinguished visitor should be given a seat on the floor of the Senate, we should have to go through the procedure of carrying a motion before the courtesy could be extended to him. The stranger himself might not care to see the conduct of the debate disturbed in that way. It would be far better to allow the President to permit a distinguished stranger to take a seat on the floor of the Senate. If the President declined to allow such a stranger to take a seat on the floor of the Chamber, it would be optional for any honorable senator to move that that courtesy be extended.

Senator WALKER (New South Wales).—I hope that the Committee will adopt Senator Baker's suggestion. I have seen a newspaper paragraph stating that an

attempt was recently made in the Victorian Legislative Assembly to extend this courtesy to two members of the Legislative Assembly of New South Wales, who were by no means distinguished, and that the House objected to the proposal. It would have been simply monstrous if either of those men had been allowed a seat on the floor of the House on the ground that they were distinguished strangers.

Senator HIGGS (Queensland).—I object to this statement.

Senator WALKER.—I have not mentioned any names.

Senator HIGGS.—No; but it is well known to whom the honorable senator is referring. Mr. John Norton, who is one of the gentlemen mentioned, is sufficiently well able to defend himself through the medium of his newspapers. Mr. Hollis, who is the other, has no such means of defence, and, as one who has known him for a long time, I may say that he is as respectable and distinguished as are some other gentlemen I could name.

The CHAIRMAN.—This matter is quite irrelevant.

Senator DAWSON.—Senator Walker's remarks were quite uncalled for.

Senator HIGGS.—They were certainly not in keeping with Senator Walker's good nature.

Senator WALKER.—Very well, I shall withdraw them.

Senator PLAYFORD (South Australia).—I think we should adopt Senator Baker's suggestion, which conforms to the practice of the Legislature of the model State which he so ably represents. In the South Australian House of Assembly the Speaker simply says—"By the leave of the House, I wish to introduce Mr. So-and-so to a seat on the floor of the Chamber." Honorable members say "Hear, hear"; and, if there is no objection, the introduction takes place. It is simply a matter of form, and if the honorable member who is speaking at the time is interrupted at all, the interruption is only of momentary duration.

Amendment, as amended, agreed to.

Standing order, as amended, agreed to.

Standing Orders 368 to 387 agreed to.

Standing Order 388—

Whenever the President rises during a debate, any senator then speaking or offering to speak shall sit down, and the Senate shall be silent so that the President may be heard without interruption.

Senator CLEMONS (Tasmania).—I think that a slight alteration of the standing order is necessary. It is quite obvious that the occasion is intended to be one when the President is occupying the chair. When he takes part in the debates in Committee we are prepared to give him most diligent attention, but he can hardly expect us to remain absolutely silent or to do everything which is mentioned in the standing order. I suggest that it should begin with the words "Whenever the President whilst presiding." That is obviously what is meant, and if it is meant it ought to be expressed. In the standing orders there has been a confusion in more than one instance in dealing with the President when he is in the chair and when he is not in the chair.

Senator Sir JOHN DOWNER (South Australia).—The standing order can only be read to refer to an occasion when Senator Baker rises in his character as President. When he speaks from any place but the chair, he does not speak as the President, but as a senator.

Standing order agreed to.

Standing Order 389 agreed to.

Standing Order 390—

Every senator shall be uncovered when he enters or leaves the Chamber, or moves to any other part of the Chamber, during the debate, and shall make obeisance to the Chair in passing to or from his seat.

Senator CLEMONS (Tasmania).—I do not think that any one in the Committee thinks it is necessary or desirable that any senator should make obeisance to the Chair when passing to or from his seat. Of course we make obeisance to the Chair when entering and leaving the Chamber, but surely it is carrying this formality a little too far to have a rigid standing order which says that every time a senator leaves his seat he shall make obeisance to the Chair. I submit that the words to which I have referred should be omitted.

Senator Sir RICHARD BAKER (South Australia).—I agree with Senator Clemons that it would be a very good thing to strike out the words. They appear in the standing order because we followed, as far as possible, the language of the standing orders of all the States. I think it will be sufficient if senators are required to bow to the Chair when they enter and leave the Chamber, and not on any other occasion.

Senator Lt.-Col. GOULD (New South Wales).—I think it will meet every purpose that is required if we use the language of the corresponding standing order of the Legislative Assembly of New South Wales—

And shall make obeisance to the Chair on entering or leaving the Chamber.

Amendment (by Senator CLEMONS) agreed to—

That the words "in passing to or from his seat" be omitted, with a view to insert in lieu thereof the words "on entering or leaving the Chamber."

Standing order, as amended, agreed to.

Standing Orders 391 and 392 agreed to.

Standing Order 393—

No senator shall turn his back to the Chair when speaking, or shall unnecessarily stand or sit with his back to the Chair.

Senator DRAKE.—I should be glad if the standing order could be modified. I am afraid that I have committed more breaches of order in this respect than ever I committed before. On account of the position which the representative of the Government or the leader of the Opposition occupies at the table, he can hardly address himself to a subject without sometimes turning his back to the Chair. It is a thing which I never do out of any disrespect to the Chair. I move—

That the word "unnecessarily" be inserted after the word "shall," line 1.

Senator CLEMONS (Tasmania).—In the marginal note we are told that the standing order is new, but that it is the practice of most States. I think it will be generally admitted that this matter in any other deliberative body has been decided purely by courtesy; no standing order has been passed to read to the members a lesson in courtesy. It has been invariably regarded as a courteous thing for a member to speak with his face to the Chair so far as he can. Originally, I intended to move that the standing order be omitted, but if that were done I should perhaps miss the opportunity of doing something which I think is very desirable. I believe that, unwittingly, Senator Baker has shown discourtesy to the Chairman in addressing the Committee time after time from a point behind the Chair at the table. From my point of view, it would be more courteous to the Chairman for Senator Baker to face the Chair when he is speaking in Committee. It is extremely difficult for the Chairman to know when Senator

Baker wishes to speak. I suppose it would not be tolerated if any other senator were to occupy any part of the dais or to speak from a position so far back on the bench as that in which Senator Saunders is sitting. I cannot concede that any honorable senator would consider it courteous to the Chairman to speak from a place so far behind the Chair. I hope to have Senator Baker's support presently for this amendment—

No senator shall unnecessarily turn his back to the Chair, nor shall he stand behind or at the back of the Chair when speaking.

Senator HIGGS (Queensland).—The universal practice is that a member shall address himself to the Chair. He cannot address himself to the President or the Chairman, and then turn his back to the Chair. If the standing order is amended as proposed, what is to prevent me, if I desire to address the gallery, from turning my back to the Chairman? Supposing that I were to turn round in my place in order to have an altercation with Senator Barrett, I might prevent other senators from hearing what I had to say. I think that allowance will be made for the representative of the Government and the leader of the Opposition on account of the position which they occupy at the table. Inasmuch as there are so many senators who cannot make up their minds to support either the Government or the Opposition, and sit on the cross benches, it is necessary for the leaders, who speak at the table, to turn their backs slightly to the Chair. I think that in that respect the standing order might be allowed to remain as it is. I am inclined to agree with Senator Clemons, but a senator should not address the Committee from behind the Chair. I would much prefer Senator Baker to take his seat as a democrat amongst us in the body of the Chamber. I believe that it would lead to better feeling, and that we should come to look upon him more as one of ourselves than as a person who is up in the clouds and quite beyond us.

Senator Sir JOHN DOWNER (South Australia).—Senators are supposed to speak from their places in the Chamber—that is, from the benches. For instance, the place of Senator Saunders is where he is sitting now. Senator Ewing always spoke from that place last session, and always, therefore, had the Chairman's back towards him. A senator has the right to speak from his place in the Senate, and from nowhere else. If

Senator Baker sat on the corresponding seat to the right of the Chair, he would be in identically the same position. His place in the Senate is in the Chair, and no place is allotted to him when he is out of the Chair. I think it is to be regretted that this matter was mentioned at all, particularly in view of the arrangement of the seats, making it, in some instances, impossible for any senator on either side to speak from his place without having the Chairman's back more or less towards him. I agree with the insertion of the word "unnecessarily," and I hope that the standing order will be carried with that word in it.

Senator PEARCE (Western Australia).—I hope that the Senate will reject the whole standing order. We might leave it to the discretion of the President or Chairman of Committees to call to order any senator who is behaving improperly. We have not had this provision during the last two years, and it seems to me to be rather beneath the dignity of the Senate to have it. I shall vote against it.

The CHAIRMAN.—I should regret the use of the word "unnecessarily" in this standing order. We worked under a standing order similar to this for a long time last session, and I do not think that any Minister of the Crown was subjected to indignity in any shape or form by reason of the position from which he addressed the Chamber.

Senator DRAKE.—I was called to order several times.

The CHAIRMAN.—When an honorable senator had his back to the Chair for a considerable time it was perhaps quietly hinted to him that he might change his position. Who is to say what is "unnecessarily?" It is only adding further complications. I venture to say that the Postmaster-General may at all events rely that so far as I am concerned the standing order will be reasonably exercised, as I am sure it was during last session. I think it would complicate the standing order to insert such a word as that suggested in it.

Senator CLEMONS (Tasmania).—I wish to say, in answer to Senator Downer, that in the House of Lords the gentleman who corresponds in official position to the President of this Senate does not consider it to be beneath his dignity to come down and speak from the floor of the House, where every other

member of the House expresses his views. We have in this Senate the sole instance in which, in any Legislative Chamber in the English-speaking world, this practice prevails. I do not wish to speak offensively, but I submit to Senator Baker that, as a matter of courtesy, it would obviously be better if he himself spoke in Committee from a place upon the floor of the Chamber. He must surely see that it is, to a certain extent, discourteous to the Chairman of Committees to speak from the place where he now sits. The argument that Senator Ewing, or any one else, sat at the far end of the front bench in a seat behind the Chairman, and addressed the Chair from that point, is no argument at all that could justify Senator Baker in being discourteous, even if the other honorable senators referred to had been so.

Senator DOBSON.—I say that there has been no discourtesy.

Senator CLEMONS.—For any honorable senator, even though he may be President of the Senate, to address the Chairman of Committees from some point entirely behind the Chair is discourteous. I do not say that Senator Baker has been wittingly discourteous; I should say so frankly if I thought so; but it is fairly arguable that to address the Chair from such a position is discourteous to the Chairman. Senator Baker may have hurt the Chairman's feelings without knowing it. I put it to him that in the House of Lords, which is at least equal in dignity to this Senate, the Lord Chancellor, when he addresses the Committee, does so from the floor of the Chamber, and that it would be more courteous if Senator Baker, when addressing the Committee, would do so from the bench upon which I sit or from the opposite bench. I should not have mentioned this subject at all had not a standing order been inserted in this document, which was directed principally towards Ministers; because it is only Ministers—and Senator Symon, when he has spoken from the table in his position of the leader of the Opposition—who hitherto have been hauled up under the standing order. Surely when a matter of courtesy is in question, there should be no one more willing to set an example than Senator Baker himself.

Senator DOBSON (Tasmania).—The matter of courtesy is not in question. It is to be regretted that Senator Clemons should have taken up the time of the

Senate with such a trivial matter. It has already been pointed out that there are two seats on the front benches of the Chamber which are absolutely behind the seat occupied by the Chairman of Committees; and my honorable and learned friend, Senator Clemons, who has got this question of courtesy on the brain, absolutely went on to assume that, because Senator Ewing invariably spoke from the extreme corner seat on the left of the Chairman, he was guilty of discourtesy. I am sure that no one else will be of that opinion.

Senator CLEMONS.—I deny that Senator Ewing habitually spoke from that place.

Senator DOBSON.—But I have seen him speak from that place. I should like to know if there is to be no such thing as respect for our President, and regard for the dignity of his position? Would Senator Clemons think it better that the two seats on either side of the President's chair should be taken away, and that Senator Baker, when not presiding over the Senate, should sit on a form without a back to it, or in a chair with no arms? What can be gained by trying to detract from the dignity of our presiding officer, and by taking up the time of the Committee in attempting to undo a practice that prevailed during last session? Why take up time over such a trivial matter? If Senator Baker sits in one of the corner seats at the extreme end of one of the front benches he will still be behind the Chairman of Committees. It is no use raising the question that he is discourteous to the Chairman. If he were, the Chairman and the President would soon be able to settle the matter between them.

Senator Sir RICHARD BAKER (South Australia).—I am quite sure that the Chairman of Committees will not imagine for a moment that I have been discourteous to him. He has never intimated any such idea to me and I do not think he entertains it. This is a matter which is personal to myself and therefore I do not intend to argue it. I shall not vote. But I wish to point out one error which has been made. It has been said that the Lord Chancellor in the House of Lords, in addressing that House, leaves the woolsack.

Senator CLEMONS.—I said that in Committee the Lord Chancellor addresses the House of Lords from the floor of the chamber itself.

Senator Sir RICHARD BAKER.—He has to, because the woolsack is not in the

House proper, and naturally he has to go into the House before he can address it. If there is any analogy between the Senate and the House of Lords—and I entirely deny that there is any; we are not governed by the procedure of the House of Lords; but if there is any analogy—it certainly does not apply in reference to the woolsack, which is outside the House of Lords itself. I hope that the Senate will accord to me the same position as they have done in the past. I do not see any reason whatever why the standing order should be altered. At the present time, where I am now standing, I am just as much in view of the Chairman of Committees, and just as courteous to him, as any honorable senator who sits down there. And is it not rather peculiar that those same honorable senators who object to a standing order which says that honorable senators shall not stand with their backs to the Chair, at the same time want to bring in a standing order to the effect that a senator—because I am only a senator when I speak in Committee—shall not address the Chairman when he is looking straight towards him, although the Chairman only sees those other honorable senators side-face? I have no more to say.

Senator CLEMONS (Tasmania).—With regard to the Lord Chancellor in the House of Lords, I never said what Senator Baker has attributed to me; but I did say what he is unable to deny, that when the Lord Chancellor addresses the House of Lords in Committee, he does so from the same position on the floor as does any other member of the House. I point out again that there is no other Chamber of legislation where the practice we have adopted obtains. I have heard the Speaker in the House of Representatives address that Chamber in Committee, and I know what his practice is. It is not the practice which has been adopted by Senator Baker here. I venture to say that Mr. Speaker Holder would never for a moment think—though he has the same sort of sitting accommodation in that House as the President has here—of addressing the House of Representatives in Committee of the whole except from a seat on the one side or the other. It remains for Senator Baker to set an example of dignity—of his sense of dignity—that no other President or Speaker in any British Parliament has ever attempted to do. I say that he does not enhance that dignity by addressing the

Chairman of Committees from a place behind the Chair instead of from a place upon the floor. Senator Baker has tried to show that it is not as discourteous to stand behind the Chair and address the Committee from that position as to stand sidewise. I submit that that sort of argument is ludicrous and absurd. There is no objection to his speaking from one side or the other upon the floor of the chamber, but it is a false sense of dignity—it is even spurious—as well as being discourteous, to speak from his present position.

Senator STEWART (Queensland).—I confess that I have very considerable sympathy with Senator Clemons in this matter. I think he is on the right track once again. I do not see any reason why the President, when addressing the Committee, should not come into the body of the chamber, just as other members of the Senate have to do. In Queensland, when the Speaker of the Legislative Assembly speaks in Committee, he comes into the body of the chamber, and speaks from one of the ordinary benches. He does not take up a position behind the Chairman of Committees. There is another point. We have a standing order which says that when two or more honorable senators rise to speak, the Chairman shall call upon the senator who first rose in his place. Suppose that Senator Baker and Senator Clemons wished to address the Committee at the same time, and Senator Baker rose first. The Chairman not having eyes in the back of his head could not possibly see Senator Baker, and would, therefore, naturally call upon Senator Clemons. I think it absolutely necessary that every member of the Senate who desires to address the Chair should be in full view of the Chair. I do not know what reason Senator Baker has for persisting in seating himself behind the Chair, or in speaking from a place behind it. But I think that, as a mere matter of convenience, it would be very much better for him to speak from a place on the floor of the chamber just as other honorable senators do.

Senator HIGGS (Queensland).—This is not the trivial matter that Senator Dobson would have us believe it to be.

Senator DOBSON.—I never heard a trivial matter if this is not one.

Senator HIGGS.—I disclaim at once, as emphatically as I can, any intention to wound the feelings of the President. In his absence, I also desire to say that I

think he is a good President. I have had occasion to think so over and over again. I know that he has pulled me up sometimes, but I have had no reason to find fault with his decisions. I say again, in one of my calm moments—when I am not “stone-walling” or doing anything of that kind—that he is a good President. I affirm that in what I am saying, I am influenced by no personal objection to the conduct of the President, but as time passes the position of the President of the Senate will carry much greater influence than it does now, and I say that, when the Senate is in Committee, the President should come down and take his seat with us, if it be only to show that he is of the same common clay as ourselves. The honorable and learned senator appears before us in wig and gown, and I can well imagine that a few years hence some young politicians entering this Chamber may be disposed to pay more attention to the words spoken by the President on account of the traditions attaching to his office, than the importance of those words entitle them to.

Senator PEARCE.—They will not if they are Australians.

Senator HIGGS.—I am aware that there is a great want of reverence in Australians, but there is no knowing what is likely to happen, and when we become an older community the sturdy independence which characterizes the Australians of to-day may, in our newer civilization, be absolutely weeded out of them. I desire, so far as I can, to protect innocent young politicians coming into this Chamber. I should feel it to be a compliment if the President were to take his seat upon these benches as we do ourselves when the Senate is in committee. I am glad to learn from the encouraging cheers of Senator Playford that what is now proposed is the practice in South Australia, and I think it is one which we might very well follow.

The CHAIRMAN.—I personally take the opportunity of saying that I am perfectly satisfied that, in speaking from the position which he usually occupies, the President has never at any time intended any disrespect to the Chair or to honorable senators. I am sure that Senator Clemons will not attribute to him any such intention. I urge the honorable and learned senator to withdraw his amendment. While I admit that it has been the

practice in the Victorian Parliament, and in several other Legislative Chambers, for the President or the Speaker to take his place in the body of the Chamber when the House is in committee, yet, by reason of the fact that the Senate has acquiesced, so to speak, in the practice of allowing Senator Baker to sit where he does sit, I think that the amendment will be assumed to have been directed against him personally.

Senator PEARCE.—Possibly, if the question had been raised at any other time.

Senator CLEMONS.—This is the first opportunity we have had of raising it.

The CHAIRMAN.—In all the circumstances, Senator Baker must himself necessarily take notice of what has been said during the debate, and I think it may be left to his judgment in the future to do as he thinks proper. I cannot but feel that it would be regarded as a personal reflection on the President if the amendment were agreed to.

Senator PLAYFORD.—In the circumstances, it would be better if this standing order, which is new, were struck out altogether.

The CHAIRMAN.—The amendment at present before the Chair is that the word “unnecessarily” shall be inserted after the word “shall,” line 1.

Amendment negatived.

Senator CLEMONS.—I propose to move that the standing order be amended so as to read—

No senator shall, when speaking, turn his back to the Chair, nor shall he stand behind the Chair, or unnecessarily stand or sit with his back to the Chair.

I therefore, in the first place, move—

That the words “when speaking” be inserted after the word “shall,” line 1.

Senator Lt.-Col. GOULD (New South Wales).—I think that the standing order had better be allowed to remain as it is. One cannot get away from the feeling that this amendment will be regarded as directed at the President in consequence of the practice that has grown up. He is the only honorable senator who does sit behind the Chair, he has been referred to pointedly in the remarks which have been made, and if such an amendment upon the standing order were agreed to, people could not help regarding it as being directly aimed at the President. Is it worth while to do anything of that kind? No honorable senator goes behind the Chairman when speaking,

though some of us may turn our backs partially to him. I have known honorable senators to be called to order for turning their backs to the Chair, when it has appeared to me to be unnecessary, because, though theoretically while speaking we are supposed to be addressing the Chair, we are in reality addressing honorable senators. I think it would be very much better not to accept the amendment suggested, because it has the very unpleasant and invidious attribute to which I have referred. I should be quite willing to have the whole standing order eliminated, because it deals purely with a matter of courtesy, and no honorable senator would willingly be discourteous to the President or Chairman of Committees. I think we may very well leave it to the good sense of honorable senators to act courteously.

Senator DRAKE.—I am inclined now to think that it would be better to negative the standing order altogether. I should be very sorry indeed to see it carried in the amended form proposed by Senator Clemons, because I can quite imagine that it would be regarded as a slight upon the President. I am inclined to think that it would be a slight upon the honorable and learned senator, and I should so regard it myself. We have acquiesced in the practice up to the present time, and I cannot see that it has led to any bad results. I do not think that any necessity whatever has been shown for making such a rule as Senator Clemons now proposes.

Senator Lt.-Col. CAMERON (Tasmania).—I should like to draw the attention of the Committee to a point which I think has been entirely overlooked in the discussion, not only of Standing Order 393, but of every standing order referring to the President. I am under the impression that when we elected our President, we did so in the belief that he would exercise his privileges in every way impartially. If that be clearly understood by honorable senators, we have put the President in a place in the chamber where he stands by himself, and simply because he leaves the Chair when the Senate goes into Committee, I see no reason why we should divest him of the attribute of impartiality with which we have surrounded him. If we forced the President away from his position behind the Chair, and compelled him to speak in Committee from one side or other of the chamber, we should do that. So far from there being any

discourtesy in the President addressing honorable senators from the position which it has been his custom to occupy when speaking, I hold that that is the only place from which he can address honorable senators and maintain the impartiality of his office. Those are my views for what they are worth.

Senator CLEMONS (Tasmania).—I desire to point out calmly to Senator Cameron that I think he misunderstands the position. When the Senate is in Committee there is no President, and the President becomes Senator Baker.

Senator Lt.-Col. CAMERON.—Senator Clemons will pardon me. He becomes Senator Baker, and must take either one side or the other, according to the honorable and learned senator's views.

Senator CLEMONS.—Undoubtedly. The President is President in the Senate, and in the Senate only. As soon as the Senate resolves itself into Committee we have no President, and the President becomes Senator Baker. This is especially important in this Senate, because, as Senator Cameron will remember, the Constitution contains many provisions dealing with the votes and actions of honorable senators having regard to the fact that each State is equally represented in the Senate. When the Senate is in Committee Senator Baker is one of six senators from South Australia, enabled by the Constitution and by our standing orders to speak, and enabled by the Constitution, although President, to exercise a deliberative vote and not a casting vote. So that in every respect his function as President ceases as soon as the Senate goes into Committee. That is the essential point in the whole of our arguments, and I am afraid Senator Cameron has entirely overlooked it. I desire to say a word with regard to my personal attitude in moving this amendment. It has been said that it will be taken as a direct slight or a direct blow aimed at Senator Baker. I have heard it said by way of interjection that this question should have been raised long ago, but I remind honorable senators that there was no previous opportunity to raise it. I do not suppose that any honorable senator will say that I have been personally afraid to move in this matter. I can assure honorable senators that there has been no fear on my part, but I have had no other opportunity of raising the question. How could I, under

the standing orders under which we are working at the present time, challenge Senator Baker's right to stand behind the Chair while speaking? The standing orders would not have supported me if I had done so, and I could only have appealed to the honorable and learned senator's sense of courtesy to the Chair. I preferred to wait until the proper opportunity arose, and if these standing orders had come before us for consideration last session I should have raised the point then, in order that the practice for the future might be decided. Because neither I nor any other honorable senator has had an opportunity of drawing attention to this practice, we are told that we allowed it to grow. That argument is erroneous and unfair, because no opportunity previously arose to check what has been called a practice, and no member of the Senate could have prevented Senator Baker speaking from behind the Chair under the standing orders at present in force. I have taken the first opportunity of trying to prevent a practice which is not in accordance with the practice of any other Parliament in the world where English is spoken. I am told that I should withdraw this amendment because it will hurt Senator Baker's feelings. I have no desire to hurt Senator Baker's feelings, but I do desire that we shall adopt the practice which obtains everywhere else, or that we shall be given some reason why that practice should be departed from. I feel that I am justified in taking advantage of the earliest opportunity to check a practice which should never have been allowed to grow up, and of trying to prevent the establishment of a practice which has no warranty anywhere else.

Senator HIGGS (Queensland).—I hope that honorable senators will not agree to strike out this standing order, simply because some of them, and apparently the majority, think that the President will be annoyed about it, and that he will take offence at this proposal if it is carried. They should consider whether the amendment proposed is right or wrong. Senator Cameron has supplied us with proof of the correctness of our arguments. The honorable senator has said that if we make the President sit upon the benches on either side of the Chamber, we take away from him his impartiality or his appearance of impartiality. That is the very thing I desire to take away from him.

I desire that the President when out of the chair shall be recognised simply as a member of the Senate, and that honorable senators shall not pay any more attention to his arguments, owing to the weight and added influence of his position as President, than they would give to the arguments of any other honorable senator. That is the sole cause of our action in this matter. We desire that the President, when he leaves the chair, shall take his place with us without any of the added influence of wigs and gowns. There is no desire whatever to inflict a slight upon the President. We must remember that what we do now will probably constitute the practice for all time. When Senator Baker is dead and gone and others take his place this practice will be followed, and the President of the day will sit behind the Chair. If we strike out this standing order that practice will never be altered. We should not allow any consideration for the feelings of the President in regard to this particular matter to influence us in any way. The objection offered on that score is absolutely groundless.

Senator DOBSON (Tasmania).—I listened with pleasure to your remarks, Mr. Chairman; but it occurred to me when you were speaking that you considered that in Committee Senator Baker ought to speak from the floor of the chamber, and that hitherto he had not done so. I am sure that Senator Clemons' remarks were based upon the contention that Senator Baker should speak from the floor of the chamber.

Senator CLEMONS.—In Committee.

Senator DOBSON.—My contention is that the honorable and learned senator has always done so. He speaks from the floor on which Senator Downer and I sit, although there is a higher floor on both sides of him. Can the Chairman properly rule that when Senator Baker speaks from his accustomed place, he is not addressing himself to the Chair from the floor of the chamber.

Senator CLEMONS.—Would the honorable and learned senator speak from the same place?

Senator DOBSON.—I have a right to speak from the same point. I have a right to sit there, or stand there; and I defy any honorable senator to say that it is not the floor of the chamber. It is because of that opinion I think that this is a trumpery, stupid piece of business.

Question—That the words proposed to be inserted, be so inserted—put. The Committee divided.

Ayes	...	...	...	8
Noes	...	...	...	16
Majority	...	...	...	8

AYES.

Clemons, J. S.	Playford, T.
Dawson, A.	Stewart, J. C.
De Largie, H.	
Higgs, W. G.	Teller.
Pearce, G. F.	Millen, E. D.

NOES.

Barrett, J. G.	Keating, J. H.
Best, R. W.	McGregor, G.
Cameron, C. St. C.	Neild, J. C.
Charleston, D. M.	Saunders, H. J.
Dobson, H.	Smith, M. S. C.
Downer, Sir J. W.	Walker, J. T.
Drake, J. G.	
Glassey, T.	Teller.
Gould, A. J.	O'Keefe, D. J.

Question so resolved in the negative.
Amendment negatived.

Question—That the standing order be agreed to—put. The Committee divided.

Ayes	...	...	...	9
Noes	...	...	...	15
Majority	...	...	...	6

AYES.

Best, R. W.	Keating, J. H.
Cameron, C. St. C.	Saunders, H. J.
Charleston, D. M.	Smith, M. S. C.
Downer, Sir J. W.	Teller.
Glassey, T.	Dobson, H.

NOES.

Barrett, J. G.	Neild, J. C.
Clemons, J. S.	O'Keefe, D. J.
Dawson, A.	Pearce, G. F.
De Largie, H.	Playford, T.
Drake, J. G.	Stewart, J. C.
Gould, A. J.	Walker, J. T.
Higgs, W. G.	Teller.
McGregor, G.	Millen, E. D.

Question so resolved in the negative.
Standing order negatived.

Standing Orders 394 to 396 agreed to.
Standing Order 397—

No senator shall read his speech.

Senator STEWART (Queensland).—I see no reason why an honorable senator should not be permitted to read his speech if he desires to do so. We wish to hear the views of an honorable senator, and if he can give utterance to those views more satisfactorily by having previously committed

them to paper, surely it is to the advantage of the Senate, as well as to the advantage of the honorable senator himself, that he should be permitted to do so. I see no reason for this prejudice against written speeches. We hear a great deal for and against written sermons; but I believe that written sermons are very often very much better than those that are delivered extempore. I shall vote against this standing order.

The CHAIRMAN.—The true reason for the existence of this standing order is that the Senate should have some guarantee that the speech delivered by an honorable senator has been prepared by himself.

Senator Sir RICHARD BAKER (South Australia).—For the information of Senator Stewart, I may perhaps be allowed to relate an anecdote. In America, at one time, Congress had no such standing order as this. The consequence was that there grew up in Washington a class of gentlemen who lived by writing speeches for members of both Houses. While this practice prevailed, a practical joker, who had been offended in some way, wrote the same speech for no less than three honorable senators, who delivered or attempted to deliver it. I think the incident supplies a sufficient reason for the retention of this standing order.

Senator STEWART (Queensland).—The explanation given by the President is a very interesting one. If we could only carry this provision a step further, I think it would be eminently desirable. It struck me, when Senator Baker was giving his explanation, that the application of a somewhat similar rule to the courts of justice might perhaps be a very good thing if it did away with the lawyers. We have in the courts a class of men who monopolize the business, but no one seems to find any fault with them. Some persons are so fortunate as to be able to commit to memory a speech and deliver it. What guarantee, therefore, have we that any senator's speech is his own? None whatever. If a senator can express his thoughts better in writing than in speech he ought to be permitted to read his written thoughts to the Senate.

Senator MCGREGOR (South Australia). I hope that Senator Stewart's view will not be taken seriously, although I believe that he is in earnest. If we had no such standing

order, what an advantage it would be to a senator with a fertile imagination if he wished to do a little "stone-walling." He could write or type a speech to last for a week, and all that he would have to do would be to stand in his place and deliver it. Although we may find it necessary sometimes to do a little "stone-walling" in the interests of the community, yet I hope that we shall never become professional "stone-wallers." For that reason I should like every senator to deliver his speech unwritten.

Standing order agreed to.

Standing Orders 398 to 404 agreed to.

Standing Order 405—

No senator shall read extracts from newspapers or other documents referring to debates in the Senate during the same session.

Senator Sir RICHARD BAKER (South Australia).—I think that *Hansard* should be excepted from the operation of the standing order. We have a *Hansard* which costs us a great deal of money, in order to obtain an accurate report of our debates, and if a senator wishes to quote from a speech delivered by another senator he ought to be able to quote from *Hansard*. That has been the practice, and it might as well be embodied in the standing order. I move—

That the words "except *Hansard*" be inserted after the word "documents," line 2.

Senator PLAYFORD (South Australia).—I do not think that the standing order is wanted. In South Australia we had a practice by which we overcame the prohibition against the reading of extracts from newspapers. We quietly folded the extract within a paper and made out that we had memorized the matter. We read the extract and no one called attention to the breach of the rule. I expect that a similar practice will grow up in the Senate even if we adopt this standing order. It might as well be omitted for any good that it will do. I agree with Senator Baker that we should be allowed to quote from *Hansard*, and to carry his idea a little further, we might as well be allowed to quote from papers or reports of debates, even if we had not *Hansard*. A clever speaker can evade the rule with the greatest ease, but it takes a new member a little time to learn the art of reading extracts from papers referring to debates of the same session.

Senator MILLEN (New South Wales).—If I am allowed to amend the standing

order in the direction which has been indicated by Senator Baker, it will be necessary to review the previous one, which says—

No senator shall allude to any debate of the same session upon a question or Bill not being then under discussion, nor to any speech made in Committee except by indulgence of the Senate for personal explanation.

Senator DRAKE. --- The standing order refers to a debate of the same session upon a question or Bill not being then under discussion. If the same question or Bill is under discussion *Hansard* can be quoted.

Senator MILLEN.—If that is the interpretation placed upon the standing order—a rather narrow one—my remark does not apply.

Senator Sir RICHARD BAKER (South Australia).—There are debates and debates. The parliamentary rule, which is followed in these standing orders, is that a member must not refer to a debate of the same session on some subject not then under discussion. Technically speaking the discussions on a Bill are regarded as one debate, and if a senator wishes to refer to what another senator has said on the Bill, or on the matter then under discussion, surely *Hansard* is the best authority to which he can go? That is all I wish to do by my amendment.

Amendment agreed to.

Standing order, as amended, agreed to.

Standing Orders 406 and 407 agreed to.

Standing Order 408—

No senator shall use the name of His Majesty, or of his representative in this Commonwealth, irreverently in debate, nor for the purpose of influencing the Senate in its deliberations.

Senator PEARCE (Western Australia).—It is wrong to use the word "irreverently," which is defined in every dictionary as referring to the Supreme Being. For instance, in *Davidson's Dictionary*, "irreverence" is defined as—

Want of due regard for the character and authority of the Supreme Being.

In the standing order we are speaking of a human being. I move—

That the word "irreverently," line 3, be omitted, with a view to insert in lieu thereof the word "disrespectfully."

Amendment agreed to.

Standing order, as amended, agreed to.

Standing Orders 409 to 417 agreed to.

Standing Order 418—

Complaints against newspapers.

Senator MILLEN (New South Wales).—

I rise, not to move an amendment, but to

call the attention of the Committee to the standing order. I do so because of my experience in the Parliament of New South Wales, which it must be said did not emerge with any credit from its conflicts with the press. The standing order says that—

Any senator complaining to the Senate of a statement in a newspaper as a breach of privilege shall produce a copy of the paper containing the statement in question, and be prepared to give the name of the printer or publisher, and also submit a substantive motion declaring the person in question to have been guilty of contempt.

What happens when the person has been declared guilty of contempt? He may be summoned if you like, and he can come or stay away if he likes. It seems to me that the standing order lays down a procedure which will land the Senate in a ridiculous position. I hope that it will be negatived.

Standing order agreed to.

Standing Orders 419 and 420 agreed to.

Progress reported.

SUGAR BONUS BILL.

Bill received from the House of Representatives, and (on motion by Sen or DRAKE) read a first time.

SUGAR REBATE ABOLITION BILL.

Bill received from the House of Representatives, and (on motion by Senator DRAKE) read a first time.

PAPER.

Senator DRAKE laid upon the table—

Correspondence between the Minister for External Affairs and the Agent-General of Queensland re certificate of exemption under the Immigration Restriction Act.

Senate adjourned at 10.1 p.m.

House of Representatives.

Wednesday, 17 June, 1903.

Mr. SPEAKER took the chair at 2.30 p.m., and read prayers.

PETITION.

Mr. WILKS.—I desire to present a petition from over 30,000 Protestant residents of the Commonwealth, expressing their “emphatic disapproval of the action of the Prime Minister in making an official visit to the Pope of Rome, and in accepting

a gold medal as a distinction from him.” The petitioners repudiate certain remarks alleged to have been made by the right honorable gentleman and reported in the *Catholic Press* of Sydney of 26th July, 1902, and pray that the House will “strenuously oppose the conferment upon him of any position of honour or dignity in the Commonwealth until his actions have received the indorsement of an electorate of the Commonwealth.” I move—

That the petition be received and read.

Mr. CROUCH.—I ask your ruling, Mr. Speaker, as to whether the petition can be received, inasmuch as the prayer which has been read by the honorable member is offensive?

Mr. O'MALLEY.—Shall I be in order in moving to insert in the petition the name of His Majesty King Edward?

Mr. SPEAKER.—Certainly not.

Sir EDMUND BARTON.—On the motion that the petition be read, I do not propose to descend so far as to justify my action in accepting an invitation to an audience with the Pope; but a statement is made in the petition as to remarks reported to have been uttered by me—

Mr. WILKS.—I rise to order.

HONORABLE MEMBERS.—Gag!

Mr. SPEAKER.—The standing orders under which we are working require that there shall be no debate upon the subject-matter of a petition. All that can be done at the present time is to discuss the motion which the honorable member for Dailey has moved. Debate can take place only upon the abstract questions whether the petition shall or shall not be received, and whether it shall or shall not be read. There can be no discussion of its subject-matter, because, until it has been read, the House is presumed not to know what its subject-matter is. On the point of order taken by the honorable and learned member for Corio, the petition is not out of order for any reason yet disclosed; but I cannot be taken to know what its subject-matter is.

Sir EDMUND BARTON.—What opportunity has a member of the House who is misrepresented by a statement in a petition to put himself right before honorable members?

Mr. SPEAKER.—I know of no such opportunity, unless a motion is submitted which deals in some way with the subject-matter of the petition. I am quite sure,

however, that, after the petition has been read, the House will readily accord to the Prime Minister, or to any other honorable member under similar circumstances, an opportunity to make a personal explanation.

HONORABLE MEMBERS.—Hear, hear.

Question resolved in the affirmative.

Petition received and read.

Sir EDMUND BARTON.—As a matter of personal explanation, I would say that I do not intend to discuss the propriety of having accepted permission to pay a visit to so distinguished a statesman and personage as the head of the Roman Church. If I wished to justify that action, I need only point to the numerous precedents for such visits which existed before I myself paid one, and to a notable case which has occurred since. I wish to call attention, however, for the purpose of explanation, to a statement in the petition which repeats a press report to the effect that I said that, so long as I remained at the head of the Australian Government, Catholics might rely upon receiving in Australia a greater share of liberality and benevolence than they receive in other parts of the Empire. The facts are these: In the interview which took place, and which is alluded to in the petition, the Pope said that he was exceedingly pleased to observe the feeling of tolerance which existed in Australia towards people professing any religious creed; that he observed with great gratification the numerous proofs of that spirit, and hoped that it might long continue. Perhaps, honorable members may think, in the light of recent events, that he was not fully informed of the conditions prevailing here when he gave vent to that statement. My answer to him, through the prelate who acted as interpreter, was, so far as I can recollect, that he might rely upon the tolerance to which he had alluded always continuing in Australia. That is the sum and substance of what took place on the question of the treatment of Catholics in Australia. I should like to add that repeatedly after my return to Australia, and notably on the occasion of my first speech in reference to my tour, at the Town Hall, Sydney, on the 17th October, 1902, I corrected the report which is alluded to in this petition, in the terms which I am now using. Seeing that that speech and many others gave the sum and substance of my interview in this particular, long before this petition was got up, honorable members may draw their own

conclusions as to the spirit of tolerance and fair play which has dictated the repetition of the misstatement. I am quite sure that the Minister for Defence, who was present, will indorse the correctness of the version which I have given.

Sir JOHN FORREST.—Hear, hear.

Sir EDMUND BARTON.—Of course, no newspaper reporter was present at the interview, and I have repeatedly made public the correct version of what actually occurred. Notwithstanding that fact, honorable members now find an incorrect version repeated in the petition, without doubt for sectarian purposes. In what I actually said, I believe that, instead of misrepresenting, I rightfully represented the feeling of the vast majority of the people of the Commonwealth. I must express my hope and belief that, notwithstanding the conclusion to be drawn from the presentation of the petition, the Commonwealth at large will maintain that spirit of tolerance to which the petition is so gross an exception.

Mr. WILKS.—I should not refer to this matter, but—

Mr. SPEAKER.—Does the honorable member rise to a point of order?

Mr. WILKS.—I desire to reply to the Prime Minister.

Mr. SPEAKER.—The honorable member cannot do that. So that the House may be under no misapprehension in regard to this matter, I will read Standing Order 89, which says—

Every petition, which according to the rules of the House can be received, shall be brought to the table by the member presenting the same, and no discussion upon the subject-matter thereof shall be allowed.

I am sure, if the honorable member has been misrepresented in any way, the House will give him the same opportunity as would be given to any other honorable member, to explain his position. If he has not been misrepresented, I do not see what he can have to explain.

Mr. WILKS.—The petition has been misrepresented.

Mr. SPEAKER.—It will not be in order for the honorable member to make any explanation in regard to the petition.

Mr. WILKS.—I, too, have been misrepresented, as the member who presented the petition. I claim the tolerance which the Prime Minister asks for himself. While I was glad to hear his version of the interview with the Pope, I desire to say, on

behalf of the petitioners, that the petition was in circulation months before his return to Australia.

Sir EDMUND BARTON.—How many signatures were obtained before my return? I know that a great many have been obtained since.

Mr. WILKS.—I am not prepared to say how many signatures were obtained after the right honorable gentleman's return. The petitioners, however, signed the document without any knowledge of a repudiation by the Prime Minister of the newspaper report to which it refers. In reply to what he has said with reference to sectarian principle—

Sir EDMUND BARTON.—I did not use the words "sectarian principle." I cannot conceive of any principle in sectarianism.

Mr. WILKS.—The right honorable gentleman said that the petitioners signed the document in a spirit of sectarianism. I wish to say on their behalf, however, that in signing the petition they were only exercising their rights as citizens, and I should have been allowed to present it to the House without the trouble which we have had to-day.

PAPER.

Sir EDMUND BARTON laid on the table the following paper :—

Correspondence between the Prime Minister and the Agent-General for Queensland with regard to the power given to the Agents-General in England to issue exemption certificates under the Immigration Restriction Act.

DEFENCE BILL.

Mr. FULLER.—I desire to ask the Minister for Defence when he will be prepared to introduce the Defence Bill?

Sir JOHN FORREST.—The Bill is almost ready, and as soon as the way is clear for it I shall have much pleasure in presenting it to the House.

VISITS TO THE POPE.

Mr. O'MALLEY.—I desire to ask the Prime Minister whether he has received any intimation that a petition is being largely signed in New South Wales with a view to securing the dethronement of His Majesty the King and the Emperor of Germany, because of their action in visiting His Holiness the Pope?

Sir EDMUND BARTON.—I have no information on the subject.

TRANSFER OF STATES DEBTS.

Mr. V. L. SOLOMON.—I wish to know from the Prime Minister whether, in view of the probable early consideration of the question of the States debts being taken over by the Commonwealth, he will have a return prepared showing the dates upon which the various States liabilities fall due? I do not think that any such return has yet been furnished.

Sir EDMUND BARTON.—An exhaustive return of the kind indicated is now in preparation, and will be presented by the Treasurer when he explains his Budget.

GOLDRING CASE.

Mr. SYDNEY SMITH.—A few days ago I directed attention to the case of a Mr. Goldring, a merchant in Sydney, who had his books and invoices, together with the goods to which the invoices related, impounded by the Customs Department. Mr. Goldring offered to pay the whole of the duty demanded by the Customs authorities, or to enter into any bond that they might require, if they would deliver the goods and restore him his books and invoices. Notwithstanding all his applications, he has not received the goods or other property, which have been in possession of the Customs Department since 17th November last. I can only speak from the facts submitted to me, but I venture to say that it is only right that Mr. Goldring should have some explanation given to him as to the cause of the delay.

Mr. DEAKIN.—The honorable member knows Mr. Goldring is suing us for the restitution of his property.

Mr. SYDNEY SMITH.—But I desire information with regard to the whole of the facts of the case. I believe that Mr. Goldring is suing for the return of the amount over-paid to the Customs Department. If I am wrongly advised, the Attorney-General can correct me, but I think—

Mr. SPEAKER.—The honorable member must not debate the question. He must not do more than state the facts.

Mr. SYDNEY SMITH.—I understand that Mr. Goldring is suing for an overpayment of duty, and also for the restoration of his books and invoices, which have been detained since November last. I intend to move the adjournment of the House upon this question to-morrow, and I wish to know from the Attorney-General what

action has been taken, or whether he will lay upon the table the whole of the papers in connexion with the case.

Mr. DEAKIN.—The first time I came into possession of some information regarding this case was during last week, when a petition was presented by Mr. Goldring. I gathered from this that he complained of the detention of his books and certain goods.

Mr. SYDNEY SMITH.—Mr. Goldring has since received a copy of his papers—an incorrect one.

Mr. DEAKIN.—I know only what is stated in the petition, which contained a request for the appointment of a nominal defendant to represent the Commonwealth. On the same day I signed the necessary minute.

Mr. SYDNEY SMITH.—Does the Attorney-General know that Mr. Goldring has been asking for information since 17th November?

Mr. SPEAKER.—The honorable member must not interrupt the Minister. If he desires to obtain any further information, he must ask questions in the ordinary way.

Mr. DEAKIN.—Mr. Goldring had not communicated with me before I received his petition. The minute, which I signed on the same day that the petition was received, went before the next Executive Council, held on Monday last. A defendant has been appointed, and an action by Mr. Goldring is now in progress. I submit to my honorable friend that it would be most improper to discuss a case which is now *sub judice*, and in regard to which we have taken all the steps we could to give Mr. Goldring his remedy. I have written to my honorable colleague, the Minister of Trade and Customs, advising him of the course adopted, but understand that he has not yet dealt with my communication.

Mr. SYDNEY SMITH.—But what explanation is offered regarding the delay that has taken place?

Mr. DEAKIN.—Mr. Goldring is now suing us on account of the delay, and if we are responsible we shall have to pay.

Mr. SYDNEY SMITH.—But that does not explain the matter.

Mr. SPEAKER.—Order. The standing orders do not permit of the discussion of matters which form the subject of questions. Questions may be asked and facts may be stated to make clear the questions, but there must not be anything in the shape of discussion in connexion with them.

At a later stage,

Mr. SYDNEY SMITH.—I should like to ask the Minister for Trade and Customs whether there is any charge of fraud against Mr. Goldring, and, also, what was the cause of the delay in the return of his books and papers and the delivery of his goods?

Mr. KINGSTON.—Upon such a subject as fraud I should not care to give an answer off-hand. I therefore ask the honorable member to give notice of his question.

FEDERAL CAPITAL SITE.

Mr. BROWN.—I should like to know whether the Prime Minister can give us any idea when the report of the Federal Capital Sites Commission will be available?

Sir EDMUNDBARTON.—I have no exact official information beyond what I have communicated to the House, but when in Sydney a few days ago I met the Chairman of the Commission, who told me that the report was in preparation and would very soon be ready; that it would certainly be sent in this month. As soon as it is received, the Government intend to ask that it should be printed and distributed amongst honorable members.

DEPUTY AUDITORS-GENERAL.

Mr. MAHON asked the Minister for Trade and Customs, *upon notice*—

1. Has his attention been drawn to paragraph 9 of the Auditor-General's report for 1901-2, laid on the table of this House on 26th May last, in which it is stated that five State auditors have been voted £100 each yearly for acting as deputies to the Auditor-General of the Commonwealth?

2. Has he ascertained whether this statement is correct or not?

3. If it be correct, will he inform the House whether minor and poorly paid State officers performing for the Customs Department duties not properly nor originally pertaining to their positions have been by him refused any remuneration for such services, even though the same have been rendered in the officers' own time, their State duties having fully absorbed the usual official hours; and, if so, why?

Mr. KINGSTON.—The answers to the honorable member's questions are as follow:—

1 and 2. I believe the statement to be correct, but the Department is not concerned.

3. I am not aware of any case in which any amount properly payable to an officer of the department is withheld, but will consider any special case to which the honorable member may refer me, and in which the contrary is alleged.

NEWSPAPER MISREPRESENTATION.

Mr. HUME COOK asked the Prime Minister, *upon notice*—

With reference to an article in the *Age* newspaper of the 15th inst. —

1. Is it true "that through Federal extravagance the State Governments do not receive the returns of the revenue to which they are entitled." If not true, what are the facts?

2. Is it true "that dozens of officers whose positions were sinecures under the States were transferred to the Federal service at largely increased salaries." What is the total of new appointments?

3. Is it a fact that some State officers have been appointed to Federal positions "at double salaries." If so, how many, and what are the salaries paid?

4. Is it true that the private secretaries of two Ministers are being paid out of Commonwealth funds?

5. Are any officers of the Commonwealth service, whilst travelling, having their living expenses paid out of public funds?

6. What was the Adelaide estimated cost of federation per head; and, including the proposed High Court expenditure, by how much has that estimate been exceeded?

7. What was the pre-federation cost of the military and naval forces, and what is the present cost?

8. What is the actual saving per head by the reduced military expenditure?

Sir EDMUND BARTON.—I am not in a position at the present moment, owing to the incompleteness of the returns I have so far obtained, to do more than to inform the House that these statements are in the highest degree unscrupulous. Full answers will be given if the honorable and learned member will repeat his question on Tuesday next.

TIDE SURVEYOR MARTIN.

Mr. E. SOLOMON asked the Prime Minister, *upon notice*—

1. Have the Government taken into consideration the disabilities which Tide Surveyor Martin, in Western Australia, is labouring under in properly carrying out the provisions of the Immigration Restriction Act as shown in his letter forwarded by the Collector of Customs, Fremantle, in his report, dated 19th April, 1903?

2. Is it the intention of the Government to supply the Customs steam launch which has been applied for, and the assistance required to carry out the provisions of the Act in a proper manner?

Sir EDMUND BARTON.—The answers to the honorable member's questions are as follow:—

1. Yes, although I am not altogether satisfied with the way in which the work has been done.

2. I shall confer with the Minister for Trade and Customs on the subject.

SUGAR BONUS BILL.

Resolved (on motion by Sir GEORGE TURNER)—

That the Bill be recommitted for the reconsideration of clauses 2, 3, and 9.

In Committee (Recommittal).

Clause 2.—

There shall be paid out of the consolidated revenue fund, which is hereby appropriated accordingly, to every grower of sugar cane or beet within the Commonwealth, in the production of which sugar-cane or beet white labour only has been employed after the 28th day of February, 1902, a bonus, at the rates provided by this Act, on all such sugar-cane or beet delivered for manufacture after the commencement of this Act, and before the 1st day of January, 1907.

Sir GEORGE TURNER (Balaclava—Treasurer).—I mentioned yesterday that the administration of the Excise Tariff Act was under the control of the Minister for Trade and Customs, who was then absent from the chamber preparing some Bills which, in due course, will be submitted to Parliament. I informed honorable members that I was under the impression that the date after which rebate was payable upon sugar in the production of which white labour only had been employed, viz., the 28th February, 1902, had been extended by some means, though I was not very clear about the matter. I thought it was advisable that power should be given to yearly prescribe a certain date, so that growers who employed white labour only after that date should be entitled to claim the bonus, and that the Minister should be empowered to fix such a date as would prevent any successful attempt to defraud or prohibit sugar-growers from taking advantage of the provisions of the Bonus Bill. A good deal of discussion of an interesting nature took place upon that point, and it covered a far wider range than I had anticipated. I then asked for an adjournment to enable me to ascertain from the Minister for Trade and Customs exactly what had been done, and what he thought ought to be done in connexion with this matter. I have since found that the Excise Act was passed on the 26th July, 1902. That measure fixes the date after which growers can claim rebate upon sugar produced by white labour only at 28th February, 1902—a period some six months previous. After the Act had been passed representations were made to my colleague that the date fixed was hardly a fair one, in that no notice had been given to the

growers, and, consequently, the period was extended to the 1st March, 1903, to cover those cases.

Mr. THOMSON.—By what power?

Sir. GEORGE TURNER.—I do not say that there was any power to extend the period. I was under the impression that, under the Act, power was given to fix these dates yearly, in order to meet the different cases as they arose. Some time during the current year it was represented to the Postmaster-General and the Minister for Trade and Customs that a large number of persons, who were desirous of taking advantage of the provisions of the Excise Tariff Act, had been debarred from doing so through want of knowledge, because that Act was not passed for several months after the date fixed therein. The matter was discussed with the planters and others interested, and the Minister for Trade and Customs then agreed that the time should be extended for one year, but for no longer. He was, and still is, under the impression that all the parties interested were satisfied as to the fairness of this arrangement. At any rate, it gave all of them an opportunity of knowing that, in order to claim the payment of the rebate, they had to cease employing black labour in the production of any crop upon a certain date in advance, and not upon a retrospective date. As this Bill is submitted simply with a view of altering the mode of distributing the payment, I do not think it would be wise to discuss at the present time the much larger question involved. Whether or not it may be necessary to debate it at a later stage I am not prepared to say just now. That regulation having been passed, apparently without legal power—at all events, there is considerable doubt as to whether the power existed to make the alteration—and a number of persons having taken advantage of it by registering to obtain the bonus under it, I think that the Committee will now be prepared to say that the date mentioned in the Bill may be fairly altered to the 28th February, 1903. Under these circumstances, I move—

That the figure “2,” line 7, be omitted, with a view to insert in lieu thereof the figure “3.”

If that proposal is carried, those who have taken advantage of the regulation will be entitled to the payment of the rebate, whilst those who have not will occupy the same position that they did previously.

Mr. CONROY (Werriwa).—Only a moment ago the Treasurer stated that as this Bill was intended to take the place of the measure providing for the payment of rebate upon sugar produced by white labour only, he thought we ought not to go beyond the provisions of the Excise Tariff Act. I thoroughly agreed with him, and am of opinion that no change ought to be made in this Bill. But the Treasurer, having made that declaration, now proposes to go outside the provisions of the Excise Tariff Act by fixing the date prescribed therein a year later. Such a step would constitute so serious a departure from the original compact that honorable members ought not to countenance it. Unless the Excise Tariff Act and the Customs Tariff Act can be again brought before Parliament, I do not think that we ought to be asked to make any change in the compact which was entered into. The motive for seeking the amendment is not one that ought to commend itself to the House, seeing that the Minister for Trade and Customs has arrogated to himself the powers of this Parliament. In effect he says—“I do not care that Parliament has declared that the date should be the 28th February, 1902. I will alter it to the 28th February, 1903.” That would be an excellent thing if the Minister were spending his own money in the payment of this bonus, but when it is the money of the Commonwealth, I ask honorable members whether they can have any sympathy with him, and whether he has not arrogated to himself power in a way that is almost unknown in the history of any parliamentary body? The Minister for Trade and Customs of his own sweet will has set aside the authority of Parliament by saying that irrespective of what date it may fix, he is above the law, and will not administer it. Is not that a very serious matter, especially when the right honorable gentleman tells the Committee that if a technical breach of the law is committed in other respects, he must institute proceedings and obtain convictions against merchants even though no attempt has been made to defraud the Customs?

The CHAIRMAN.—Order! The honorable member cannot discuss that subject.

Mr. CONROY.—I am speaking of cases in which the Minister prefers charges against

merchants, though his own officers have declared that the charges are not true.

The CHAIRMAN.—Order! The honorable and learned member must not discuss that matter.

Mr. CONROY.—I think that the Committee should vote against the proposed amendment, because it involves a complete alteration of the compact which was entered into when the Excise Tariff Act was under consideration. The compact involved three conditions, viz., the imposition of a customs duty of £6 per ton upon imported sugar, an excise duty of £3 per ton, and the payment of a rebate of £2 per ton upon sugar in the production of which white labour only had been employed. A date was fixed after which growers might claim that rebate, namely, the 28th February, 1902.

Mr. KENNEDY.—But this Bill is intended to apply only to the current year.

Mr. CONROY.—A compact was entered into upon the strength of which opposition to the Government proposal was considerably weakened. Practically an agreement was arrived at between the three parties represented in this Chamber. The payment of the rebate was intended to be in the nature of a bonus to those sugar-growers who employed white labour only. The present proposal is an entirely different one. We have already decided that a bonus shall take the place of a rebate. Now we are asked to consent to an alteration in the date previously fixed, the effect of which will be that a bonus will be paid where it was not paid before. That is the simple position, and no sophistry can conceal it. I urge the Treasurer to take a sound constitutional view of the matter, and I feel sure that he would have done so had it not been for the extremely arbitrary action of the Minister for Trade and Customs in altering the date. That Minister had no right to alter that date without the authority of Parliament, and having done so, he has no title to ask honorable members to support him in his action. I protest against the alteration which has been made, and hope that the Treasurer will withdraw his amendment, instead of allowing the time of the Committee to be wasted in discussing it.

Mr. FISHER (Wide Bay).—I am quite sure that if the Treasurer, or any honorable member of this Committee, takes up the position assumed by the honorable and

learned member for Werriwa, they will be doing an absurd thing. Is there an honorable member with any intelligence who will suggest that when the date prescribed in the Excise Tariff Act was fixed, viz., the 28th February, 1902, that was to be the only time at which the sugar-growers could take advantage of its provisions? Does any one say that the cultivators were to dispense with black labour immediately and employ white labour only from that date? The very idea is sheer nonsense. The Committee knows very well that from year to year each planter who desired to work the whole or any portion of his plantation by white labour only would be entitled to earn the rebate. If this year's cane be cut with black labour, and next year's crop wholly cultivated with white labour, why should not the grower obtain the rebate in respect of next year?

Mr. THOMSON.—The Act does not prevent that.

Mr. FISHER.—Then why provide that, after 1903, no planter shall be able to come under the Act? Does the Minister hold to that position?

Mr. CONROY.—They can come in at any time.

Mr. FISHER.—How can they come in?

Mr. KINGSTON.—By growing the cane by white labour only.

Mr. FISHER.—But if the roots set by black labour have been left in the ground the cane cannot be said to be grown by white labour only, and that leads us to the position taken up by the honorable member for Herbert—that the roots must be ploughed out.

Mr. THOMSON.—The Act has not been carried out in that way.

Mr. FISHER.—We have been quibbling about the meaning of words and the strict interpretation of the Act; but is there any real difficulty in providing in the Bill what should be done? Why should it not be stated that when once one crop is cut and taken from the ground, the bonus shall be paid on the next if white labour only had thereafter been employed in its cultivation and harvesting?

Sir EDWARD BRADDON.—That is not what we are getting.

Mr. FISHER.—The New South Wales planters have been singularly well situated in a climate in which black labour need not have been employed under any circumstances; but, in the case of the

larger planters of Queensland, the position is very different. I have always strenuously opposed the employment of black labour, and it is for that reason I am endeavouring to give the planters an opportunity of substituting white labour. Why prevent planters from reaping the advantage of the bonus at any time they are able to do so? They have imported black labour under fairly strict conditions, and are compelled to employ it for a certain number of years, or suffer monetary loss by keeping the labourers idle. I suggest that some time should be fixed when the planters may increase the proportion of their plantings under white labour, so that they may definitely know what they are to do to earn the rebate. I should not at all object to allow the long term of twelve months—to provide that planters must work with white labour for that period before they earn the bonus. At any rate, they ought to know exactly the conditions; and I believe the Government and Parliament wish to do what is fair. It is with the object of carrying out the idea of a white Australia that I make these remarks, and I believe that when honorable members understand the question they will do what is right.

Mr. KINGSTON (South Australia—Minister for Trade and Customs).—The intention in the first instance was to give a bonus on the production of sugar grown by white labour only, and to take, as the period during which the bonus could be earned, the time from planting to the final delivery of the cane at the mill. This bonus was based on a certain amount per ton, and it was not intended that it should be paid simply for harvesting.

Mr. FISHER.—That is quite correct.

Mr. KINGSTON.—At the same time, it was intended to be a benefit of which growers could avail themselves at once. There was the special circumstance that we were introducing a new system when cane was growing which had been attended to by black labour. The primary object, as defined in the regulations laid before the House was to go right back to the planting, which is one of the most important and costly parts of the process as compared with the harvesting only. We intended to insist, in the first instance, that white labour should be employed right from the planting up to the time of delivery at the mill. The growers were not to blame in the slightest

degree, in that they had used black labour when they knew of no inducement to employ white labour, and it was declared at the time that proposals were introduced, long before they found embodiment in the Bill, that those growers could go on using black labour up to the 28th February, 1902.

Mr. FISHER.—It was after that date before the Bill got through.

Mr. KINGSTON.—That is so, but at the same time the excise proposals had been laid on the table of the House.

Mr. BAMFORD.—The time was extended to the 1st March.

Mr. KINGSTON.—Notice was given to the growers, and on a variety of occasions the time was extended. A number of other planters were desirous of qualifying for the rebate, and the time for dispensing with black labour was finally extended to the 1st March, 1903.

Mr. BAMFORD.—That regulation was issued on the 24th December last.

Mr. KINGSTON.—The regulation was sanctioned for issue on the 24th December, but it was not passed through the Executive Council until the 8th January, 1903.

Mr. CONROY.—When Parliament was not sitting.

Mr. KINGSTON.—Of course Parliament was not sitting, but the thing had to be done.

Mr. THOMSON.—Under what power was it done?

Mr. KINGSTON.—It seems to be doubtful now whether we had the power to grant that extension, but I can say that no member of the Government believed for a moment that the power was not there. The regulation was prepared, and went through the usual course, and was gazetted, and nobody until this moment has suggested that there was no power to make it.

Mr. THOMSON.—In the previous Act, the date, 1902, was quite plain.

Mr. KINGSTON.—I had not the pleasure of drafting the Bill, which was prepared in ignorance of the fact of the order of the Executive Council. That order was gazetted, and is on the files, and at the disposal of honorable members. A number of matters were fixed by regulation, and the Executive Council came to the conclusion, having regard to the Act, that there was power to make the order; and if a mistake was made it was a mistake into which we all fell. But I believe the proceeding is one

which will commend itself to honorable members generally. The first principle was that growers should not get the bonus if they employed black labour during any period from the tilling of the soil; and, in my opinion, to extend the time for a whole year is a sufficient concession. We should not be justified in going further, and in saying to the growers — "We do not care in the future whether or not you have time and again for years past refrained from coming in; you may have planted and have had your expenses reduced by the employment of black labour, but so long as you choose in regard to the particular item of harvesting in any one season to employ white labour, you shall have the bonus." I do not think we ought to do that, and I sympathize with a great deal of what was said by the honorable and learned member for Parkes, who pointed out that the bonus is altogether out of proportion to the simple cost of harvesting, and far in excess of what the planters deserve. The concession is, in this respect, open to the objections urged against it, but it was unavoidable under the circumstances. Let us not, however, go any further in this respect. I found a great volume of Queensland opinion against any further relaxation of the provision, under which concessions enough, if not too many, have been given to the planters in respect to the employment of white labour. I trust we shall hold our hand, and let the rebate be duly earned by, and paid to, those who, in future plantings — and planting is going on from time to time in various parts — use white labour. In those cases where planters have had time to make up their minds, and have not employed white labour, no bonus should be given.

Mr. WATSON.—In some cases it is stated that planters are getting the cane trashed, cut, and taken to the mill for the amount of the bonus, so that the cutting costs them nothing.

Mr. KINGSTON.—I have heard that said time and again, and it is bad enough to have to pay the bonus under those circumstances.

Mr. FISHER.—Does that occur in New South Wales?

Mr. WATSON.—In Queensland.

Mr. KINGSTON.—We ought to have a fair return for the bonus, and in my opinion we have already gone far enough in our concessions.

Mr. FISHER (Wide Bay).—I should like to point out to the Minister for Trade and Customs that the roots of sugar-cane may lie in the ground for five or seven years. Is it demanded that these roots shall be ploughed out, and planting take place elsewhere in order to earn the bonus?

Mr. McCAY.—Under the Bill the roots may have been put there by black labour, so long as that occurred before the 28th February, 1903; but it is apparently desired to allow the roots to be put in by black labour after that date.

Mr. FISHER.—What percentage of labour is there in the planting?

Mr. McCAY.—I am told on good authority that it is 5 per cent.

Mr. FISHER.—Although I am not a planter, I venture to say that the percentage of labour is from 5 to 7 per cent. The sugar-growers in Queensland have of necessity been employing coloured labour, and the extent of that labour used in laying the roots is neither here nor there. I think the difficulty would be met if the Committee acted on my suggestion that the whole of the crop must be grown and taken to the mill by white labour only. The honorable and learned member for Corinella has suggested that, if the cane has been planted subsequent to the 8th February, 1902, by black labour, the bonus shall not be paid. Many cane-growers are economically bound to employ their hired kanaka labour for a term, and as the planting is such a small percentage of the whole process, I do not think there would be any loss in allowing the bonus on the growing and harvesting of the crops by white labour from old roots. I asked the honorable member for Werriwa why they should not?

Mr. CONROY.—Because the work of clearing off the cane does not cost 3s. 6d. an acre in twelve months.

Mr. FISHER.—The honorable and learned member is arguing from quite a different point of view from that from which I look at the matter. I hope that the Minister for Trade and Customs will not insist upon the amendment, because, if he does, instead of promoting the "white Australia" movement he will be retarding it.

Mr. L. E. GROOM.—Hear, hear.

Mr. FISHER.—He will be making it more difficult for big plantations to come in, and will arouse influences involving millions of pounds, and excite political discussions

which will undoubtedly militate against the object which we have in view.

Sir EDWARD BRADDON (Tasmania).—Although we are dealing with a measure intended to carry out the desire of the Committee to encourage the employment of white labour, the Bill is being transformed more and more into one which will have the opposite effect. It might very well be styled a Bill to make bonuses for the employment of white labour payable on sugar grown by black labour. The alteration of the date from the 28th February, 1902, to the 28th February, 1903, will have the result that sugar entirely grown by black labour up to the later date, and upon which white labour is employed for only a very limited time afterwards, will be entitled to a bonus, as though it had been cultivated entirely by white labour. That is not what the Committee desire.

Sir GEORGE TURNER.—But it will apply only to the present year.

Sir EDWARD BRADDON.—I am speaking of the present effect. Yesterday, the honorable member for North Sydney suggested that there should be a limit as to the time within which it should be obligatory to employ white labour only, and that that limit should be the period occupied by the growing of a crop, which was set down as one year. The bonus would then be payable only on crops produced entirely by white labour.

Mr. McCAY.—That is more liberal than the Government proposal; it means more money.

Sir EDWARD BRADDON.—But does it not give better effect to the desire of the Committee to encourage the employment of white labour only? In view of the heavy charges imposed upon the people to give effect to this intention, I hope that we shall agree to some arrangement which, while doing no injustice to the planters of Queensland, will be fair to the community at large.

Mr. McCAY (Corinella).—I confess that I was surprised to hear from the Minister for Trade and Customs that the regulations ran the gamut of the Cabinet, from the Governor-General down, without it being discovered that they were *ultra vires*.

Mr. KINGSTON.—They were laid upon the table of the House when we met, and were also published in the *Gazette*.

Mr. McCAY.—If the Minister's answer is that we should have read the regulations

in the *Gazette*, my reply is that this is the first opportunity we have had to discuss them. As soon as they were brought forward for discussion, the weakness which I have mentioned was noticed by several honorable members as well as by myself. If I have to make a choice between the Government amendment and the suggestion of the honorable member for North Sydney, I must accept the former, though I do not like it. The honorable member for Wide Bay does not seem to perceive that the position he takes up means that, in spite of all the warnings which the sugar planters have had, they are to be permitted to plant cane with black labour, and subsequently cultivate it with white labour, without prejudice to their right to a bonus for it as cane grown entirely by white labour.

Mr. FISHER.—Cane is not planted every year; it is sometimes left in the ground for seven years.

Mr. McCAY.—Well, as the Bill stands, if it were planted with black labour before the 28th February, 1902, but cultivated since that time with white labour, it would still be entitled to a bonus. But if growers have, since the 28th February, 1902, planted fresh cane with black labour, they have deliberately disregarded the terms of the Excise Tariff Act, under which the bonus is payable. The Government now propose to extend the time within which cane entitled to a bonus may have been planted by black labour until the 28th February, 1903. But, if we agree to the proposal that a bonus shall be payable upon all crops which have been worked with white labour for twelve months, it will mean that planters may go on employing black labour until 1905, and then claim bonuses upon the crops cut in 1906. No planter, however, should be entitled to a bonus on a crop deliberately planted with black labour after the date mentioned in the Excise Tariff Act.

Mr. L. E. GROOM.—But what about those who have black labourers under contract, whom they are bound to employ?

Mr. McCAY.—The planting of cane costs only from 5 to 7 per cent. of the cost of the crop. Let them employ white labour for the planting, and use the black labour upon the vast areas already planted. If a man is replanting, and wants to get a bonus on the cane grown, why should he not be compelled to employ white labour?

It is now argued that, because certain planters have black labour which they cannot get rid of for another twelve months, they should be at liberty to employ that labour and still obtain a bonus. But, if that is allowed, the very purpose of the bonus will be defeated, and the intention of Parliament in passing the Excise Tariff Act will be flouted. I protest strongly against the argument that, because planters cannot get rid of their black labour at once, they should still be entitled to bonuses. To grant bonuses under such circumstances would be another departure from the bargain originally made when Parliament passed the Excise Tariff Act.

Mr. THOMSON (North Sydney).—We have in this matter an illustration of extraordinary administration. The Minister for Trade and Customs acknowledges that he issued a regulation in direct contravention of the provisions of the Act.

Mr. KINGSTON.—I did not say that.

Mr. THOMSON.—The right honorable member must make that admission, because the Act is as clear as day-light, and the date is specified in it. The attention of the right honorable member must have been directed to the matter when the question of framing a regulation was brought before him. I could excuse him if there were any doubt about the meaning of the Act, but it states specifically that up to a certain date the employment of black labour shall not prevent a grower from obtaining a rebate. There was therefore no excuse for the regulation extending the time. Last night the Treasurer, who was then in charge of the Bill, pleaded for an amendment providing for the fixing of a date each year as being absolutely necessary; but this afternoon the Minister for Trade and Customs states just as emphatically that he does not approve of such a proposal, and regards it as unnecessary and wholly undesirable. Surely the Committee have a right to expect uniformity of opinion and action from Ministers. It cannot be a matter for wonder that considerable confusion exists in the Committee when there is such a difference of opinion among Ministers. I had no idea when the Excise Tariff Act was passed that it was intended that in dealing with the production of a cane crop we should go back to the original planting of the roots. If I were told that a bonus would apply to the crops coming from a certain tree—and sugar-cane is really a species of tree—I

should expect it to apply to each crop, and I see no reason why the sugar bonus should not be so regarded. I agree with the honorable member for Wide Bay, and I think we should be committing an absolute absurdity if we did not deal with this matter in the manner suggested by him. The planters cannot jump about from one kind of labour to another, because, if they once embark in the cultivation of a large area by means of white labour, the black labour will go from them, and they will not be able to revert to it. We should be led into an absurd position if the proposal of the Minister were agreed to. Many of the planters have entered into kanaka labour contracts, which we have specifically recognised under the legislation we have passed. We know that these agreements extend over a term of years, and that the planters cannot at once get rid of the kanakas however much some of them may desire to do so. Many of them have, no doubt, already determined that, when the kanakas can be dispensed with, they will avail themselves of the opportunity to claim the bonus given for the production of white-grown sugar. In the meantime, many planters can do nothing but utilize the services of the black labourers whose term of engagement does not expire for some time to come. In some cases planters may have set out their crops one or two years before they are able to get rid of their black labour, and, according to the Minister, when such men desire to come under the provisions of this Act, and employ white labour, they are to be told that they must uproot all the cane that has been planted by means of black labour and start afresh. Are we to impose such an absurd condition upon the planters? If it is held that the planters have sinned by employing black labour—I do not agree with that view, myself—the sin has been already committed, and there is no reason why the planters should be practically compelled to go on sinning by being precluded from the benefits offered by our legislation.

Mr. KINGSTON.—The planters need not uproot their cane, but they cannot expect to get the bonus.

Mr. THOMSON.—But the planters will have to uproot their plantations if they desire to comply with the conditions laid down by the Minister.

Mr. McCAY.—Cannot the planters get rid of the black labourer as quickly as he puts in their crops?

Mr. THOMSON.—No, they cannot get rid of the kanakas who are under engagement to them.

Mr. McCAY.—But the labourers are going off every year because they have been engaged for terms which expire at different dates.

Mr. THOMSON.—That all depends upon the size of the plantations and the periods for which they have been under cultivation. If a planter has a large area, which has been gradually brought under cultivation, his labourers will probably have been engaged from time to time as the work has increased. Therefore he may be in a position to gradually substitute white labour for black. With smaller men, however, who would probably have engaged the whole of their labourers in one batch, the process of conversion would not be so easy. I see no reason why the bonus should not be given to the man who takes off his crop from start to finish by means of white labour.

Mr. KINGSTON.—From the planting.

Mr. THOMSON.—No; I mean for the whole period occupied in bringing the crop to maturity after the previous crop was gathered. The one planting may suffice for half-a-dozen crops. Would the Minister say that the production of a crop of fruit is to be regarded as commencing with the planting of the trees?

Mr. KINGSTON.—If you do not plant trees you do not get fruit.

Mr. THOMSON.—I admit that the crop is the result of the planting of the trees and of the soil in which the trees are planted. But it would be ridiculous to say that a man should be compelled to go back to the planting operation in connexion with the production of any one crop out of several crops which the one planting will yield. We should allow those who genuinely desire to employ white labour to obtain the benefits conferred by the Act without compelling them to uproot their crops. One planting of cane will last, perhaps, as long as seven years, and several crops may be gathered; and I think, therefore, that the full purpose of Parliament will be served if the crop of cane from one harvesting to the next is handled entirely by white labour. Sometimes from sixteen to 24 months are occupied in maturing a crop of cane. It was astonishing to me to hear the Treasurer pleading so strongly yesterday for something more than

I am now advocating. It was the something more that I objected to. I disliked the proposal to give the Minister power year by year to fix the date in such a way that the bonus might be given in respect to crops upon which white labour might have been employed for only three or four months.

Mr. SALMON.—Is the honorable member in favour of giving the bonus to those who planted their crops by means of black labour since 1902?

Mr. THOMSON.—I am in favour of any crop which from the previous cutting has been entirely handled by white labour receiving the benefit of the bonus.

Mr. BAMFORD.—That would cover a period of only six months.

Mr. THOMSON.—No; crops occupy more than six months in coming to maturity. A little less time may be taken in northern Queensland; but, in the larger sugar districts, sixteen or eighteen months, or sometimes two years is required.

Mr. FISHER.—That is by what is called "stand over" cane.

Mr. BAMFORD.—No; it is planting cane to which the honorable member is referring.

Mr. THOMSON.—Yes. I am prepared to support the honorable member for Wide Bay in his contention that the bonus should be paid upon any crop that has been wholly cultivated by means of white labour. As to the other proposal of the Minister which is really intended to absolve him from the consequences of a breach of the Act, I need only say that if we come to the conclusion that the bonus is to apply to all cane from the original planting right onwards, that is what we decided long ago, and there is no reason to alter it.

Mr. EWING (Richmond).—I do not regard the alteration of the date for registration as practically material, because nothing is material in politics when it is done, and cannot be undone. Whatever may be said with regard to the administration of the Minister for Trade and Customs, Parliament must condone his action. I do not speak on this occasion simply because the sugar-growers in my electorate are specially interested in this question. It is generally believed that sugar-growers are rather more selfish than other producers, but the planters in New South Wales, although they had as large a work to perform, in comparison with the area under cane, as those in

Queensland, took advantage of the offer of the Federal Government almost at once. I do not claim any special credit for them, because they had the command of more white labour than could be secured immediately by the growers of Queensland.

Mr. BAMFORD.—That is an open question.

Mr. EWING.—Perhaps so. Further, the Queensland sugar-growers were more hampered by the legal and binding obligations into which they had entered in connexion with the employment of coloured labourers. These facts made it more difficult for them to secure immediately the benefits offered under our legislation, and therefore I hope they will be treated fairly and honestly. Some honorable members may have no interest in the sugar industry, but every one on this side of the Chamber is concerned in the intelligent administration of the Government which he supports. We are interested in seeing that the Minister acts in accordance with what we believe to be the spirit and intention of the legislation we have passed, and therefore every man who desires to bring into existence as speedily as possible a white Australia will vote against the Minister for Trade and Customs on this occasion. The honorable member for Herbert acted indiscreetly, although I am sure with perfect honesty, when he stated yesterday that some dishonest practices had been followed in connexion with the sugar rebates. We know that some people who should have known better acted in a way that, although perhaps within the law, was morally wrong. That might be a serious charge to make against the administration if it could not be made with equal truth in connexion with every law. There has never been a law passed that has not carried in its train the certainty that some one would evade it. We are continually amending our laws, because men succeed in evading their provisions, and the law regarding the sugar rebates has suffered only in the same way. Only a small amount was involved in the frauds, which may be regarded as the natural outcome of the enactment of such legislation. It might have been better if those honorable members who have a full knowledge of the industry had accepted the suggestion made last evening by the honorable member for North Sydney, to make the bonus applicable to the crop; the term crop being subsequently defined by regulation.

Sir EDWARD BRADDON.—By definition in the Bill.

Mr. EWING.—The right honorable member says—"By definition in the Bill." To that there can be no objection. The whole matter has originated in a want of political rectitude on the part of the Opposition. I make that statement because vice discovers kindred vice, and if the Opposition had not been inclined to many acts of evil administration—

The CHAIRMAN.—Order! The honorable member must not discuss that matter.

Mr. EWING.—By his ruling, the Chairman says in effect that, to be in order, it is not sufficient for a statement to be true, so I will not discuss that aspect of the case. Under our Constitution, it is presumed that a man who obtains high office in a Government is worthy of public trust. If he be not fit to administer an Act of this description, he is not fit for his position. This debate had its origin in a declaration by the Opposition that they would not trust any Minister for Trade and Customs to administer the payment of this rebate. But if a Minister is not to be trusted in that respect, how can he be trusted with the control of the vast trade of Australia? Is a man who might within twelve months make a fortune which would place him beyond any financial danger for the period of his natural life—and that is the position of any Minister for Trade and Customs—not to be trusted? It is much to the honour of the Minister that his pockets are not bubbling over with coin. Similarly it is to the credit of our public men that very few of them have made anything out of politics.

Mr. PAGE.—Why all this "skite?"

Mr. EWING.—It is not "skite." The honorable member for Maranoa may think it is, because I have employed language which he may not appreciate. My vocabulary does not permit of the use of the word "skite," though I possibly may have a vague idea of what it means. The honorable member for North Sydney was absolutely wrong in his contention, and that is the root of the whole trouble. He knows very well that a man who is fit to control the administration of the Customs Department of Australia, who is honest enough to deal openly and fairly—as I believe every occupant of that office will—with the whole trading community, is surely competent—

Mr. THOMSON.—No one has said anything to the contrary.

Mr. EWING.—The honorable member declared that we should always be careful to incorporate in our laws exactly the procedure intended.

Mr. THOMSON.—I said that when we could express our meaning we should do so. I was not alluding to the Minister for Trade and Customs in that connexion, but to Ministers generally.

Mr. EWING.—The honorable member knows that we cannot put such a provision in our law. We must leave the honest administration of any Act to the Ministerial head of the particular Department concerned. The ramifications of the matter under discussion are so great, and the incidental difficulties so certain to recur year after year, that no one, save a trusted Minister, and one who is fully seized of the whole circumstances of the case, can possibly deal with it.

Mr. THOMSON.—I was replying to the proposal of the Treasurer to place certain options in the hands of the Minister. Now the Minister says that he objects to those options.

Mr. EWING.—I quite agree that the Minister for Trade and Customs is a little worse than is the honorable member at this particular juncture. We were able to convert the honorable member last night, but we have to start afresh to-day with the Minister for Trade and Customs. With regard to the remarks of the honorable and learned member for Corinella, I admit at once the difficulties of the situation. When once a cane crop has been placed in the ground, it will last for a considerable period. If that crop has been once touched by black labour, after the date specified in the Excise Tariff Act, it is tabooed for all time.

Mr. McCAY.—But the growers have had full warning given to them.

Mr. EWING.—That is so. But suppose that a man has 100 acres of cane planted, and is employing a certain number of coloured labourers under contract. It may not be possible for him to immediately dispense with their services. Even though he may be anxious to obtain the bonus which is offered, he cannot get rid of them. Therefore we must either be absolutely unjust to him, even though he desires to subsequently take advantage of the provisions of the Act, or the people of Australia must do a little more than they are legally entitled

to do. I believe that, in the interests of a white Australia, it is better that they should go a little further than they are technically bound to rather than delay the opportunity for the employment of white labour. If we do not allow any sugar-grower to participate in the bonus granted under this Bill who has used black labour after the specified date, what will be the result? At the end of 1907 we probably shall have as many coloured alien-working in Queensland as there are to-day. Of course, a man could deal with an ordinary crop, such as wheat.

Mr. THOMSON.—Or with beet.

Mr. EWING.—Yes, there would be no trouble in that case. There are at least 8,000 kanakas in Queensland to-day. If a grower is employing 80 of these Pacific Islanders under contract he is absolutely powerless. I believe that this Parliament desires to be perfectly fair. It might suit me as a New South Welshman to selfishly hamper the Queenslander, but as a representative of the Australian people it is my duty to see that justice is done to the Queensland grower. I believe that the honorable and learned member for Corinella takes up a similar position.

Mr. McCAY.—It does not affect my constituency.

Mr. EWING.—I am sure that it does not. When the honorable and learned member appears before his constituents and tells them that he believes it was necessary to grant the Minister certain powers in order to expedite the advent of a white Australia, even though it was certain that some growers might thereby obtain rebate upon some crops which had been previously cultivated by black labour, I am sure that they will justify his action. Let me suppose that the honorable and learned member was a sugar-grower in Northern Queensland, and had in his employ coloured labour under contract. If next year, or this year, he cut and trashed his cane with black labour, so long as that cane lasted he would, under this Bill, be prevented from participating in the bonus offered upon white-grown sugar. Does the honorable and learned member or the Committee desire that? I grant that, in many instances, the cane crops will be cut by black labour. But I hold that we can fashion this Bill in such a way that, by reasonably intelligent administration, we can overcome the difficulty thus

presented. Let me suppose that some rascal in the north in an electorate other than my own made a claim for the payment of a bonus to which he was not entitled. What does it mean to the people of Australia? What would it amount to in any honorable member's electorate? The sum involved would be an infinitesimal one. I am convinced that the desire of the Committee is to insure the Bill being effective. I tell the Minister for Trade and Customs that if it passes in its present form he will be seeking an alteration of its provisions within twelve months, because we shall still have the coloured labour with us, and the reduction cannot be other than gradual. The end in view is not the payment of a small bonus. Our real object is to make it clear to the world that no black labour is to be employed in the production of sugar in Australia. The work in our industries is for our own workmen. If we have to pay a little more to secure that desirable end who will be heard to complain? I shall vote for the proposal of the honorable member for North Sydney.

Mr. L. E. GROOM.—It has been withdrawn.

Mr. EWING.—I am satisfied that if the honorable member is convinced that it will be supported he will submit it again. Failing the adoption of that proposal, I shall be prepared to accept any period rather than that the door shall be shut in the face of the Northern Queensland sugar-growers. I know their troubles, and that flesh and blood are involved in that industry. The abolition of the employment of black labour will be a burden for them; but keep the door open for their regeneration. Every individual possessed of a particle of manhood should make it possible for the sugar planters of Northern Queensland to aid in creating a "white Australia."

Mr. KENNEDY (Moir).—I am convinced that the amendment submitted by the Treasurer does not place us in a more forward position than that which we formerly occupied.

Mr. L. E. GROOM.—It only validates what has been done by the Minister for Trade and Customs.

Mr. KENNEDY.—But I understand that the regulations which have been gazetted were intended to provide for the cases of fresh applicants for the bonus from year to year.

Mr. KINGSTON.—Only up to the specified time.

Mr. KENNEDY.—Does the Minister hold the view that no sugar-grower who is not already registered can take advantage of the provisions of the Bonus Bill?

Mr. KINGSTON.—No sugar-grower who employs black labour after the 28th February, 1903, can obtain the bonus by substituting white labour upon the same cane.

Mr. KENNEDY.—He is shut out for all time.

Mr. KINGSTON.—No; but he cannot participate in the payment of the bonus in respect of that cane.

Mr. KENNEDY.—I do not think that was the intention of honorable members when the Excise Tariff Act or the Pacific Islands Labourers Act was under consideration.

Mr. CONROY.—Yes. I will prove that point by quoting from a speech which was delivered on 11th of February, 1902.

Mr. KENNEDY.—There was a date fixed in 1902.

Mr. CONROY.—There was a date fixed subsequent to the 28th February of that year.

Mr. KENNEDY.—The honorable and learned member refers to a date after which advantage could be taken of the bonus provided. It was never suggested that planters who desired to substitute white for black labour subsequent to 1902, and who employed coloured labour for two or three years, say, up to 1904, should be ineligible to claim the rebate.

Mr. CONROY.—The Minister for Trade and Customs put the matter very clearly, as will be seen by reference to *Hansard*.

Mr. KENNEDY.—That never entered my mind, and I listened attentively to the whole discussion. I never thought for one moment that a planter who employed black labour during 1902, and who, when the conditions under which he was compelled to use that labour ceased to operate, substituted white labour, would be debarred from taking advantage of the rebate. I always understood that the regulations were simply provided to enable planters to come under the provisions from year to year; but now we are told that they are debarred unless they are practically registered as growers of sugar with white labour prior to February, 1903.

Mr. MCCAY.—They need not necessarily be registered, but they must be growers with white labour.

Mr. KENNEDY.—I understand the contention to be that, if they do not come under the provisions of the Bill by that date, they cannot take advantage of the rebate at any subsequent period.

Mr. THOMSON.—Not while the old roots last.

Mr. EWING.—The roots will last beyond the period of 1907.

Mr. KINGSTON.—All roots, however planted, are clear up to the 1st March, 1903.

Mr. KENNEDY.—I do not think it was ever contemplated that such conditions would be imposed.

Mr. CONROY.—Yes; that was specially mentioned.

Mr. MCCAY.—I understand the roots are safe to the 1st March, 1903, and that only the subsequent planting of fresh roots by black labour would debar growers from the advantage of the bonus.

Mr. KENNEDY.—The planting of roots subsequent to February, 1903, may perhaps be only a minor matter.

Mr. FISHER.—Supposing a kanaka be employed to-day on any cane, that cane cannot under any circumstances earn the bonus under the Bill.

Mr. KENNEDY.—Supposing black labour is employed during the seasons of 1903 and 1904 on cane planted prior to 1903, and that in 1904 the planter, by reason of the expiration of the contract with the kanakas, proposes to utilize white labour, is he to be debarred from taking advantage of the bonus?

Mr. THOMSON.—He is so debarred under this Bill.

Mr. KENNEDY.—I do not think that was ever contemplated. Planters have contracts with black labourers, and when the Pacific Islands Labourers Bill was before us, an extension for a considerable number of years was provided, in order to allow those contracts to expire. I can quite understand that for many reasons planters could not dispense satisfactorily with kanaka labour while those contracts existed; but it was never argued that planters so circumstanced should be denied privileges granted to other planters. I still adhere to the idea which I put forward yesterday, and which has been elaborated by the honorable member for North Sydney to-day, that, provided all the business of cultivation of one season's crop, and the cutting and carrying to the mill, be done by white labour, the bonus should be paid. It is simply

making an absurdity of the Bill if we exclude from its advantages planters who are compelled to retain black labour for some time after 1903, but who, when circumstances permit, propose to have their work done by white labour.

Mr. CONROY (Werriwa).—When I referred to the danger of making an alteration in the legislation already passed, I referred to two other Acts closely allied. I find, on reference to *Hansard*, that the Prime Minister, in speaking on the Pacific Islands Labourers Bill, said—

... that the question of the treatment of the sugar industry was so closely interwoven with the fiscal question that I could not ask honorable members to go on to debate a Bill which dealt, however comprehensively, with only one part of the question, and that I must ask them to suspend their judgment until they knew what the Tariff provisions were, as well as the proposals with regard to the employment of kanakas. . . . Therefore I ask honorable members to form their own judgment upon what I shall lay before them, and to form their own judgment upon this Bill with only one reservation—namely, that the Bill stands not alone, but the Bill and the support to the industry which must inevitably be given by the Tariff must be taken and must be read together.

I read this extract in order to show that the Pacific Islands Labourers Bill was incorporated with the Excise Tariff Act; and when we find three other measures were also involved, I do not think it right on the part of Parliament to attempt to make any alteration in the arrangement then entered into. The Bonus Bill ought to be simply what it was intended to be in the first place—merely an alteration in the method of paying the excise; and it would be far better, no matter what the views of honorable members may be, to keep to the original arrangement. Some honorable members have stated that it was not the intention of this House at the time that there should be any such difference as has now been made; and I need only refer to the honorable member for Herbert, who, in speaking on the Tariff in February, 1902, said—

The Minister for Trade and Customs has already affirmed the principle that after this month there will be no possibility of its being increased to any great extent. He has said that those desiring to grow cane by white labour only must register this month, and that if they do not they will not be entitled to claim a rebate.

Mr. KINGSTON.—That is not quite so—if they start fresh.

Mr. FISHER.—For this year.

Mr. KINGSTON.—Certainly. 

Sir GEORGE TURNER.—Do the last two interjections not alter the whole effect?

Mr. CONROY.—I think not. The honorable member, continuing, said—

That was the impression conveyed to me by the Minister, and I am pleased to hear that he does not adhere to that opinion.

My reading of those extracts is that the Minister for Trade and Customs stated then what he states now—that it was not his intention, except where the planting—which is the most important part of the work—was done by white labour, to allow the rebate. We are not proposing to interfere with people who choose to employ black labour; we only say that if the cane has not been planted by white labour the bonus cannot be claimed. The honorable member for Herbert will bear me out that the chief work lies in the planting, and that some time has to elapse before there is any return, so that there are many reasons why a rebate of £2 per ton should be asked for. If it had been proposed that a bonus should be given merely on the growing crop, I am sure it would not have been fixed at £2 per ton, or at 4s. per ton of cane, the latter of which actually amounts to more than the cost of cultivating, cutting, and crushing.

Mr. EWING.—Does the honorable and learned member really believe that?

Mr. CONROY.—The honorable member for Richmond knows that it does not cost £2 per acre, taking the average yield at ten tons of cane, to pay the cost of the work I have indicated.

Mr. EWING.—What does it cost to cut the cane only?

Mr. CONROY.—I have known it to cost as much as 5s. and as little as 2s.

Mr. EWING.—What is the average?

Mr. CONROY.—That depends upon the crop. I have known 70 tons of cane to the acre, and in other cases only 15 tons, and surely the latter would not be cut at the same rate as the former. My statements in these respects are borne out by the statistics of Mr. Coghlan. During the Tariff debate, in February, 1902, the Minister for Trade and Customs said—

It is difficult to differentiate in regard to conditions, and ascertain whether black labour has been employed. We solve the question as liberally as we can, and say—"Go on; there is the rebate after this time, and so long as you get rid of the black labour before the 1st March, you will be equally entitled to it; we shall not cast against you what you have done in the transition stage."

The right honorable gentleman had previously said—

What we say to a grower is—"If you do not employ black labour after the 28th February, we will not count the employment of black labour before that date against you in considering the question of rebate."

Mr. THOMSON.—I thought that referred to the crops.

Mr. CONROY.—No; taken in conjunction with what he said to the honorable member for Herbert, it is clear that the Minister for Trade and Customs meant that if the planters started afresh they were entitled to the rebate, and he says so now.

Mr. FISHER.—When?

Mr. CONROY.—On the production of the cane.

Mr. CAMERON.—That must include the planting.

Mr. CONROY.—Quite so, or otherwise the bonus would not have been as high as £2 per ton. The period is extended to the 28th of February of this year, and if white labour then is substituted for black labour, it is contended that the planter in the case of crops, the cutting of which may even now have started, shall be paid the bonus although white labour will be utilized for only some four months? If the proposed alteration is made, such a state of things would be possible; and this shows the undesirability of departing from the original compact. The Pacific Islands Labourers Act, the Excise Tariff Act, and this Bonus Bill are all interwoven, and no one of them should be altered unless honorable members are given an opportunity of dealing with the remainder. It is impossible to say exactly what influenced honorable members in supporting those measures, but, as they were passed as a whole, no one of them should be amended without an opportunity being given to reconsider the others.

Mr. FISHER.—Does the honorable member believe in ploughing out?

Mr. CONROY.—No; but I do not believe in a man who has not grown his cane wholly with white labour getting a bonus of £2 per ton for it. The statement of the Minister for Trade and Customs in regard to the provision in the Excise Tariff Act was clear and emphatic. He said that no grower would be entitled to a bonus unless he employed white labour only after the date therein specified. Digitized by Google

Mr. A. PATERSON.—What are the planters who have lost all their kanakas to do in regard to the next crop?

Mr. CONROY.—It may be that no provision was made to meet their case. It seems to be forgotten, however, that there is a difference of £3 per ton between the excise and import duties on sugar. In one year the production of sugar in Queensland reached 194,000 tons, but, taking the average production at 120,000 tons, that difference means a loss of £360,000 a year to the Commonwealth. If the payment of such a sum annually does not offer sufficient inducement for the employment of white labour only in the cane-fields, it is almost a pity that we have any rich sugar lands at all. We should be better off if the land was barren, because then we should not have to pay the planters the amount I have named. Even if I were a supporter of the Ministry, I should oppose any amendment of the measure in the manner suggested. All we were asked to do when the Bill was introduced was to agree to the substitution of one manner of payment for another. Had I known, when the second reading was moved, that the alteration now suggested would be proposed, I would have raised the question then, and no doubt there would have been a long discussion upon it. The position would be different if the Ministry came forward and said—"The Minister for Trade and Customs, who does not allow any one else to make a mistake without fining him for it, has made a mistake himself, and as certain men have been misled by that mistake, and have altered their methods of cultivation, we ask honorable members to agree to an alteration of the original arrangement." But, even in that case, I should have opposed the alteration. I ask if it is fair that growers who from the first have employed white labour only, in order to obtain the concession granted by the Excise Tariff Act, should now be put on the same footing as those who have hitherto utilized black labour? I cannot conceive of anything more unfair. The Ministry are fast becoming advocates for the employment of black labour. They virtually tell the House that they intend to take advantage of their majority to place growers who employ black labour upon a level with those who employ white labour only. If we agree to the proposed alteration of the compact contained in the measures to which I have alluded, our action may in some future Parliament be

taken as a precedent. I know that the protectionist party do not want to see any alteration of the Tariff; and, no doubt, if it were proposed to alter the sugar duties, the members of that party would say that we should not break a compact which was solemnly entered into by members on both sides of the House. But the force of that argument would disappear if it could be shown that an alteration was made in the compact by the very Parliament whose members passed the Acts originally creating it. I hope that no change will be made.

Mr. G. B. EDWARDS (South Sydney).—The Government are undoubtedly to blame for this lengthy discussion, because of the manner in which they have brought the subject before us. The Minister for Trade and Customs seems to have been very much in the dark about the whole question from the very first. Last night the Treasurer pleaded hard with the Committee to empower the Minister to fix a date each year after which only white labour could be employed in the production of sugar-cane entitled to a bonus. His proposed amendment practically empowered the Government, as was pointed out by the honorable member for North Sydney and others, to grant bonuses to growers who employed white labour for only a few months in the production of a crop. But that was not the original intention of Parliament, nor was it the desire of the people. Now, however, the Minister for Trade and Customs takes a different attitude, and tells us that he will not depart from the original arrangement, beyond altering the date specified in the Excise Tariff Act to the 28th February, 1903. The Act fixed the date as the 28th February, 1902, and the Minister issued a regulation which was *ultra vires*, altering it to the 28th February, 1903. Now he tells us, in a perfectly nonchalant manner, that the mistake was a mere nothing, and that he was not aware that he was acting *ultra vires*. What should we say to him for such a confession, after his attitude towards the public in connexion with the mistakes which have occurred under the administration of another Act? Shall we tell him, as he has told others, that he had a right to know what was in the Act, and should not make mistakes? That if the officers of his department are not competent to advise him better, he should employ men who are competent? That he should not sweat his officers or use boys in knickerbockers

who might be expected to make mistakes, but should avail himself of the services of men who are sufficiently well paid to be able to perform the work required of them? If no excuse could be made for the mistakes which have been committed by others in connexion with the administration of the Customs Act, what excuse can be made for the Minister in this instance? It only shows how fallible human nature is. The question with which we have to deal is, how far shall we go in offering inducements to planters to abandon black labour and to use white labour? I am willing, as I have been from the first, to make considerable concessions to effect that object. I still think that we should give all the inducement and assistance we can to planters to secure the substitution of white for black labour. But having thought the matter over very carefully, I cannot offer anything better than the suggestion which I made last night for an amendment of the clause, providing that a planter who intends to apply for a bonus shall register his intention twelve months before. That would give the Department an opportunity to instruct its officers to watch his plantation to see that no black labour is employed on it. If a man does not register, the Department is not asked to exercise any supervision, but whenever a planter registers he will intimate to the Department that for twelve months before the delivery of his crop he intends to use white labour only, and its officers will then have to see that he carries out his promise. From what I have learned about the cultivation of sugar cane, the season during which the cane is cut lasts for five or six months—from July to December. If we adopt the crop to crop principle, we shall extend the period, which might range from six to perhaps eighteen months. By accepting the twelve months' period, however, we shall call upon the planters who have decided to employ white labour to register, and then the organization of the Department will be brought into operation, and safeguards may be taken against any evasion of the Act. I hope that honorable members will show that they are ready to afford every opportunity to the planters to effect the change from black to white labour, and that they will frame the necessary provisions in a liberal spirit. The honorable and learned member for Werriwa said that some planters had given up black labour and

had employed nothing but white labour from the very outset, and that, therefore, it would be unjust to such men to offer special facilities to those who had delayed making the change. But those who gave up black labour immediately our legislation came into force were, in 99 cases out of 100, in such a position that they could get along with white labour as well as with black. That applies very largely to the New South Wales planters, who had not entered into any contracts for the supply of black labour, and did not require to keep the kanakas for any specified time. As we go further north the black labour trouble is intensified, as was well known to honorable members when the Bills relating to the employment of kanaka labour upon the sugar plantations were under discussion. We knew then that many of the planters had entered into contracts for the employment of kanaka labourers in numbers varying from perhaps ten to 200 or 300, and that they could not get rid of them for some considerable time, the unexpired period of engagement ranging from perhaps six months to three years. As our object is to replace black labour with white as soon as possible, I think we should allow planters, whenever their contracts for black labour expire, to take advantage of the inducements offered for the employment of white labour. If we make it necessary for planters to register when they desire to start the employment of white labour, and we at the same time prevent them from obtaining a bonus until twelve months after the date of registration, we shall provide all the necessary safeguards. I can see no reason why, if a man has planted his fields with black labour and has filled them with black labour, we should say to him "No; you must plough out all you have done, and plant over again." That would involve a needless and wasteful destruction of national wealth. In dealing with this very difficult matter of policy, I think we can afford to treat with justice, if not with liberality, those planters who are willing under the policy we have adopted to get rid of the kanakas at the earliest possible moment.

Mr. BAMFORD (Herbert).—In discussing this question last night, I said I would adhere closely to clause 2 as it was then printed. I meant to include the regulation under which the time had been extended until the 1st March, 1903. I had no desire to

nullify anything done in that regard. As I was instrumental in bringing about that extension under the regulations, I should have stultified myself if I had taken up any other attitude. The honorable member for Richmond has taken some credit to himself for being able to speak from a disinterested point of view. I stand in an even stronger position than does the honorable member in that regard, because I represent the whole of the North Queensland sugar districts. I think that the electors in my district are more interested than are the sugar planters in the northern districts of New South Wales; therefore the attitude I take up is simply and solely in support of the white Australia policy. I think that, perhaps, the honorable and learned member for Werriwa was right when he stated that the regulations adopted in the first instance should have been adhered to. At that time, however, I thought some extension should have been granted, and one that was conceded from the 28th February to 31st March, 1902, was subsequently extended to the following September, and again until March of this year. Therefore every opportunity has been given to those who wished to avail themselves of the provisions of the Act.

Mr. KINGSTON.—That extension was more as regards the registration of claims. It was not an extension of the period for employing black labour, but an extension of the time for registrations.

Mr. BAMFORD. — Exactly. When Federal legislation was contemplated in regard to the employment of kanakas in Queensland, a number of planters immediately sent away to the islands, and obtained all the recruits they could absorb, their object being to render nugatory, as far as possible, the legislation passed by us. Many of the planters considered they were very smart, but now they are sorry, because they say it is difficult to get rid of their black labour. It has been stated that this position was never contemplated when the Act was passed, but the contrary may be proved by a reference to *Hansard*, because provision was made that kanakas might be retained upon one part of a plantation, whilst another portion was being worked by white labour. The argument to which I have referred was raised in opposition to what was considered a drastic regulation, and it was then stated that the division of the plantations would

be allowed. As a matter of fact, a number of plantations are being worked partly by white labour and partly by black labour, the operations of each class of labour being restricted to different portions of the same plantation. A number of the kanakas now working on the plantations of Queensland were got rid of by their original employers, but they have remained there for many years and have been re-engaged. The Polynesian Labourers Act provides that when the kanakas have served for three years they may be re-engaged for a period of not less than six months, but many of the islanders who now find employment on the plantations are not under any engagement. This is in violation of the State Acts, because, with the exception of 600 or 700 to whom exemption tickets were granted, all of them should be under engagement to some one occupied in tropical agriculture. As a matter of fact, some of the planters have done everything they could to defeat the object of the Pacific Islands Labourers Act. If we adopt the proposal to grant the bonus for cane produced by white labour employed for the whole of any season—I am not speaking about the proposal to fix a period of twelve months—it will be possible for planters to carry on their work with kanakas right up to the cutting of the cane and then register, employing white labour for the cane-cutting. It would be possible for the same planter to again revert to black labour, and once more register his plantation under the Act. The weakness of that proposal lies in the fact that it contains no provision that a man who once registers as an employer of white labour, and afterwards reverts to black labour, shall not be allowed to again register so that he may become entitled to the bonus.

Mr. THOMSON.—That would not apply if a twelve months' period were fixed.

Mr. BAMFORD.—Yes it would. If the twelve months' period is adopted a stipulation should be made that in all cases where black labour has been reverted to the planter shall not be allowed to again register as an employer of white labour. If the Minister is willing to accept a suggestion of that kind I shall not oppose the adoption of the twelve months' period, although, if the Committee divides, I shall certainly support the clause as it stands. I do not know whether the honorable member for Wide Bay has

been approached by the farmers in his district, but the question of affording further facilities for claiming the rebate has never been raised in my electorate. The farmers there were perfectly satisfied. In the first place they did not expect any bonus, and in the second place they did not expect an extension of the time for nearly thirteen months. That came to them as something in the shape of a boon that was never contemplated. I gave them to understand, when I interceded on their behalf with the Minister, that I would not do so upon any future occasion, and I think it will be a mistake for the Government to go any further. The position taken up by the opponents of the clause appear to me somewhat illogical. They say that some of the planters cannot get rid of their kanakas, but if all the planters registered, what would become of the kanakas? As a matter of fact, many of the kanakas have expressed a desire to be sent back to the islands, and I believe the Queensland Government is willing to allow their agreements to be cancelled if the kanakas and employers are alike agreeable, but the planters have stood in the way. They have obstructed the operation of the Pacific Islands Labourers Act all the time. One notable instance of this is to be found in the case of the Mulgrave Central Mill, the capital outlay in connexion with which was met by the Government. At the time the Pacific Islands Labourers Act was passing through this House, the proprietors of the mill indentured 250 boys, and are now, in contravention of the State Act, hiring them out to the farmers in the district. This was done with the intention of obstructing the white Australian movement as far as possible. I do not think that I need say any more upon this question. If the Government accept the amendment which the honorable member for North Sydney has outlined, I shall not oppose it. At the same time I certainly think that a good deal of consideration is required before it is accepted. To my mind, its adoption will be tantamount to taking a step in the dark, and, upon the whole, I think it would be better if the clause were accepted with the extension to 1903 proposed by the Treasurer.

Mr. WILKINSON (Moreton).—I should not have spoken upon this matter but for the remarks of the honorable member for Herbert. It seems to me that he is inclined to punish those who are endeavouring

to carry out the desire of the people to secure a white Australia. It would be very hard indeed if persons who are loyally assisting in the accomplishment of that great object are to be punished because those interested in the Mulgrave Central Mill, and others, who for 20 or 30 years past have been strenuously opposed to that policy, are to be allowed to defeat it. A good deal has been said by the honorable and learned member for Werriwa in favour of the payment of the bonus being limited to cane which has not been handled by other than white labour since 28th February, 1902. I think that his arguments in that connexion have been well refuted by the honorable member for North Sydney, the honorable member for Richmond, and the honorable member for Wide Bay, and their contentions have not been confounded by the quotations made from the speech delivered by the Minister for Trade and Customs last session, in which he informed the House that, after the date mentioned, the rebate should be payable only upon sugar which had been grown by white labour from the commencement. The point in dispute is as to what constitutes that commencement. Are we to regard it as the period when—after the harvesting of one crop—the next crop shows above the ground, or are we to calculate it from the planting of the cane? I hold that the contention of the honorable member for North Sydney and the honorable member for Richmond is correct, and that the beginning of the production of a crop, so far as the provisions of this Act are concerned—

Mr. CONROX.—Can the honorable member plant a crop of cane in cleared ground for less than £5 per acre?

Mr. WILKINSON.—The contention of those who are opposed to the employment of white labour on the Queensland sugar plantations has always been that the work, which the honorable and learned member for Werriwa declares constitutes the great bulk of the labour there can be done by white men. The opponents of the adoption of a white Australia policy have ever argued that white men could plough the land and plant the cane, but that when it grew up into a jungle and the breezes were shut out from it white labour was unsuitable. But the little experience which we have had of the operation of the Excise Tariff Act demonstrates that white men have gone into the cane,

cut it, and earned the rebate for the planters. We shall be doing an injustice to growers who are employing kanakas under contract for a term of years if we prevent them from participating in the payment of the bonus proposed under this Bill. In the position occupied by some of them, they are unable to get rid of the kanakas, although they may be very willing to take advantage of the provisions of the Act at a later stage.

Mr. CONROY.—The honorable member desires to give them a bonus for the employment of black labour when there is no occasion for it.

Mr. WILKINSON.—The honorable and learned member for Werriwa is distorting the facts. The honorable member for Richmond put the position very fairly. Let us take the case of a man who employed black labour for two years prior to the passing of the Excise Tariff Act. In the firm belief that the industry cannot be carried on without the aid of black labour, he may have sold his plantation to an individual who entertains quite an opposite belief. The latter may evidence his belief by employing white labour only from the moment that he assumes control of the plantation. Is it fair to shut him out from the bonus provisions of this Bill? The feeling of the House at the time the anti-alien legislation was under consideration was that there should be a gradual change in the conditions offered to the sugar planters. It was known that under the Polynesian Labourers Act of Queensland, the engagements of the kanakas would not terminate for a number of years. Consequently we allowed a certain proportion of those who were deported from the Commonwealth to be re-introduced up till 1904. From that period onward, no more are to be permitted to enter the Commonwealth, and after 1906, those who can be deported without cruelty or injustice are to be so deported. These facts show clearly that the Legislature contemplated bringing about the new conditions without inflicting hardship upon the kanakas and without doing injury to the industry itself. I do not think that any honorable member has a higher opinion of the desire of the Minister for Trade and Customs to do justice to every industry in Australia than I have, but at the same time he seems to me to be not acting generously in this matter. Having regard to the great object

to be achieved, namely, the cultivation of sugar by white labour only, I shall be obliged to support an amendment on the lines of that suggested by the honorable member for North Sydney.

Mr. THOMSON (North Sydney).—May I ask the Treasurer as an act of courtesy to withdraw his amendment, in order that I may move a prior one?

Sir GEORGE TURNER.—Certainly.

Amendment, by leave, withdrawn.

Mr. THOMSON (North Sydney).—I move—

That, after the word "employed," line 4, sub-clause (2), the following words be inserted:—"For a period of twelve months immediately preceding the delivery thereof for manufacture."

I think that this proposal will overcome the difficulties which have been pointed out by honorable members upon both sides of the Chamber. It will get rid of the absurdity of requiring cane to be rooted up for no earthly reason whatever. It will also offer an inducement to the planters to take advantage of the provisions of the Bill so soon as their present engagements with the kanakas permit. Further, it will definitely settle the intentions of Parliament so that there will be no necessity for the framing of regulations antagonistic to the measure, in order to effect what the Minister thinks is desirable. For these reasons and for others which have been given during the course of the debate, I hold that it would be only fair and just to allow planters who are anxious to fulfil the conditions which we impose an opportunity of doing so. Surely we are not going to make the mere touching of sugar-cane by black labour at some previous period a bar to a bonus upon every crop from that root. Such a proceeding would be ridiculous. It would constitute an injustice to the growers, besides tending to discourage them. In some instances the roots of the cane have necessarily been planted by black labour, and under the Government proposal, to enable the grower to claim the bonus, he would have to deliberately destroy those roots—destroy the value attached to previous planting, simply to replant.

Mr. CAMERON.—For the sake of getting the bonus.

Mr. THOMSON.—Yes.

Mr. CAMERON.—But the Excise Tariff Act was passed subsequent to the planting.

Mr. THOMSON.—I agree with the honorable member that there should be no alteration in the Act. If there is to be no

alteration, it is undesirable to re-open a question which has previously been settled. But when an alteration is proposed—as it has been—we should see that a reasonable and fair provision is substituted and that an amendment is not made which is less satisfactory than the amendment that is now submitted. The honorable member for Herbert has said that he is quite willing to accept that amendment as a compromise. That honorable member represents a northern sugar district, and he, together with the honorable member for Wide Bay and other representatives of Queensland, have spoken in favour of the amendment. The same remark may be made of the honorable member for Richmond, who also represents a sugar district, and I think there are other honorable members who, like myself, are not, as members, interested in this industry, but who see reason, when we are making an alteration, of doing what is fair and reasonable, so as not to prejudice the intention of the Act we are seeking to amend.

Mr. KINGSTON (South Australia—Minister for Trade and Customs).—I trust the amendment will not be carried. I have listened with a good deal of interest to what has been said, especially to what has fallen from the honorable member for Herbert. I speak in some degree from my own experience recently when I say that an alteration of the basis of the payment of the rebate is not to any extent expected or desired by the people of Queensland. I venture to think that the House of Representatives has already dealt very generously with Queensland in the matter of the sugar rebate; and I am not speaking without my book, because, time and again, I have been thanked for the action of the Government in this respect. As to the fixing of the amounts to be allowed per ton of cane, and as to the latest concession to which I referred, I say that the Government have fully anticipated the wishes of Queensland. Let us keep to the basis of the purchase of a white Australia. There is a good deal to be said in favour of that position. We dealt with this matter comprehensively in the earlier stages of our Federal history, when we had before us the Pacific Islands Labourers Bill, and we dealt with each measure separately, but with each from the point of view of the other. Is it fair, when a Bill is introduced simply for the purpose of taking the money from another source, and removing a slight disability to which

the States were previously subject—but which was fixed plainly enough—to ask that the basis should be further altered to the detriment of other States which were parties to the bargain?

Mr. THOMSON.—That is what the Minister himself is asking for.

Mr. KINGSTON.—Surely not. The Government are asking that the Bill as amended in the way we have indicated may be passed; and to seize this opportunity for altering the basis is not, in my opinion, fair. We provided as clearly as possible that the way in which to earn the bonus was to employ white labour from the very first. We had the regulation before us long ago, and it provides in the clearest possible language that white-grown cane means cane in respect of which white labour has been employed from and including the preparation of the ground for planting, up to and including the delivery at the mill for manufacture. Honorable members know perfectly well that the understanding was that black labour must have nothing to do with the cane wherever it was possible to dispense with it. We simply made an express provision which we believed to be fair and right under existing conditions. We were legislating in 1901 for something to happen in 1902, and we told the planters that so long as they did not employ black labour after February or March, 1902, they could earn the rebate. We have now extended the period to 1903.

Mr. CAMERON.—The Government were wrong in doing that.

Mr. KINGSTON.—I think the action then taken was justified, there being a number of hard cases in which it was represented there had been no time to make arrangements. When the honorable member for North Sydney talks about it being necessary to up-root cane planted by black labour, he knows well that if the Bill be carried in the form proposed by the Government, not one root planted prior to March last will be affected. All such cane is protected, and in respect of it a rebate can be earned. What more is wanted? It is only in regard to cane which has been planted within the last three months, or since March last, that the Bill does not make provision for a bonus. If a planter has not employed black labour during the last three months he is qualified to earn

the bonus, so that there is not the slightest necessity to talk about uprooting the cane. It is admitted that the great cost is in connexion with the preparation of the ground for tilling and planting—that the cost of cutting and carting at the annual harvesting is comparatively small. I do not care to remind honorable members of utterances on the other side, but it was pointed out by the honorable and learned member for Parkes—and I know his words are sufficiently well founded—that the cost of the harvesting is little compared with the initial cost.

Mr. THOMSON.—What does the Minister call the "initial cost?"

Mr. KINGSTON.—The cost of preparing the ground for the tilling and planting of the cane. The result of the proposed amendment, if carried, will be that instead of having white labour, employed, as we desire, on the most important part of the work—that of the planting, with which it is not disputed white labour is perfectly competent to deal—we shall have black labour, and the planter at his own sweet will and pleasure, when little or nothing remains to be done, will substitute white men and collect the bonus. There is no question of liberality involved now; the people of Queensland admit that the Government have been liberal, and they desire no more. Let us now be just and pay some attention to the requirements of the other States. The Government are proposing what is fairly justified by the circumstances. By the provisions of the Excise Bill it was found that the cost was falling on the consuming States; and we are now taking the burden on ourselves willingly and freely enough, and Queensland does not demand any further concessions. Of course it is difficult for some honorable members to resist voting for the amendment, but, as I say, the generosity to Queensland has surely gone far enough. Let us be just to other States, and not depart from the principle of the Bill. If we do make the departure proposed, it will be possible for a planter to have black labour to-day and white labour to-morrow; and where is the consistency of such a position? The amendment proposes a change from a system which can be defended, and under which white labour is necessary from the first to the last—with merely the exceptions rendered necessary by existing circumstances, and inseparable from the

initiatory stages—to a system of a hybrid character, which I hope will not be accepted.

Mr. FISHER (Wide Bay).—There is no doubt that the Government, and especially the Minister for Trade and Customs, have been thanked for the action taken by them in reference to the sugar industry in Queensland and New South Wales. The honorable member for Herbert this afternoon said that the large planters in Queensland expected nothing and got something; but that is no reason, or at any rate not a good reason, for our doing something which would militate against the purpose we have in view. I am sure the wish of every one here is to promote the settlement of white men where black men are now employed, and I submit respectfully to the Minister that his proposal does not facilitate that change in the way that the amendment of the honorable member for North Sydney would do. I rather regret the last sentence or two of the Minister for Trade and Customs, who in them conveyed the idea that the rest of Australia is doing a great thing for Queensland. We ought to remember that Queensland, knowing that it would lose a good deal, generously came into the Commonwealth.

Mr. KINGSTON.—All I can say is that we are losing a good deal by this sugar business.

Mr. FISHER.—As to the preparation of the ground, it ought to be known that it is against the State law of Queensland for kanakas to plough land.

Mr. KINGSTON.—A good many things are done against the law.

Mr. FISHER.—That may be; but, at any rate, the argument about the ploughing of the land falls to the ground. I am not in the least influenced by the strenuous and bitter opposition of the big planters; my object is to carry out what I believe to be a sound policy. If the wishes of Parliament are carried out the planters must substitute white labour for black, and the contention is that to this end planters ought to be allowed to qualify for the bonus from year to year. I am not in favour of any labour or capital in the land being destroyed for a mere sentimental reason; and I am sorry that the honorable member for Tasmania, Mr. Cameron, should suggest that roots planted by black labour should be uprooted and planted afresh by white labour.

Mr. CAMERON.—I never made that suggestion; I merely said that the planters must stand by what they had done.

Mr. FISHER.—It is quite evident that all honorable members had not the same idea in their minds when the original Act was passed. It never occurred to me that we were providing permanently that all registration should be made by the 28th February, 1902. I regard it as absurd to provide that all those who intend to earn the bonus should be required to register by that time.

Mr. WATSON.—Excepting those who had cultivated cane from the jump by white labour—that is, had started fresh planting in the old plantations.

Mr. FISHER.—That brings us back to the old point, that the roots must be pulled out and planting commenced *de novo*.

Mr. CAMERON.—All cane planted prior to the date mentioned is exempt.

Mr. FISHER.—But the planting does not cover the whole difficulty. If a single kanaka has been employed on or about the cane, the planter can receive no bonus; and there are large plantations in Northern Queensland where there is no cane grown by white labour.

Mr. BAMFORD.—And there never will be; the planters will get Chinamen as soon as the kanakas go.

Mr. FISHER.—There should be no coloured labour at all if the Commonwealth law be carried out. It is for that reason that the larger plantations should have the opportunity to begin to earn the bonus by employing white labour at the earliest moment they think convenient. What injury will be done to the Commonwealth by allowing them a bonus for cultivating and delivering for manufacture a crop grown absolutely by white labour?

Mr. KINGSTON.—They do not earn a bonus offered as an inducement for employing white labour if they employ black labour.

Mr. FISHER.—The point the Minister relies upon is that black labour may have been employed to plant the crop—that, so to speak, there is a small proportion of black labour in the roots. It would be a pity if this legislation, which I believe to be sound and generous, were partially destroyed by a blunder now. I hope, therefore, that the Committee will vote for the amendment of the honorable member for North Sydney.

Mr. WATSON.—And vary a compromise which was arrived at only a few months ago!

Mr. FISHER.—As I said before, honorable members have different facts in their minds. It never occurred to those who know something about sugar-growing that all cane-growers could register before 28th February, 1902.

Mr. CONROY.—Then the honorable member would not object to the amendment at some future time of the other two Acts which were passed in conformity with it.

Mr. FISHER.—I know that the honorable and learned member will follow whatever course he thinks is high policy, irrespective of the possibility of interfering with a compact. I do not lean heavily upon any understanding or compromise which may be said to have been arrived at. I advocate the adoption of a course which I believe to be a just one, and which will do no injury to the Commonwealth. If honorable members who represent other States fear that too much will have to be spent in bonuses, they should say so; but I do not believe that the great body of electors object to pay the price required to carry out the white Australia idea. What they are anxious for is that the carrying out of that idea shall not be endangered by the employment of a large body of kanakas in any State. I am not one of those who say that the employment of white labour will make sugar cheaper. Sugar growing is not an industry in which any man can make a fortune. A great many of those who have embarked in it have lost fortunes, and those now in it have to face difficulties as formidable as those which confront persons in any other industry. While I have a great regard for the opinions of the Minister, I firmly believe that in this instance my views are better than his, and I hope that the amendment will be carried.

Mr. CONROY (Werriwa).—The difficulty I see is this: If the Ministry stand by their Bill, and merely provide for the substitution of a bonus for a rebate, I shall support them, and vote against the amendment. But if they are willing to depart from the sound position that no alteration at all should be made, I am placed between two fires. One honorable member has estimated that at least 30,000 acres may be affected by an alteration such as that which

has been proposed by the Government, and the Treasurer estimates that the area will not be less than 10,000 acres. But, taking it at 20,000 acres, the Government alteration will cost the country at least £40,000. The financial side of this question has not been put before us. The Ministry are charged with the task of seeing that the expenditure of the Commonwealth is kept as low as possible; but now they are proposing an alteration in the law which they admit will increase their expenditure by £10,000, and may increase it by £40,000, and even by as much as £60,000. That is a very serious matter. The reasons given by the Minister for Trade and Customs why the amendment of the honorable member for North Sydney should not be accepted were extremely sound, though they tell quite as strongly against his own proposal, and we cannot consider him so stupid as not to know that. But while I am opposed to any alteration, I think that if an alteration is made, the whole matter must be fully reconsidered. Therefore, although, if the Government are prepared to stand by the Bill as it was introduced, I shall vote against the amendment of the honorable member for North Sydney, I shall feel compelled, if an alteration is to be made in any case, to vote for that amendment. Because it must be remembered that after 1904 the importation of kanakas must cease; and many of the planters will then be compelled to employ white labour because they will be unable to obtain black labour. It would be rather hard, therefore, if no provision were made for them. If an alteration is to be made, extending the period within which a bonus can be obtained, at a cost to the Commonwealth of at least £10,000, and possibly of £40,000 or even £60,000, we might as well agree to an alteration which would deal with the whole case, and adopt the amendment of the honorable member for North Sydney. But despite the fact that that amendment would meet the case if the matter had to be opened up again, I would rather see things left as they are. Still if the Government are determined to extend the period fixed in the Excise Tariff Act, I shall feel bound to vote for the amendment of the honorable member for North Sydney.

Question—That the words “for a period of twelve months immediately preceding the delivery thereof for manufacture”

Mr. Conroy.

proposed to be inserted be so inserted—put.
The Committee divided.

Ayes	...	...	19
Noes	...	...	31
Majority	...	...	12

AYES.

Braddon, Sir E.	Mahon, H.
Brown, T.	McDonald, C.
Clarke, F.	Paterson, A.
Edwards, G. B.	Skene, T.
Ewing, T. T.	Thomson, D.
Glynn, P. McM.	Wilkinson, J.
Groom, L. E.	Willis, H.
Hartnoll, W.	<i>Tellers.</i>
Kennedy, T.	Fisher, A.
Kirwan, J. W.	Conroy, A. H.

NOES.

Bamford, F. W.	McColl, J. H.
Barton, Sir E.	McEacharn, Sir M. D.
Batchelor, E. L.	McLean, A.
Bonython, Sir J. L.	Poynton, A.
Chapman, A.	Quick, Sir J.
Crouch, R. A.	Ronald, J. B.
Deakin, A.	Salmon, C. C.
Forrest, Sir J.	Sawers, W. B. S. C.
Fuller, G. W.	Spence, W. G.
Fysh, Sir P. O.	Thomas, J.
Groom, A. C.	Turner, Sir G.
Higgins, H. B.	Watkins, D.
Kingston, C. C.	Watson, J. C.
Manifold, J. C.	<i>Tellers.</i>
Mauger, S.	Wilks, W. H.
McCay, J. W.	Cook, J. H.

PAIRS.

<i>For.</i>	<i>Against.</i>
Page, J.	Tudor, F.
Phillips, P.	Isaacs, I. A.
Smith, S.	Lyne, Sir W. J.

Question so resolved in the negative.
Amendment negatived.

Amendment (by Sir GEORGE TURNER)
agreed to—

That the figure “2,” line 7, be omitted, with a view to insert in lieu thereof the figure “3.”

Clause, as amended, agreed to.

Clauses 3 and 9, agreed to.

Bill reported with an amendment.

Sir GEORGE TURNER (Balaclava—Treasurer).—I move—

That the standing orders be suspended so as to allow the Bill to be passed through its remaining stages this day.

I am very anxious that this Bill should be passed on to the Senate as soon as possible, and unless the course I now propose is followed, I am afraid that we shall not be able to pass the third reading until Tuesday next. If we dispose of the Bill to-day, we shall be able to forward it to the Senate

almost at once, and get the second reading fixed for next Wednesday.

Question resolved in the affirmative.

Report adopted.

Motion (by Sir GEORGE TURNER) proposed—

That the Bill be now read a third time.

Mr. BAMFORD (Herbert).—I desire to know whether clause 4 provides for estimating the sugar contents of the cane under a new method?

Sir GEORGE TURNER.—No; they are to be calculated on exactly the same principle as hitherto.

Question resolved in the affirmative.

Bill read a third time.

SUGAR REBATE ABOLITION BILL.

THIRD READING.

Motion (by Sir GEORGE TURNER) proposed—

That the Bill be now read a third time.

Mr. CONROY (Werriwa).—I do not approve of the amount or form of bonus that is being provided for, but as the majority of honorable members certainly do not agree with me, I do not propose to raise any further objection, but simply place my protest on record.

Question resolved in the affirmative.

Bill read a third time.

JUDICIARY BILL.

In Committee (Consideration resumed from 16th June, *vide* page 967):

Clause 31—

In addition to the matters in respect whereof original jurisdiction is conferred on the High Court by the Constitution, the Court shall have original jurisdiction in respect of all matters—

- (a) arising under the Constitution, or involving its interpretation;
- (b) arising under any laws made by the Parliament;
- (c) of Admiralty and maritime jurisdiction;
- (d) relating to the same subject-matter claimed under the laws of different States.

Provided that, with respect to matters which are by the laws of the Commonwealth required to be instituted in courts of summary jurisdiction or other courts of inferior jurisdiction, the original jurisdiction of the High Court shall not be exercised except by way of removal of the matter from the Court in which it is pending into the High Court and thereafter hearing and determining it in the High Court.

Sir JOHN QUICK (Bendigo).—I was one of the minority who voted against the second reading of this Bill, and I very much

regret the apparent determination of the Government to persevere with it in the face of the very strong volume of protest in this House as well as the opposition in the country. Having done my best to secure the defeat of the Bill, I shall now co-operate with those honorable members who desire to reduce the dimensions of the High Court scheme, and to keep it within reasonable and constitutional limits as regards expense and jurisdiction. One of the strong arguments used in favour of the Bill was that a constitutional mandate was imposed upon Parliament to vest the judicial power in a High Court, and we were reminded of the necessity of having an Australian Federal Court to harmonize the various possibly conflicting decisions of the States Courts invested with Federal jurisdiction. Now it appears that that was not the sole object sought to be achieved, because the measure on the face of it goes further than the creation of a High Court of Appeal as delineated in the Constitution. The arguments against a court of appeal pure and simple could not be so strong as against a court having original and primary jurisdiction. This Bill goes much further than could be justified by any arguments based upon urgency or upon the constitutional mandate. It is not necessary in order to create a court of appeal that we should erect a tribunal clothed with original jurisdiction. I need not remind the Attorney-General of the two great model courts of appeal which are not vested with primary or original jurisdiction such as contemplated in this Bill. The Supreme Court of the United States is not vested with primary jurisdiction except in two cases, namely, cases practically of sovereignty, in which States are parties, and actions in which the Ambassadors or representatives of foreign powers are parties. The rest of its powers and functions are exclusively those of an Appellate Court. As such, that great Court holds aloof from the preliminary contests which take place in courts of first instance. It is therefore far more competent to fulfil the functions of a Court of Appeal than is a tribunal composed of Judges who are from time to time required to engage in preliminary investigations, such as take place in courts of first instance. A Court of Appeal, pure and simple, should hold itself aloof from these preliminary contests. Then cases would come before it with the freshness and originality of a suit in which its members

had taken no part. But in addition to the court in the United States we have the Canadian Court of Appeal, to which reference has been made. That is a Court of Appeal only, and does not even possess the power to deal with suits to which the provinces are parties, unless the provincial Legislatures first pass certain Acts assigning it jurisdiction. Therefore, the Supreme Court of Canada—like that of the United States—is a court of appeal pure and simple. These courts are held up to us as models, and as such they are entitled to our admiration. I hold that we ought to be quite content in erecting the High Court—if we are to have that tribunal at all—to limit its functions as far as possible to those of a Court of Appeal, and not to invest it with original jurisdiction such as is proposed. I admit that under the Constitution the High Court is *ipso facto* invested with a certain amount of original jurisdiction with which we are powerless to interfere.

Mr. GLYNN.—Unfortunately, those provisions were never discussed in the Convention.

Sir JOHN QUICK.—Looking back at the proceedings of the Convention, I can see that a mistake was made in that respect. Of course many of us were new to the work of Constitution making, and these points were not so thoroughly considered as they might have been in the after light of experience. I say now it is to be regretted that under section 75 of the Constitution, powers were conferred upon the High Court of which we cannot divest it. But although we cannot take away from that tribunal its powers of original jurisdiction in respect of matters relating to treaties, foreign consuls, States, and the issue of writs; we can insert in this Bill a clause declaring that the High Court may remit such of these cases as it thinks fit to the States Courts. This measure contains a clause for remitter in connexion with the removal of causes, and I suggest that that provision might be utilized to indicate to the High Court that except in very extraordinary cases coming within its grant of power, it should not exercise original jurisdiction. I submit that if we desire to erect a court of appeal there is no constitutional necessity to give it additional jurisdiction, such as is proposed under this clause. I believe that the additional jurisdiction proposed can be

properly exercised by the States Courts. Undoubtedly the exercise of this original jurisdiction will involve a large amount of machinery as well as a large outlay, which will make the whole tribunal loom in the eyes of the people of Australia as a tremendous expense consequent upon federation. I am anxious that at the next election the enemies of federation shall not be able to attack our institutions by pointing to an unnecessary expansion of departments or their expenditure. That is my sole desire. I am afraid that if this Bill be passed in its present form it will go forth to Australia that regardless of expense we are enacting legislation the full meaning and burden of which they will one day realize. It may be that in some States the people do not appreciate the possibilities of increased expenditure as much as they do in Victoria, which is the present seat of Government, and where naturally public criticism is more acute than it is in some of the distant States. That fact may account for greater sensitiveness to expenditure in Victoria than is to be found in some of the other States. If the Government are determined to proceed with the creation of this Court, why cannot they be satisfied with a Court limited to appellate functions?

Mr. G. B. EDWARDS.—And the original jurisdiction conferred by the Constitution.

Sir JOHN QUICK.—Yes; a jurisdiction of which I regret we cannot divest it. I hope that litigation in respect of matters upon which the Court has original jurisdiction will be of a limited character, though if the view taken by the honorable and learned member for Indi last night be correct, namely, that every case to which the Commonwealth is a party, whether civil or criminal, may be brought before this tribunal, its functions will be vastly extended. I was not aware that it was intended to confer criminal jurisdiction upon the High Court in actions to which the Commonwealth may be a party. The words "suing or being sued," I should have thought had reference to civil cases only. But according to the honorable and learned member for Indi they extend also to criminal cases.

Mr. DEAKIN.—Other honorable members have taken the same view.

Mr. HIGGINS.—But is not that view wrong? Look at sub-section (3) of section 75 of the Constitution.

Sir JOHN QUICK.—Certainly this Bill is drawn upon lines inconsistent with the view which is entertained by the honorable and learned member for Indi. I was under the impression that the words used in subsection (3) of section 75 had reference to cases in which a person was suing the Commonwealth or being sued by it in a civil suit. If the view expressed by the honorable and learned member for Indi be correct, the High Court could entertain any criminal case against the Commonwealth.

Mr. L. E. GROOM.—Against the Commonwealth law.

Sir JOHN QUICK.—I do not think it is desirable to invest a court of appeal with criminal jurisdiction. Such a thing is unparalleled in the history of similar tribunals.

Mr. DEAKIN.—The honorable and learned member does not object to the appeal in criminal cases?

Sir JOHN QUICK.—Certainly not. I support that appeal.

Mr. L. E. GROOM.—A State Supreme Court sits as a court of first instance.

Sir JOHN QUICK.—We are dealing now with the Federal system. The Federal Appellate Court should not be bothered or embarrassed by the exercise of criminal jurisdiction. Last night the Attorney-General suggested that the mere addition of these optional powers to the original jurisdiction of the High Court which is contemplated under section 76 of the Constitution would not increase the expense of its organization. It seems to me that it would do so; because if we confer upon the court general jurisdiction to deal with all classes of Federal cases in the first instance, it necessarily follows that we must have a certain amount of organization to carry out that jurisdiction.

Mr. DEAKIN.—We have that already.

Sir JOHN QUICK.—No. We shall not require to have in each State district registrars, sheriff's officers, marshalls, and deputies, if we do not confer this original jurisdiction. But if we invest the court with this primary jurisdiction, we must make provision in every State for the issue of writs, we must establish offices and appoint officers to issue writs and conduct all the processes of the courts. That cannot be done without expense. We must also provide officers to carry out the various decrees of the court, whereas if we constitute merely a court of appeal there will be no occasion to provide all these outlying

branches. Take the case of the Privy Council as an example. That is the highest court of appeal in the Empire. It has none of the numerous officers who are necessarily associated with courts exercising primary jurisdiction. It has no marshal, no sheriff, and no district registrars. Its expense is comparatively light, because its functions are confined to those of a court of appeal. If we extend the functions of the High Court to cases arising under Federal laws, what will be the result? We may have one class of litigant demanding that it has a right to issue writs in any part of Australia, in matters relating to every Federal law that has been passed, and if we grant the jurisdiction, we must provide facilities for its exercise. It is also true that if we concede this primary jurisdiction, we must provide for the Federal Judge or Judges travelling about to exercise that jurisdiction. This primary jurisdiction cannot be exercised at the seat of Government. As already mentioned, the court must be brought to the doors of the people, and to that end there must be a Judge travelling to the various centres of population throughout the Commonwealth. We should require to have one or two Judges always on circuit to get even a very limited service in the way of judicial administration in the first instance. I would remind the Attorney-General that to grant this primary or original jurisdiction as contemplated, we should not only have to provide a Judge who would not be required for the exercise of appellate jurisdiction, but also to provide for his expenses in travelling, and for the expenses of the officers associated with him; and thus the cost would be enormous. I feel quite confident that the estimate which is submitted, and which might be sufficient to cover the expenses connected with a Court of Appeal will be absolutely insufficient if we have to provide for the exercise of primary courts throughout Australia. As an illustration of what the circuit system means, I have obtained from the accountant of the Law Department of Victoria a return showing the approximate cost of circuit courts in that State for the financial year 1901-2.

Mr. HIGGINS.—A Judge goes on circuit only once a year in Victoria.

Sir JOHN QUICK.—But one Judge is always on circuit, each Judge in turn undertaking the duty.

Mr. HIGGINS.—Then the honorable and learned member is not referring to one particular Judge?

Sir JOHN QUICK.—No; every month one of the Judges goes on circuit. As a matter of practice one Judge is told off month by month to do the circuit work.

Mr. SALMON.—That is not every month in the year.

Sir JOHN QU CK.—Every month in the year, except January, there is a Judge on circuit. The return furnished to me by the accountant, whom I asked to pick out the circuit expenses, shows that the salary of one Judge is £3,000, and his travelling expenses £800; that the salary of one associate is £350; the salaries of three Crown prosecutors always on circuit, £1,960; salary of a circuit clerk, £350; cost of railway passes for sheriff, circuit clerk, Judge's associate and three Crown prosecutors, at £54, is £324; travelling expenses of Crown prosecutors, £250; travelling expenses of circuit clerk, £70; travelling expenses of sheriff and deputy sheriff, £96; expenses of witness and jurors, £4,250; and incidental expenses, £100—a total of £11,550. I understand that the railway passes purchased for the officers cost £54 per annum, but now cost £80, though, for the purposes of this calculation, I have taken the former sum.

Mr. L. E. GROOM.—The expenses of witnesses and jurors ought not to be included, because they would have to be paid wherever the trial took place.

Sir JOHN QUICK.—That is quite so, and I observe that the accountant has not discriminated between the expenses of witnesses and jurors. But if a Federal Judge went to Western Australia to try a civil case, and he decided to take the trial of a letter-sorter who might be charged with letter-stealing, there would have to be a special panel of 45 jurors subpoenaed. If such a case were tried by the ordinary States tribunals, that item would form an infinitesimal part of the total expenses, whereas, with a Federal Judge on circuit, all the expense of this special panel of jurors would have to be incurred in connexion with one Court.

Mr. BAMFORD.—If such a case were tried in a State Court, would the cost be charged to the Commonwealth?

Sir JOHN QUICK.—No; if the States Courts exercised Federal jurisdiction, they

would do it at their own expense, so that such a trial would not tend to swell the expense under the Constitution. In the States there are already Crown prosecutors, with all the requisite machinery for taking trials on circuit, and the duplication of Courts seems to me unwise and impolitic—unwise, because it interferes with the arrangements for the administration of justice, arrangements which are satisfactory with the machinery already in existence, and impolitic and injudicious because it tends to incur unnecessary expense. I trust that the Government will do their best to keep down expenses. If they are going to push this Bill through, let the expense be reduced to reasonable limits, so that it may not be thrown in our teeth that we are squandering the public money by the duplication of courts in which justice may be administered in the first instance. The Supreme Courts of the States are quite capable of doing the judicial work of hearing trial by juries, and disposing of the preliminary stages of cases. Let the High Court deal with questions of law, pure and simple, as a Court of Appeal.

Mr. L. E. GROOM.—But honorable and learned members oppose the creation of even a Court of Appeal.

Sir JOHN QUICK.—I do, because at the present stage I think such a court unnecessary; but I am endeavouring to assist in making the proposed High Court the least objectionable, so that, when we go to the country, we shall be able to explain that so far as this House was concerned, we did not incur unnecessary expense—that some honorable members, whilst they thought there was a constitutional obligation to establish a Court of Appeal, felt that there was no obligation to increase the jurisdiction of that Court by the addition of jurisdiction in the first instance, which can be exercised by the existing Courts and officers. How can we justify the duplication of all the existing legal machinery?

Mr. DEAKIN.—That is not proposed.

Sir JOHN QUICK.—It is undoubtedly proposed that there shall be duplication both in the criminal and civil jurisdiction. In the criminal jurisdiction contemplated provision will have to be made for such officers as I have mentioned.

Mr. DEAKIN.—As I have already explained, it is proposed to use the State officers everywhere.

Sir JOHN QUICK.—But if additional functions be imposed on State officers, those officers must be paid.

Mr. DEAKIN.—A relatively small sum.

Sir JOHN QUICK.—I am afraid it will not be a relatively small sum. At any rate, the extension of the jurisdiction will largely swell the expenses of the Federation, which will have to bear all the obloquy attending an immense expenditure of the kind. Those of us who go to the country will have to help to bear the burden of responsibility, and that is the reason I am anxious to keep down the expenses. Even now, at this late hour, I urge on the Attorney-General to agree to the elimination of all surplus provisions, and not to over-burden this new organ with work and functions which can be dispensed with at the present time.

Mr. A. McLEAN (Gippsland).—Like the honorable and learned member for Bendigo, I did all I could to prevent the second reading of this Bill, and having failed in that, the next best thing is to make the measure as little oppressive as we possibly can on the taxpayers of the Commonwealth. If we are to look for any consistency in public life, I think we are entitled to claim the votes of the Attorney-General and the honorable and learned member for Indi in confining the jurisdiction of this Court to appellate work. During the second reading of the Bill those honorable and learned gentlemen spoke in very forcible and eloquent terms, and almost persuaded us—in fact I think they did persuade some honorable members—that they were bound in conscience to obey the Constitution. Their interpretation of the Constitution was that they should create this Court, not when it was absolutely required, but on the earliest possible occasion on which we were afforded an opportunity of voting on the question. I am sorry to observe from the subsequent speeches of those honorable and learned gentlemen that their conscience must have been considerably seared and cauterized, because last night it certainly appeared to me that they wanted to depart from the letter of the Constitution, and from the manifest intention of those who framed it. The Attorney-General knows that the Constitution states specifically that the number of Judges shall not be less than three, and he has told us that the High Court is the very keystone of the Constitution. Surely it is

reasonable to assume that the gentlemen who were intrusted with the framing of the Constitution would give some attention to what we are told is the keystone of the arch. Are we to assume for a moment that the framers of the Constitution mentioned three Judges, knowing perfectly well that such a number could not do the work? They either mentioned three Judges in good faith, believing that they could do the work which was to be intrusted to the High Court, or they deliberately intended to mislead the people of the Commonwealth, by naming a number which they knew to be inadequate. I am sure the Attorney-General will not contend for a moment that, if the Constitution intended to vest this Court with general original jurisdiction, the framers of the Constitution would have been guilty of the farce of naming three Judges to do the whole of the work. We know that to do similar work in any one State would take at least three Judges, and certainly more than three in some of the States; and, surely, to do the work of the whole Commonwealth would require a great many more. The Attorney-General, when he was speaking of the expenses of the proposed Federation, and advising people to adopt the Constitution, always spoke of three Judges for the High Court. If any further proof were needed of the intention of the Convention in this direction, I think it is furnished by the estimate of expenses set down for the High Court. Is it to be imagined for a moment that the members of the Convention could seriously assume that a court invested with original, as well as with appellate jurisdiction for the whole of the Commonwealth, could be conducted at an annual expenditure of £23,000? I am sure that no one would seriously contend that that could be done. The Attorney-General tells us now that he believes the High Court could be conducted at something like that expense, by transferring a large portion of the work to the States. But that is only a recent thought on the part of the Attorney-General.

Mr. DEAKIN.—No.

Mr. A. McLEAN. — The Attorney-General had no such thought in his mind when he introduced the Bill last session.

Mr. DEAKIN.—Yes; it all appears in *Hansard*, and I can show the honorable member the passage.

Mr. A. McLEAN.—Not only did the members of the Convention contemplate the

appointment of only three Judges in the first instance, but the estimate of the cost of the High Court was based upon the assumption that only three Judges would be appointed. Surely the members of the Convention would not have contemplated the appointment of only three Judges, in the first instance, if they had intended that the Court should be vested with jurisdiction which three men could not satisfactorily exercise. It is clear to me, therefore, that the intention of the Constitution is that we shall commence with a Court of three Judges; and as the second reading was carried largely because of the argument that the Constitution requires the establishment of a High Court at the earliest moment possible, it is not desirable or necessary that we should go beyond our immediate needs. If we commence with an elaborate court and a large number of Judges, and give an extensive original jurisdiction, we cannot, if we afterwards find that we have gone too far, retrace our steps; but if we commence on a moderate scale, with a court of only appellate jurisdiction and the original jurisdiction given by the Constitution, and appoint only three Judges, we can at any time that we think necessary extend the jurisdiction of the court, and increase the number of the Judges. I know that the Attorney-General is not indifferent to the condition of the people, and therefore I ask him to take the present circumstances of the Commonwealth into his consideration. We have just passed through a drought which is unparalleled in the history of Australia, and because of extravagance in administration the credit of the Australian States has been reduced to a level of which we should be ashamed. When I speak of extravagance in this connexion, I do not refer to Commonwealth extravagance. I do not, however, assert that the Commonwealth administration has not been extravagant, because I regard this proposal as an extravagant one. It must be remembered that we have not yet done anything to improve the condition of any one person in the Commonwealth, with the exception of those for whom we have provided remunerative positions. We have done nothing to develop the resources of the country, or to increase the expansion of our industries.

Mr. L. E. GROOM.—Have we not imposed duties to protect Australian industries?

Mr. A. McLean.

Mr. A. McLEAN.—We had higher duties, and a much larger degree of protection under the Tariffs of the States.

Mr. L. E. GROOM.—I am speaking of Australia as a whole.

Mr. A. McLEAN.—There is only one State which did not enjoy the benefits of protection before the Commonwealth was established, and we cannot take much credit for extending those benefits to it. The condition of the people is such that we should not impose upon them unnecessary taxation to the extent of even a shilling, and it would be a piece of wanton extravagance to establish a High Court upon a larger scale than is required at the present time. It is surely more prudent, and more in accordance with the rules of common-sense, to commence on a moderate scale, and to enlarge the jurisdiction of the Court, and increase the number of Judges, as occasion may require. The Attorney-General cannot be indifferent to the wishes of the people, and I do not think any one could doubt but that if a vote of the electors were taken on the question a High Court would not be established for many years to come. Of course, I recognise that by a majority honorable members have decided to establish a High Court, but we have not decided to create an unnecessarily large court, and I hope that honorable members will set their faces against that. I was so strongly opposed to the establishment of a High Court at the present time that, if I had voted for the second reading of the Bill, I should have been ashamed of my vote as long as I lived. But I know that many other honorable members, who are of my own way of thinking, but do not feel so strongly on the matter, voted for the Bill because they did not wish to embarrass the Government. I think it is the general wish of the Committee, however, and the almost universal desire of the people, that we should commence on as moderate a scale as possible. If we merely vest the Court with appellate jurisdiction and the original jurisdiction given to it by the Constitution, we shall meet all the requirements of the case. I hope that the Government will not press this matter to a division. Why should they place themselves in opposition to what they must recognise as the desire of the great majority of the people? I ask the Attorney-General, who, I am sure, is keenly alive to the

present condition of the people, to save them from unnecessary burdens.

Mr. CROUCH (Corio).—We are all with the honorable member for Gippsland in the wish not to create an extravagant High Court. But he has really argued against the establishment of a High Court at all.

Mr. A. McLEAN.—Not this evening, though I do not want to see a High Court established.

Mr. CROUCH.—That is the position which the honorable member took up on the second reading, and to which his speech to-night logically leads. He will not acknowledge recognised facts. The division in favour of the second reading, no matter how brought about, though I consider it the honest expression of the opinions of honorable members, showed that there is a majority in favour of the establishment of a High Court. The honorable member for Gippsland admits that the High Court must have an appellate jurisdiction, but he argued against giving it the original jurisdiction which is provided for in this clause. Now, if the High Court is created, it must have the original jurisdiction which is given to it by the five sub-sections of section 75 of the Constitution.

Mr. A. McLEAN.—If there are only three Judges they will not be troubled much with the original jurisdiction vested in the court by the Constitution.

Mr. CROUCH.—The honorable member ought to show that paragraphs (a), (b), and (d) of clause 31 are not embraced by, or at least are more than an extension of, the original jurisdiction provided for in the Constitution. I think that if he compares this clause with section 75, and especially with the third sub-section of that section of the Constitution, he will see that there is hardly even an extension of the original jurisdiction contemplated, and that where there is an extension it is only a proper one.

Mr. A. McLEAN.—Why should there be any extension at all?

Mr. CROUCH.—It is open to doubt whether there is any extension, and whether the clause is not merely a necessary explanation or interpretation of the Constitution. The honorable member presumed to judge of, not only the feeling of his own constituency, but that of all the constituencies of the Commonwealth. But he has evidently been misled by the attitude of the two Melbourne morning journals in regard to this proposal.

Mr. A. McLEAN.—I expressed my present opinion before the newspapers in question published anything at all on the subject.

Mr. CROUCH.—I do not say that the honorable member is in the slightest degree influenced by the opinions expressed in those newspapers, but he has been misled as to the tendency of public opinion by the fact that the views expressed in them coincide with his own.

Mr. A. McLEAN.—It is much more likely that the honorable and learned member is misled by his surroundings, whereas I am able to take an impartial view.

Mr. CROUCH.—The honorable member considered himself justified in stating that if a vote of the electors were taken the High Court would not be established, but I, on the other hand, venture to say that if the matter were referred to the intelligent electors, and the amount of discussion and explanation preceded the referendum that should take place whenever a question of this kind is referred to the people, the vote would be in favour of the establishment of a High Court. There is a large amount of feeling against the High Court, purely because it will not be a final appellate court, and I ask the Attorney-General whether he will make an attempt to restore the Court to the form proposed in the draft Constitution before amendment by the Imperial Government. Our delegation to London desired to carry out our wishes, but were misled by the representatives of financial institutions and others who forwarded telegrams to Mr. Chamberlain asking him to retain the right of appeal to the Privy Council.

Mr. DEAKIN.—If we attempt to do away with the right of appeal to the Privy Council we shall have to reserve the whole Bill for His Majesty's assent. It would be better to introduce a separate measure with that object.

Mr. CROUCH.—Section 74 of the Constitution does not carry the King's power of veto any further than other provisions of the Constitution relating to the King's right of veto, and I should like to have the promise of the Attorney-General that he will endeavour to carry out the original intention of the people of Australia before the Constitution was mutilated by the Imperial authorities.

Mr. CONROY.—Was it a mutilation?

Mr. CROUCH.—I think so, according to the opinions I have heard expressed by

even members of this House who oppose this Bill.

Mr. CONROY.—All the legal authorities I know are against the abolition of the right of appeal to the Privy Council.

Mr. CROUCH.—One of the principal opponents of this measure, the honorable and learned member for Northern Melbourne, laid the very greatest stress upon his objection to the continuance of the right of appeal to the Privy Council, and I voted for the measure because I thought that the High Court would be largely an appellate court, and because I think it could be made, in committee, the final appellate court, and because I believe that Australia should be self-contained in every respect. I desire to see the right of appeal to the Privy Council abolished, and I am sure that this would be in accord with the wishes of the great majority of the intelligent people of the Commonwealth. I admit that there is still the possibility of an Imperial court of appeal being established, and I shall not so much object to that, because we should then be treated upon the same footing as the people of England. At present the people of England are able to obtain a final decision far more readily than we can, as their appeals are limited to two stages, whilst ours necessitate four, and upon this fact is based one of my principal objections to the present arrangement. If the High Court were made a final court of appeal, a great many of the objections now urged against it would disappear, and if the Attorney-General will not take the responsibility of moving an amendment with that object, I shall take action myself. I have the greatest faith in the ability and patriotism of the members of every Federal Convention from 1891 onwards, all of which were against the appeal to the Privy Council, and I hope that the Attorney-General will be persuaded to do all he possibly can to give expression to the full desire of the Australian people.

Mr. HENRY WILLIS (Robertson).—The speech of the honorable member for Gippsland must appeal to every lay member of this House, and to the common sense of every business man who has regard for economy in our administration. Honorable members who spoke in support of the clause last evening apparently desire to make the High Court as comprehensive as possible, for no other reason than to increase the expenditure of the Commonwealth. It is

proposed to give to the High Court the same jurisdiction as is now exercised by the States Supreme Courts, and to that extent to duplicate the present courts. We have been told that the Judges of the States Supreme Courts are selected with the utmost care, and, therefore, it cannot be suggested that tribunals of such high character are not fully competent to perform all their present functions. If the High Court is restricted to a purely appellate jurisdiction, the desires of the Australian people will be fully satisfied. The Attorney General has represented that the proposed extension of the powers of the Court will be in the interests of suitors, but I do not see how any benefit will be conferred upon litigants, whose aim is to obtain justice by the most ready means. Under present circumstances, a litigant can bring an action in one of the lower State Courts, and if he is dissatisfied, can appeal to the Supreme Court of the State, and then to the Privy Council. When the High Court is appointed he can appeal to the High Court, and, if he be still dissatisfied, can make a further appeal to the Privy Council. On the other hand, he might ignore the High Court altogether, and appeal direct from the State Supreme Court to the Privy Council. I do not see any object in interposing the High Court as a tribunal having original jurisdiction. The Attorney-General evidently desires to impose as much work as possible upon the Court, so that it may be necessary to appoint a full Bench of five Judges. If we confer upon the Court only an appellate jurisdiction, there will not be the same necessity for appointing five Judges, and I think that in this connexion the efforts of the honorable and learned members who have fought so staunchly against the Government proposals are to be highly commended. The Attorney-General has expressed the hope that the Court will attract work, not only from the States Supreme Courts, but also from New Zealand, and he frankly admits that if the work increases to such an extent that the Judges appointed cannot cope with it, he will be prepared to bring down a Bill to strengthen the Bench. I shall oppose the clause, because I do not believe in giving such an extended jurisdiction to the Court. When the late Sir Henry Parkes submitted his proposal for a High Court, he contemplated the necessity for appointing a Bench of ten Judges. Sir Samuel Griffith contended that whilst

possibly at the inception of the court sufficient work would not be found for three Judges, he was prepared to admit that, if the jurisdiction of that tribunal were extended, in all probability ten Justices would be necessary. The appeal of the honorable member for Gippsland to keep the expenditure of the Commonwealth within reasonable bounds is deserving of consideration at the hands of this Committee. It is gratifying to know that the leading men at the bar in practically all the States of the Union are unanimous that it is not necessary to embody in this Bill a provision conferring upon the High Court additional original jurisdiction.

Mr. L. E. GROOM (Darling Downs).—During the discussion which has taken place in committee, various attitudes have been assumed by honorable members, some of which it is difficult to reconcile. In the first place we find that there is practically a desire on the part of some honorable members to block the establishment of the High Court.

Mr. CAMERON.—Only for a time.

Mr. L. E. GROOM.—Certainly the idea is to block the passage of this Bill. For example, the honorable and learned member for Corinella desires to cut down the number of Judges so as to limit the functions of the court practically to Appellate Jurisdiction. In other words, so long as the seat of government is in Victoria, he wishes the High Court to sit here armed only with Appellate Jurisdiction in addition to the original jurisdiction which must be vested in it under the Constitution. The other States, therefore, are to be denied an opportunity of having its original jurisdiction exercised in their midst. The idea of many honorable members who object to investing the High Court with additional original jurisdiction is to reduce the number of Judges. By the appointment of three Judges and by the Court exercising only Appellate Jurisdiction they urge that we shall dispense with the necessity for the adoption of the circuit system. The honorable and learned member for South Australia, Mr. Glynn, has declared that the principle underlying the Bill is one of centralization, but it seems to me that the desire of the honorable and learned member for Corinella is to prevent the Court from being invested with additional original jurisdiction, so as to reduce the number of Judges to three. Surely that must result

in centralization, whereas the scheme forecasted by the Attorney-General will result in decentralization. The right honorable gentleman seeks to carry out the true federal idea. In some of the more distant States the feeling is abroad that Federation is something entirely outside of them. The Parliament meets in Melbourne, Federal Ministers have their offices here, and federation to them seems something which is entirely foreign. If we constitute a High Court which will sit only at the seat of Government, we shall accentuate that feeling. Our desire ought to be to extend the sphere of Federal influence as far as possible, instead of endeavouring to crowd everything into Melbourne. If honorable members are successful in limiting the jurisdiction of the Court they will establish centralization.

Mr. GLYNN.—We will not secure efficiency with the decentralization provided under the Bill.

Mr. L. E. GROOM.—I will deal with that matter presently. The honorable and learned member for Bendigo asked this evening why we should do more than create a Court of Appellate Jurisdiction. He declared that in the United States the Supreme Court is only an Appellate Court. But he forgets that when the Judiciary Act was passed there, Congress did something more than to establish a tribunal having an Appellate Jurisdiction. It not only clothed its Supreme Court with Appellate Jurisdiction, powers of interpretation, and also a certain amount of original jurisdiction, but it provided circuit courts throughout the whole of the United States. One of the first acts of the Justices of that court was to go upon circuit. Congress went even further, and created district courts.

Mr. GLYNN.—They had to do so.

Mr. L. E. GROOM.—The position taken up by the honorable and learned member for Bendigo was that Congress had merely constituted a court with Appellate Jurisdiction. But in Willoughby's *The Supreme Court of the United States*, I read—

The number of circuits has differed at different times. By the Act of 1789 three were provided for; since 1869 there have been nine. Until 1869 (excepting a short period in 1801) there were no circuit Judges, circuit work being done by the Supreme Court Justices. By the Act of 1869 a circuit Judge was to be appointed by the President for each circuit. One of the Justices of the Supreme Court is, however, still allotted to each of the

circuits, who after the expiration of the term of the Supreme Court, visits his circuit, and tries the more important cases which may have arisen there. The circuit court may be held by the circuit Judge, by the Supreme Court Justice, or by the district Judge of that district in which the court is sitting; or by any two of them, or by all three of them sitting together.

Therefore, in the United States itself, a Supreme Court was set up, the Justices of which visited the various States under the powers and jurisdiction conferred upon them as Circuit Judges. The honorable and learned member for Bendigo also pointed to the case of Canada. He said that in the Dominion they had nothing but an Appellate Court. He quite overlooked the fact that in 1875, and again in 1886, in addition to the Supreme Court which possessed appellate jurisdiction, Parliament created an Exchequer Court endowed with a very large exclusive jurisdiction.

Mr. HIGGINS.—But that is not a Federal Court.

Mr. L. E. GROOM. — Legislative authority was used to create a court to try issues connected with the Dominion, a court having also a concurrent jurisdiction in matters relating to the revenue—to cases in which it was sought to impeach any patent, or invention, or any lease, or other instrument respecting land, or in which relief was sought against various public officers. It is a court created by Parliament for the purposes of the whole Dominion and of its provinces.

Mr. ISAACS.—The provinces have their own courts.

Mr. L. E. GROOM.—But the honorable and learned member for Bendigo led the Committee to believe that Canada had not bothered about constituting a court which was possessed of other than appellate jurisdiction. I am showing that the Parliament of that country went a great deal further. Some of the opponents of this Bill have urged that its operation will result in the centralization of justice. But I contend that if the High Court is going to be worthy of the name litigants in the distant States should not be denied an opportunity of bringing their cases before it. It was contended, prior to the taking of the Federal referendum, that the Constitution was framed in such a way that the smallest State need not fear that it would be deprived of its rights by the more populous States. It was urged that the Constitution was so elastic that

it was possible for the Federal Judges to travel all over the Commonwealth. That was the case in the United States. The framers of our Constitution, however, did not desire to follow merely the American model. They had in their mind's eye what was being done in the States Supreme Courts. Take, for instance, the Supreme Court of Queensland. In that State we have a court in Townsville, another in Rockhampton, and still another in Brisbane, each exercising Supreme Court jurisdiction, in addition to which there is a Full Court sitting as a court of appeal. That is all that is proposed under this Bill. Under its provisions, district registries will be established, and in each of those districts it will be possible to commence a suit upon Federal matters. Section 75 of the Constitution provides that the High Court shall be vested with original jurisdiction in all matters arising under any treaty, affecting Consuls, or in which the Commonwealth sues or is sued, or in all matters between States, or in which a writ of mandamus or prohibition is sought against an officer of the Commonwealth. Under the Constitution, therefore, we cannot have a court with purely an appellate jurisdiction. When we have constituted this tribunal, and have vested in its Justices that original jurisdiction, it is only right that the residents of South Australia, Tasmania, Western Australia, Queensland, and New South Wales, should be able to have actions to which they are parties tried before the Court in their own States. If we establish the Court, and appoint such a small number of Judges to it that they can sit only at the seat of government, all the matters which it is desired to bring before it must of necessity be brought here.

Mr. GLYNN.—Will the honorable and learned member not say that 90 per cent. of the cases are such as would arise under a unitary constitution?

Mr. L. E. GROOM.—Of necessity, under the Constitution, original jurisdiction is given to the Court, and if a plaintiff is to have the right of bringing his action there, the Court should be framed in such a way that each of the States can have a district registrar to start the cases, and a Judge to hear the matter on the spot, instead of dragging all the witnesses to a central place. The latter condition would cause grievous wrong to the more remote parts of the Commonwealth, and shows the absolute necessity for

decentralization. We are told that the proposal of the Government will involve tremendous cost; but would the honorable and learned member for Bendigo favour the abolition of the State Circuit Court which sits in that city? I am afraid that if such a proposal were made, the honorable and learned member for Bendigo would seriously object to all the witnesses and parties concerned being dragged down to Melbourne simply to gratify some little excitement in the community about economic reform.

Mr. GLYNN.—There is no Supreme Court at Bendigo to deal with State matters.

Mr. L. E. GROOM.—But a Supreme Court sits at Bendigo, and, so far as I understand, the arguments of the honorable and learned member for that city were addressed against circuit courts altogether.

Mr. GLYNN.—No.

Mr. L. E. GROOM.—In the figures which the honorable and learned member for Bendigo gave of the cost of circuit courts, he mentioned £4,500 as the expenses of witnesses and jurors. But would that sum not be largely increased if all the witnesses had to be brought from Bendigo to Melbourne? Would the cost of the circuit Judge be escaped? It is very plausible to stand on a public platform and refer to £11,000 as the total cost of the circuit courts, but I doubt whether country people would appreciate the argument when they had taken away from them the right to have justice administered at their doors, and the community generally were relieved of expense at the cost of the parties interested in the trial. It must not be forgotten that it is on the parties to the suit on which the cost of bringing the witnesses to a central place must ultimately fall.

Mr. GLYNN.—Does the honorable and learned member anticipate that the Federal Circuit Judges will sit outside the State capitals?

Mr. L. E. GROOM.—No; but it would be a greater saving to bring South Australian witnesses to Adelaide than to bring them to Melbourne or to a seat of government in New South Wales. The same argument applies in the case of Western Australia and Queensland; and even if we cannot get an adequate number of Judges it is our duty to get as reasonable a number as we can. We are told that the cost of administration would

be great. On this point I would call attention to the Customs cases which were heard in Brisbane, and which extended over four or five weeks. The costs of those cases would have to be incurred whether they were tried before a State Judge or a Federal Judge. Witnesses and jurors would have to be summoned, and the only difference in cost would be the travelling expenses of the Judge.

Mr. HIGGINS.—It is not so much the cost of the Judge as the cost of conveying the officials of the court.

Mr. L. E. GROOM.—With all respect to the honorable and learned member it is far more important to us in Queensland that we should have the cause of action tried in that State, than that there should be a small public saving in the cost by bringing the parties to the seat of government.

Mr. HIGGINS.—That is not the question.

Mr. L. E. GROOM.—But it is a serious question to us in Queensland, and I again point out that the Judges' salaries have to be paid in any event. There is no necessity in constituting a High Court to appoint a large number of officers to travel with the Judge all over the country. We need not convey Crown prosecutors or clerks of courts, or any other officials beyond, perhaps, the Judge's associate and his tipstaff. Indeed, we might dispense with a tipstaff, leaving only the Judge and his associate to travel to the scene of the action. For all other purposes the State officials could be utilized.

Mr. CAMERON.—But they would have to be paid.

Mr. L. E. GROOM.—Not at all. At the present time State officers are doing Federal work without pay. In the Railway Department of Queensland officials are doing work for the Postal Department without having a penny added to their salaries; and I believe that the idea of the Attorney-General is to utilize the services of the State officials, and thus save expenditure to that extent.

Mr. HIGGINS.—Except the Judges.

Mr. L. E. GROOM.—Does the honorable and learned member wish to make out that the Judges will involve enormous cost?

Mr. PAGE.—Did the Federal Government pay the cost of the Reid cases in Brisbane?

Mr. DEAKIN.—The Federal Government recovered the costs.

Mr. L. E. GROOM.—The intention of the Procedure Bill, and of this Bill, is to utilize the local machinery as far as possible,

and all that is wanted is a Judge who can exercise the jurisdiction to be conferred by the Bill.

AN HONORABLE MEMBER.—But the Attorney-General proposes to give £6,500 a year as an honorarium for the “flunkoys.”

MR. L. E. GROOM.—There is no necessity for honorarium: in the High Court, and I am afraid that the honorable member for Robertson has not had much experience in connexion with the necessary officials of a court. The Attorney-General does not propose any extravagant paraphernalia, and I think his assurance on that score might be accepted. We are told, further, that the State jurisdiction is sufficient—that the State Judges can do all that is required. But the Attorney-General's position was unanswerable when he said we must remember that we are creating a Court vested with peculiar Federal jurisdiction. That Court will be continually dealing, as the Attorney-General says, with Federal matters, and will thus acquire a distinct knowledge and attain an efficiency which, in the end, must command the confidence of the people.

MR. THOMSON.—Are Federal matters different to any large extent from other matters dealt with by the States Courts?

MR. L. E. GROOM.—There is a great distinction. In Queensland and other States there is a general common law, equity and criminal jurisdiction, but arising from Federal matters there will of necessity be constant arguments before the Court, and the Judges will thus acquire a profound knowledge of constitutional law. By virtue of constantly exercising Federal jurisdiction the Judges will become thoroughly acquainted with the Federal Constitution and precedents, and the result will be more confidence in and fewer appeals from the decisions given. We should have Judges of that description moving throughout the Commonwealth. We have to give the High Court jurisdiction in the matters set forth in section 75 of the Constitution, and, as pointed out by the honorable and learned member for Indi last night, a great many of the questions which will arise under subsection 3 of that clause would of necessity be tried in the Federal Court whether we give the extended jurisdiction or not. All that the Attorney-General says is that under the Constitution we must confer a certain amount of Federal jurisdiction on the High Court, and seeing that that Court has to be constituted, why

not give it the additional jurisdiction, so that the Judges may be able to deal with matters arising under the laws of Parliament? In this way, if the people desire to have their rights decided by the Federal tribunal, they will be able to have their wish gratified. It is not asked that the Court should be given a general equity and common law jurisdiction; all the Attorney-General desires is that the High Court Judges should be able to exercise the jurisdiction of interpreting matters that arise under the Constitution. What other matters are likely to arise? In *Quick and Garran's* work on the Constitution, several illustrations are given of cases likely to come before the Court; for instance, where a subject of the King resident in one State is subject in another State to a disability or discrimination under section 117 of the Constitution, or as to religious tests required as a qualification for officers or for actions brought against members for holding, contrary to the Constitution, places of profit; or questions as to the rights of transferred officers, and so on. In addition, there are other powers specially mentioned under the Constitution, which may be the subject matter of litigation; and when these constitutional questions arise, the Commonwealth, if a party, has the right to take people before the Federal tribunal. There may be a hundred and one questions of this kind which arise in actions between the Commonwealth and private parties, or between State and State. I am sure that the honorable and learned member for South Australia, Mr. Glynn, who has studied the constitutional history of England and the United States, will find that many of the constitutional questions yet decided have arisen between party and party.

MR. GLYNN.—Nearly all the American authorities condemned the extension of the original jurisdiction.

MR. L. E. GROOM.—The leading case of *Gibbons v. Ogden*, in America, the case of *Stockdale v. Hansard*, in England, and the case of *Barton v. Taylor*, in New South Wales, were all practically between subject and subject. If an action arose with respect to the Speaker ejecting a member, and it became necessary to determine under the Constitution what were the powers and prerogative of this Parliament, and the rights and privileges of members, would the honorable and learned member like that question

to be tried in a State Court, instead of in a Federal Court?

Mr. GLYNN.—Would the case not be sure to go to the court of appeal?

Mr. L. E. GROOM.—It might or it might not; but let us have a Federal Court which will command the confidence of the people, and so reduce as much as possible the necessity for appeals.

Mr. THOMSON.—There would be the right of appeal in any case.

Mr. L. E. GROOM.—But it is desired to prevent a man bringing his action in the Federal Court, so that the only way to have these matters settled authoritatively would be to have a trial in a State Court, and then go to the appeal court. Honorable members have argued for an Australian court with Australian appellate jurisdiction, and have afterwards inconsistently contended that action should be first brought in a State Court, from which an appeal may go to the Privy Council, thus avoiding the Australian appellate jurisdiction.

Mr. WATSON.—That could not be done in respect to constitutional cases.

Mr. L. E. GROOM.—We have yet to determine whether, for instance, in the case of a question arising as to an Act passed by a State being contrary to the Constitution, we can compel the State to come to the High Court, or whether it may be allowed to go to the Privy Council.

Mr. DEAKIN.—We provide for that in the Bill.

Mr. WATSON.—This clause will not get over the matter, because it is still optional for the parties to go to the States Courts.

Mr. L. E. GROOM.—Yes, but I want to give them the opportunity to go to the High Court in the first instance. The jurisdiction which it is proposed to give to the High Court under this clause is jurisdiction on matters arising under the Constitution, or under the laws made by this Parliament. Now, under the laws made by this Parliament, a lot of very important cases will arise, in regard to which litigants should have an opportunity of saying whether they will go before a State Court or the Federal Court. For instance, we have power to pass laws relating to trade and commerce, and if honorable members will turn up the American authorities, they will see that a very large interpretation has been placed upon those words. It might happen, for instance, that a harbor board, in the exercise of the powers

conferred upon it, might frame regulations which were regarded as interfering with freedom of trade and commerce between the States, and an action would lie in the State Court. Such an action would not be an action between a State and the Commonwealth, or between one State and another, but between a private individual and a corporate body. Therefore the matter would not be one coming under section 75 of the Constitution, and if the parties concerned were not expressly given the right to go to the High Court, they would be precluded from doing so.

Mr. THOMSON.—That is a matter which would be dealt with by the Inter-State Commission.

Mr. L. E. GROOM.—The dispute might arise quite apart from any decision given by the Inter-State Commission. I am instancing the case as one which might occur under a law made by this Parliament, and in regard to which litigants should have the right to go before the High Court. In the same way similar questions might arise under laws passed by us relating to insurance, banking, promissory notes, patent rights, copyrights, inventions, and any of the various commercial matters upon which we may be called upon to legislate. Are we going to prevent litigants from taking causes arising from the laws passed by us in regard to those matters before the High Court? I submit that we should not. The ground upon which we should give the High Court this jurisdiction is that the Constitution contemplates the exercise of a Federal jurisdiction by the High Court, and we should allow every litigant who thinks that he is being deprived of a right which he should enjoy under the Constitution to go to the best tribunal we can create for a remedy. We do not deprive him of his right to go before a State Court if he chooses, but we give him the right to go before the highest tribunal in the Commonwealth.

Mr. HIGGINS.—Will the High Court be higher than the Supreme Court of a State?

Mr. L. E. GROOM.—I believe that in the long run it will be a better tribunal for the decision of these cases, because it will have appeals from all the States, and will be continuously dealing with Federal matters.

Sir EDMUND BARTON.—If the High Court can hear an appeal from the Supreme Court, will it not be the higher court?

Mr. L. E. GROOM.—I do not undervalue the work done by the States Courts, but I think that in the long run the High Court will be more efficient for the purposes for which it is to be created than any of the Supreme Courts. All the Attorney-General asks is that, in respect to actions arising under the Constitution and under the laws made by this Parliament, litigants may have the opportunity of using the Federal Court contemplated by the Constitution. I intend to support the clause.

Sir EDWARD BRADDON (Tasmania).—As a layman I hesitate about interposing in a matter which has been so ably discussed by the legal members of the Committee, and especially by the honorable and learned member for South Australia, Mr. Glynn, and the honorable and learned members for Corinella, Bendigo, and Northern Melbourne. But I am bound to raise my voice in protest against an unnecessary and very heavy expenditure, to which the people are decidedly opposed; I can, at any rate, speak confidently of the feeling of those whom I immediately represent. The very elaborate defence of the clause made by the Attorney-General last night was characterized more by its rhetoric than by its logic, and showed signs of a weakening in his belief in the measure. Apparently he would be glad to see a considerable portion of it amended. He has already expressed a willingness to jettison paragraph (c) of this clause, and also the three clauses which provide for the transfer of cases to the High Court by right, a monstrous provision, which I think the Committee would not allow to remain. The Attorney-General also made an admission which, I think, was entirely in favour of those who oppose the Bill, when he said that it is impossible at the present time, with due regard to economy, to establish such a High Court as we desire. He does not pretend that the High Court which he proposes to establish will be more than sufficient to meet the demands of the Commonwealth for a limited time to come. By his own showing this is only a makeshift measure, to create a High Court which will be the nucleus of a much more elaborate establishment in the future. I hold, with a great many other honorable members, that at the present time any High Court is unnecessary. The Attorney-General admits that the vesting of additional jurisdiction in a High Court will not deprive the

States Courts of jurisdiction. Therefore, if we add to the original jurisdiction of the High Court provided for by the Constitution, we shall only be duplicating our legal machinery; we shall be creating a second Bench to do that which the first Bench is now doing to the satisfaction of the people, with all the attendant expense, but without any saving by the absorption of the local courts, or their reduction in number.

Mr. PAGE.—The arguments which the honorable and learned member is now using were all used against federation.

Sir EDWARD BRADDON.—Furthermore, a High Court is not necessary, because the Commonwealth already has a judicature which is able to dispose of the business now being brought before it, or likely to be brought before it in the immediate future. I hope that in committee we who would gladly have seen the Bill thrown out will so amend it that the great cost with which we are threatened will be considerably reduced, so that we shall be able to tell the electors that, so far as it was in our power to enforce economy, we have done so. I urge, for the sake of the taxpayers, who have to meet the charges which will be imposed by the creation of this court, that every step possible be taken to reduce its cost.

Mr. HIGGINS (Northern Melbourne).—I understand that the proposal which the Committee is now considering is virtually the omission of clause 31.

Mr. DEAKIN.—That will be the ultimate question.

Mr. HIGGINS.—We are practically being asked by those who oppose the Bill not to give to the High Court the jurisdiction provided for in this clause. I must confess that I feel great difficulty in making up my mind as to how to deal with the matter. As honorable members know, I opposed the second reading because I regard a High Court as unnecessary at the present time, and the proposal to establish it as little short of a scandal and a crime. But I must bow to the wisdom of the House. A majority of honorable members have determined that there shall be a High Court, and it is my duty to try to make that court as efficient as possible. If we are to have a batch of highly-paid officers, we must see that we give them plenty to do. But I feel that I am much in the position of a man who has to find employment for two gangers who have been

appointed to supervise the same piece of work, or for two dentists who are engaged to operate upon the same mouth. The wording of the clauses of the Bill is evidence of a frantic effort on the part of the Attorney-General to provide something for the Judges to do. He must feel as we all do that if the High Court has only an appellate jurisdiction and the original jurisdiction provided for in the Constitution, the Judges will have hardly enough to do. What is the result? It is proposed to take such work as can be transferred from the States Supreme Courts, and foist it upon the High Court. If we do not give the High Court the extra original jurisdiction now proposed, it will have very little to do in that particular line, and as matters stand it will have a very small appellate jurisdiction. I am confident that if a litigant has the option of going to the Privy Council or the High Court, he will prefer to carry his appeal to the former, and our Federal Judges will be left to sit in high dignity, in ermined robes or furred gowns, and twiddle their thumbs whilst waiting for work.

Mr. POYNTON.—If we provide work for the new Judges, we shall render the States Judges idle.

Mr. HIGGINS.—Wherever the idleness might be, I should object to it. I have always supported the proper treatment of public servants, but I object to having one more than is required, and I strongly resent the idea of forcing a new High Court, like an incubus, upon the shoulders of the taxpayers of Australia. If we confine ourselves to the original jurisdiction which is compulsory, there will be very little work for the Judges to do. At the same time the appeals will be few in number, and if we have only three Judges, very few indeed. In Victoria there are usually six Supreme Court Judges—we now have five—and it very often happens that the whole of the Judges are to be found sitting upon the Bench. What a farce it would be if an appeal were allowed from the unanimous decision of five or six Judges of the Victorian Supreme Court to a High Court consisting of three Judges of no higher calibre? Would it not be especially absurd in view of the fact that without any expense to the taxpayer, we can at present appeal to a court of higher standing and calibre across the seas? With me it is not merely a question of expense, but I ask

honorable members not to create a court that will not have enough work to do. I should like to give the court plenty of work, and make it as useful as possible. What original jurisdiction will the High Court have, unless the clause under discussion is carried? Section 75 of the Constitution provides that the High Court shall have original jurisdiction in all matters arising under treaties, or affecting consuls, or other representatives of other countries. There will not be a case of either class once in a blue moon. Then there are cases in which the Commonwealth or a person suing or being sued on behalf of the Commonwealth is a party. They may have a few cases under this head, but probably not more than half a dozen in the whole of Australia in any one year. Then there is the class of cases between States or between residents of different States, or between a State and a resident of another State. The High Court will be called upon to deal with a few cases of this description, but we know that actions of this kind are tried every day in the States Supreme Courts. Then the High Court will have original jurisdiction in cases in which a writ of mandamus, or prohibition, or an injunction is sought against an officer of the Commonwealth. I have already shown that the appellate jurisdiction of the High Court will be very small, and that the business will be further reduced if only three Judges are appointed. Now it is proposed to give extra original jurisdiction in order to increase the work of the court. It may be assumed that of the three classes of cases regarding which the Federal Court is to have extended original jurisdiction, the greater number will arise under the laws made by this Parliament.

Mr. SAWERS.—Is it not absolutely necessary to have a High Court to deal with cases arising under the Constitution or involving its interpretation?

Mr. HIGGINS.—No. I should be perfectly prepared to leave those cases to the States Supreme Courts, in which I have quite as much confidence as I could repose in any High Court appointed under present conditions.

Mr. SAWERS.—But there are so many of them.

Mr. HIGGINS.—Yes; but the Privy Council will make their decisions uniform if they differ. The great bulk of the cases that will come before the High Court will

be those arising under the laws passed by this Parliament. Under this clause, taken in conjunction with clause 41, if a man is made bankrupt in Sydney by a Judge at first instance, he is to have no appeal, except to the High Court, although under present practice he may appeal to the State Court sitting in the next room. Or, supposing a man were compelled to pay a call under the Companies Act, by a Judge in Melbourne, and wished to appeal against the decision; he would be deprived of the right he now has to appeal to the Full Court of Victoria, and would be obliged to wait for the sittings of the High Court.

Mr. DEAKIN.—He would have to wait for the Full Court in Victoria.

Mr. HIGGINS.—Yes; but the Full Court of Victoria has more Judges and a smaller area over which to operate. If the Government proposals are carried into effect the result will be to deprive litigants of the right which Magna Charta was intended to secure, namely, speedy as well as upright justice. One of the main objects of the law is to secure speedy trial, and yet it is now proposed to put aside the 27 Judges whom we now have in Australia, and insist that all appeals shall be made to the five Judges of the High Court. The proposed change will not secure speedy justice, or any other advantage to the people of Australia. When a man is made insolvent, and his assets are vested in some trustee and he cannot touch them, it is difficult enough for him now to secure the hearing of his appeal; but it will be trebly hard upon him if he has to wait for the High Court. The Federal Parliament has power to make laws in regard to a greater number of matters than those over which the Federal Parliament of the United States has control. For instance, we can legislate in regard to patents, and the Government proposes that a man who is defeated in a patent case in one of the State Courts shall come to the High Court instead of being allowed to go to the Full Court of the State in which the matter was first tried. The same thing applies to trades marks, to insurance cases, and to the most trivial matters relating to the custody of infants. Perhaps the High Court might be sitting in Bombala, or Orange, or somewhere in the heart of the continent, and an appeal might have to be sent all the way from Western Australia. May I suggest to the Attorney-General some alterations which would mitigate my objections to


the clause? I would ask him to make justice speedy for every man by giving the States Courts all the jurisdiction which he intends to confer upon the High Court. I would also ask him to allow the States Courts to deal with matters by way of appeal from the Judge at first instance, in place of compelling appeals to be taken before the High Court. Nine cases out of ten never go beyond the Judge at first instance, and of the tenth cases very few go beyond the Full Court. A good deal has been said with regard to the expense of witnesses upon appeal, but that is all beside the question, because no witnesses will be required to be dragged to the Full Court.

Mr. THOMSON.—Affidavits are often more expensive than witnesses.

Mr. HIGGINS.—There will be no affidavit on appeals. I do not see why we should not endeavour to bring justice to the door of every man as far as we can by utilizing the States Supreme Courts as at present, for the hearing of appeals from the Judge at first instance in matters relating to insolvency, company laws, patents, insurance matters, trade marks, and divorce. If the Attorney-General could grant to the States Supreme Courts the jurisdiction that he now wishes to give to the Federal Court and treat them with the confidence they deserve, many of my objections would be removed. We have had no serious objection taken to our Supreme Courts.

Mr. DEAKIN.—Hear, hear. But what is the proposal of the honorable and learned member with regard to the relations between the States Courts endowed with full Federal jurisdiction and the High Court?

Mr. HIGGINS.—It is better that we should give the States Courts the same original jurisdiction that is given to the High Court; and we should allow, as now, an appeal from a single Judge to the Full Bench. At the same time, if we proceed with the Bill, we must make the High Court an optional substitute for the Privy Council in regard to appeals from the Full Courts. As a rule litigants will not go beyond the Full Courts—they will be quite content with the tribunal which is at their doors. Thus a man will be able to get justice more speedily, because the Full Court Judges will be confined to the States capitals.

Mr. DEAKIN.—There would be an optional appeal, I take it, either to the Full Court or the High Court. 

Mr. HIGGINS.—I would not allow an option of appeal to the High Court from a Judge of the States Courts. But an appeal would lie from the Full Court to the High Court if the appellant preferred the High Court to the Privy Council. Clause 41 should be excised, and we should insert a provision which will give to the States Courts the full original jurisdiction which the Government desire to vest in the High Court. My only object in offering this suggestion is to make the best of a bad job. I do not intend to weary the Committee with perpetual protests against a decision which has been carried against me. I have my own opinion upon the matter, but I accept the judgment of the Committee upon it. If by any means I can assist in improving the Bill, and it defeats the fulfilment of my own prophecies, I shall be only too glad.

Mr. THOMSON (North Sydney).—If anything were needed to convince me of the propriety of opposing this clause, it would be the speeches which have been delivered by the honorable and learned member for Darling Downs and the honorable and learned member for Northern Melbourne. The former has exhibited a vast vista of expense which we are called upon to face in establishing this court. He has indicated the enormous number of matters which it will be possible to bring before this tribunal in its original jurisdiction, and has emphasized the necessity for extending it throughout the whole of Australia. Honorable members must recognise the heavy expenditure which such a proposal would eventually involve. The honorable and learned member for Northern Melbourne has shown how very inefficient the court would be under the proposal of the Attorney-General.

Mr. DEAKIN.—No.

Mr. THOMSON.—It would be inefficient, he said, because it would drag litigants who desire to appear before the Supreme Full Court to the Central High Court. If that is to be avoided the Supreme Courts of the States must practically be able to deal with everything with which the High Court is called upon to deal, except the few matters in which exclusive jurisdiction is vested in the latter under the Constitution. I ask honorable members to pause before entering upon federation in the spirit which this Bill displays. Surely by adopting federation we did not create two peoples.

Mr. DEAKIN.—We created one.

Mr. THOMSON.—We are supposed to have done so, but many of the proposals of the Ministry insist upon regarding the taxpayers of Australia as two different peoples. We are asked to establish two systems of adjudicature throughout the Commonwealth. We did not create new requirements amongst the people upon the inauguration of the Commonwealth. It is a false policy to neglect the existing institutions of the States in dealing with Federal matters. When we come to legislate on matters which have been placed under our jurisdiction, and many of these are mere transfers, is it not our duty to ask whether we can utilize the existing institutions and officials of the States? If the people could obtain satisfaction from their Judiciaries prior to federation, it is extraordinary that those institutions are to be cast aside by the Commonwealth in minor as well as in major matters, and that we are now to be told that they cannot give litigants satisfaction. If we adopt that attitude federation will not prove a blessing to the people of Australia. I desire that we shall not duplicate existing institutions where there is no absolute necessity for so doing. The honorable member for Darling Downs has asked why we should place the States at a disadvantage by requiring litigants and their witnesses to come to Melbourne or the Federal capital when it is created, in order to have the cases in which they are interested, determined. But as I understand this matter, if we make the Federal High Court a Court of Appeal only except as to those original matters which are provided for in the Constitution, we shall not require to bring witnesses from the different States. The honorable and learned member for Northern Melbourne has declared that if we limit the business of the court to appeals, and to those matters in which it is vested with original jurisdiction under the Constitution, the work which the court will be called upon to discharge will be very light indeed. That being so, what is to prevent the objection of the honorable and learned member for Darling Downs being met by the court of Appeal visiting the various States?

Mr. L. E. GROOM.—It would be more expensive to take the whole court than to take only one Judge.

Mr. THOMSON.—If we allow that these Judges will not otherwise find sufficient work to do, they will have ample opportunity for

visiting the different States. Do not the Supreme Court Judges of the States go upon circuit? Why do they adopt that system? Because it was contended that justice should be taken nearer to the homes of the people. If that argument is to carry weight, and if we insist that we should reserve all disputes in matters under the control of the Federal Government to the High Court, are we not bound to provide those that use that tribunal with facilities equal to those which have been provided by the Supreme Courts of the States? That means that we must adopt the circuit system. It means that Newcastle, Goulburn, Wagga, Cobar, and other places will have as good a claim to have the High Court made accessible to them as have the States capitals and as the State Supreme Court is now. As a matter of geography, the court when sitting in some of the States capitals will be nearer to the litigants in another State than will be the court in the capital of that State itself.

Mr. HIGGINS.—At Broken Hill, for instance?

Mr. THOMSON.—Yes, and I might further instance Albury and places in the northern portion of New South Wales in that connexion. It appears to me that by establishing the High Court in the form proposed, we shall not increase the opportunities for people getting justice speedily and rapidly. We should increase those opportunities infinitely more if we conferred the jurisdiction on the States Courts, and allowed them to deal with the questions in the first place. There is a clause in the Bill providing that certain cases go from the States Courts to the High Court; and, by that, the latter should be a court of appeal to regulate and make decisions uniform and of original jurisdiction in the matters provided by the Constitution. But we should not attempt to establish in every State a duplication of our present courts to deal with the same questions of trade and commerce, with matrimonial causes, Customs questions, and bankruptcies and other matters, which at the present time are efficiently dealt with by the States Courts.

Mr. HIGGINS.—The honorable member would allow the States Supreme Courts to have all the original jurisdiction which is vested compulsorily in the Federal Court.

Mr. THOMSON.—I would give the States Courts the fullest jurisdiction, and cases could go from the States Courts to the High Court, as they may now under the Bill.

Mr. DEAKIN.—The honorable member has been told that there is no appeal from a single Judge in one case out of ten.

Mr. THOMSON.—Then there would not be an appeal from the Supreme Court in one case out of ten. Are we to imagine that each of the High Court Judges on circuit would be men so much superior to the States Courts Judges that there would be no appeal from their decisions? I cannot follow the argument that, because it is deemed well to establish a High Court, we should give the Judges plenty of work when that work is being well done by the State Judges. If suitors have the opportunity of going to either court it means that both must be prepared to deal with a larger amount of business than would otherwise be necessary, as each must be ready to handle almost the whole of the business if it chance to come to it; whereas with one court there would be no need to provide for more than the average amount of work in the particular State. The honorable and learned member for Darling Downs has said that the proposal of the honorable and learned member for South Australia, Mr. Glynn, is in favour of centralization and not of decentralization. The proposal is nothing of the sort. The object of the Bill is to centralize justice in each of the capitals at most, while the proposal of the honorable and learned member is not to centralize at all, but to give the jurisdiction the full reach—not only of the Supreme Courts, but to all the minor courts of each State.

Mr. HIGGINS.—Who will travel most to the inland towns—the Supreme Court Judges or the High Court Judges?

Mr. THOMSON.—I do not think it is intended that the High Court Judges shall travel to the inland towns.

Mr. L. E. GROOM.—If there be only three High Court Judges they will not be able to travel at all.

Mr. THOMSON.—We have it on the authority of the honorable and learned member for Northern Melbourne that the time of three Judges will not be fully occupied if the court is an appellate court only.

Mr. ISAACS.—A good many honorable members agree with the honorable and learned member for Darling Downs, that the appellate jurisdiction of the High Court will keep it very busily occupied.

Mr. THOMSON.—In the face of such a difference of opinion between gentlemen

high in the legal profession, the best course for laymen is to "go easy" and start on a small scale, because we can always enlarge, while we cannot always reduce. The United States and Canada have been quoted as authorities on both sides; but to me those quotations have not the slightest weight. In the first place, the conditions of the Constitution of the United States are different, and in the second place, we know what our Judiciary is at present, while we do not know what the Judiciary of the United States or of Canada was at the particular time. We know our own circumstances and needs, and the amount of money we already spend in this direction. I admit that our present judicial system is an admirable one, and that it costs a large sum of money, but I would rather it should cost too much and be effective, than cost little and be the reverse. It is a great system which has met our needs thoroughly, and it would be utterly unwise to abandon it and set up rival courts, which, it appears, would have almost to tout for business. The Attorney-General glories in the fact that the Federal Court will offer such superior facilities that it will attract business, but we can still keep in our hands the power of the High Court to control the decisions of the States Judges, and by giving the latter Federal jurisdiction, have, as at present, the advantage of their experience. The honorable and learned member for Darling Downs also alluded to the remarks of the honorable and learned member for Bendigo, whose speeches I heard with great interest and obtained much light from, as I did from those of other legal members, although I may differ from some of them in opinion. The honorable and learned member for Darling Downs asked whether the honorable and learned member for Bendigo would approve of the removal of the Supreme Court circuit from that city on the score of expense. The answer to that is that there is no Supreme Court at Bendigo, and as certain cases have to be tried in that court, it is naturally desired that facilities should be provided on the spot. That argument, however, does not apply to the States, in each of which there is a Supreme Court which can be invested with Federal jurisdiction, and which has been doing the very work it is proposed to ask the High Court to do. Outside of the range which would be reached by the High Court, there are circuits of the States

Supreme Courts which bring the jurisdiction nearer to the people than would the High Court. The honorable and learned member for Darling Downs also alluded to the large number of subjects that would come before the High Court, subjects entering into almost all the affairs of the people of the Commonwealth. Do honorable members conceive that when we have passed laws dealing with all these subjects under the Constitution, five Judges will ever be able to handle the business, and also go on circuit throughout the States? It is absolutely ridiculous to ask the meanest lay intelligence to entertain such an idea. In each of the larger State capitals there is a Judge occupied solely with bankruptcy matters, and such a Judge could not be removed when cases have been partially heard. Then, in each of the States of New South Wales and Victoria there is a Judge almost entirely occupied with matrimonial cases, and allowing one Judge for the remaining States, three Judges must devote themselves to that work alone.

Mr. DEAKIN.—I did not allude to that business.

Mr. THOMSON.—But it is proposed that the High Court shall deal with such business when we pass the necessary Acts under the Constitution.

Mr. DEAKIN.—Yes, when we pass the laws; but not if we make no provision for the exercise of such jurisdiction.

Mr. THOMSON.—Then we are to go away from the High Court principle after all. Under the powers conferred upon us by the Constitution we pass certain laws, and the High Court is to have jurisdiction in cases arising under those laws, because they are cases arising under the Constitution, or under the laws passed by the Parliament of the Commonwealth. But the Attorney-General tells us by interjection "When you pass other laws, you need not put them under the jurisdiction of the High Court."

Mr. DEAKIN.—I pointed out in the course of my remarks that when the Commonwealth takes control of legislation affecting bankruptcy and insolvency, we shall need to make special provision to give the High Court jurisdiction in matters arising under the laws we may pass relating to those subjects.

Mr. THOMSON.—That statement supports my argument that five Judges will be

altogether insufficient for the work of the court.

Mr. DEAKIN. — For the work then conferred.

Mr. THOMSON. — There is in that statement evidence that the step which we are now taking will not be by any means the last step. We are now embarking upon an expense of which we cannot see the end, and in my opinion the only justification for it would be that it is unavoidable. But an excellent means for avoiding it already exists, a means which has met the needs of the people of Australia in the past, and of which it is ridiculous not to avail ourselves. The honorable and learned member for Northern Melbourne said that, not only would three Judges, if appointed as a Court of Appeal with the original jurisdiction provided for under the Constitution, have too little work to do, but their decisions would not carry weight, because in the State of Victoria it is not an uncommon thing — he does not say that it always happens — for six Judges to sit as a Court of Appeal. He regards it as a strange thing to accept the decision of three Judges as superior to that given by six. But if the superiority of a judgment depends upon the number of the Judges who decide the matter, we cannot stop at a court of five Judges; we must appoint at least eight, because in one of the States there is now a Bench of seven Judges.

Mr. CONROY. — And inasmuch as eight is an even number, we ought to appoint nine, in order to provide for a majority where there is a division of opinion.

Mr. THOMSON. — In my opinion it is not the number of the Judges upon the Bench that gives weight to the decision of a court. It is not even the fact that the members of the Court of Appeal are abler than the members of the court from which the appeals are made. It is that the Judges of the Court of Appeal have the advantage of the decisions and opinions of the inferior Judges upon the matters which come before them, have a longer opportunity to study the cases which are to be brought before them, and have more experience in connexion with the particular questions upon which they adjudicate. When honorable and learned members refer to the decisions of the Supreme Court of the United States, what they do is to pick out the judgments of particular Justices. Any one of the men

whose opinions they quote would probably — although in these matters it is well to have a discussion by different minds — have constituted a satisfactory Court of Appeal. I have no faith in numbers giving weight to the decision of a court. I think that a court of three would give as great satisfaction to the people as a court of twenty.

Mr. HIGGINS. — The honorable member would not provide for an appeal from a Bench of ten Judges to a single Judge!

Mr. THOMSON. — It is not unusual to appeal from more than ten persons to one umpire.

Mr. HIGGINS. — An umpire is not appointed until there is a difference of opinion. The honorable member would not provide for an appeal from ten unanimous Judges to a single Judge!

Mr. THOMSON. — I am not advocating the propriety of appointing only one Judge to the High Court, but if an appeal is not to be made from a large Bench to a small Bench, we cannot constitute a High Court with fewer than eight Judges. But in appointing three Judges we gain these advantages. First of all, we do not incur so heavy an expense in creating what is not, in any case, a complete tribunal, if we appoint three, as if we appoint five Judges. Again, if the Judges appointed have a large amount of time to themselves, after they have performed their duties as conveniently to the public as they can, that perhaps will not be a disadvantage, because it will enable them to give more study to their cases, and will provide for speedy decisions, which the honorable and learned member for Northern Melbourne regards as one of the rights of the subject conferred by Magna Charta. If the arguments of those who support the Bill are right, we shall not lose the opportunity of ultimately carrying out their views. If for the present we start on more modest lines than they propose, we can enlarge the original jurisdiction of the court whenever the necessity arises, if it ever does, to establish a Federal Judiciary which will take the place of our present system. But once we step out on the lines laid down in the Bill, we are committed to the fullest extent. We establish the court, and try to attract to it the cases which arise under the measures passed by us. In doing so we make more work for it, and the fact that the court is in existence, and is attracting

work, will mean that we shall have demands from the people to bring its jurisdiction nearer to them. In this way we shall subsequently be required to enlarge its circuit, and an expenditure will be required the amount of which it is impossible now to name, but which will be infinitely beyond the estimate which has been given. For these reasons I support a limitation of the original jurisdiction of the court, and with such a limitation I cannot see any reason for the appointment of more than three Judges. In making this arrangement, we rob the people of nothing. They will still have that system of jurisdiction in which they have gained confidence, and which now deals with nearly all the matters for which it is proposed to establish High Courts in each State. Beyond the present judiciaries they will have, if they choose to avail themselves of it, the High Court as a Court of Appeal to equalize decisions, and to give a final Australian voice. The Privy Council will exist as a further Court of Appeal under either system. Under these circumstances we shall be neglecting the best interests of the Commonwealth, and giving ground for some of the attacks which have been made upon the Federation, if we abandon the means of obtaining justice already established amongst us; which extend not merely to the capitals of the different States, but from end to end of this vast continent.

Mr. WILKS (Dalley).—The Attorney-General must be able to see that the Bill is still out of favour with honorable members, and I trust that he will make up his mind to withdraw it. The whole principle of the Bill is being fought over and over again in connexion with this clause. The word "jurisdiction" has been ringing in our ears, and, as if in order to more thoroughly confuse the public mind, we have had the terms "original jurisdiction" and "compulsory original jurisdiction" hurled at us from all directions. The Government succeeded in passing the Bill at the second reading stage by bringing an extraordinary amount of pressure to bear. The party for "the whole Bill and nothing but the Bill" was made up of Ministers themselves, whilst the majority of their loyal supporters belonged to what may be called the party of modification. The latter section of honorable members did not agree with the proposal to appoint five Judges, and expressed their intention

to modify the Bill by reducing the strength of the proposed Bench. Surely in view of the way in which the debate has proceeded thus far, the Government must see that the Bill will probably emerge from Committee in such a mutilated form that it will be of little practical use, and that they will save the public time and money if they withdraw it at the present stage. We find, in this case, that the lawyers are differing among themselves, and, to paraphrase an old proverb, it is to be hoped that "Where lawyers differ the public may hold their own." It is true that the great majority of the lawyers in this Chamber are fighting against the establishment of the High Court or the proposed extension of its jurisdiction. The only honorable and learned members outside of the ranks of the Ministry who have supported the measure are the honorable and learned member for Indi and the honorable and learned member for Darling Downs. The latter honorable and learned member may be considered the political god-father of the Government, whose duty might very well have been considered at an end when he moved the adoption of the Address in Reply.

Mr. DEAKIN.—The honorable member for Illawarra is also a supporter of the Bill.

Mr. WILKS.—The honorable and learned member's support was only half-hearted.

Mr. MAUGER.—Then there is the leader of the Opposition.

Mr. WILKS.—The honorable and learned member for East Sydney is such a warm supporter of the Bill that he has felt constrained to absent himself from the Chamber for a fortnight. Perhaps his conscience is pricking him, and he cannot see his way to venture here. The honorable member for Melbourne Ports has asked most pathetically—"When lawyers differ, what is a poor layman to do?" My answer is—"Remain poor—if you pass this Bill." I desire to direct the attention of the Committee to some opinions which were expressed by the Minister for Trade and Customs in opposition to a Bill of the character now before us. The right honorable gentleman, when speaking at the Convention at Melbourne, in 1898, said—

We should, above all in the early stages of the Constitution of this Federation, be careful lest we involve the Commonwealth in an unnecessary expense—in expense which is altogether out of proportion to the necessities of the case. It seems to me that, although this Bill is in a preferable shape to that in which it originally

saw the light, in that it contains no appropriation, within the four corners of the Constitution, of any huge sums for Judicial salaries, yet, if we do not carry an amendment, such as is now suggested (by Mr. Glynn), we shall take away from the Commonwealth a facile means of providing all that is required at least in the earliest period of the history of the Constitution, at the least possible expense.

The honorable and learned member for Indi has drawn a very pretty picture of what might take place in the High Court, but he has not shown the necessity for the tribunal. I will again quote from the speech of the Minister for Trade and Customs, who was then a lawyer in full practice, an eminent constitutional authority, and the President of the Convention.

MR. ISAACS.—Cannot the honorable member see the difference between framing a Constitution and acting upon the Constitution?

MR. WILKS.—I fully understand that I am now quoting the opinions held by Mr. Kingston, which should stand good even to-day. Mr. Kingston is reported to have said—

The fitting solution, I think, is found in the proposition of my friend, Mr. Glynn, which is that there shall be a representation of both the Chief Justice of Australia, the highest officer in the Commonwealth responsible to the Federation, and the other Judges, more numerous, and selected on account of the positions which they occupy in respect to the provinces. I would like, further, to say that I think there is nothing in the contention that the Chief Justices of the different provinces would be unwilling to accept positions of the description suggested. I know of no higher position in the gift of the Federal authority than the position of Judge of the High Court in Australia.

MR. ISAACS.—What did the Convention decide?

MR. WILKS.—I have not had time to go through the whole of the report, but I am simply giving honorable members the benefit of the remarks made by the Minister for Trade and Customs. Most of the people of Australia hope never to have to go beyond the police court, or even to reach that place, and they must be appalled at the idea that still another court is to be added to the already formidable array of tribunals at present in existence in Australia. I find that the salaries paid to the Supreme Court Judges in New South Wales amount to £21,700 per annum, whilst the annual appropriations for a similar purpose in the other States are as follow :—Victoria £18,500, Queensland £11,500, South Australia £5,400, Western Australia £5,900, and Tasmania £3,900, making a total

of £66,900 for salaries alone. The list of States Judges includes 6 Chief Justices, and 22 Puisne Judges; and over and above these it is now proposed to erect a marvellous Federal combination of 5, 10, or 20 Judges. The Attorney-General apparently desires that the High Court should have extended jurisdiction, and that the Judges should tout for business against the various courts now established. They are to expose their wares like shopkeepers in order to entice litigants to leave the States Courts and intrust their business to the Federal tribunal. In view of the feeling which has been evinced towards the Bill both inside this Chamber and out of it, I shall consider it my duty to endeavour to so whittle its provisions as to make it useless. The cry for economy has been described by the Prime Minister as a miserable one, but it is miserable only to those who would like to secure a seat on the High Court Bench. All the predictions of the anti-Billites are being absolutely fulfilled.

MR. L. E. GROOM.—As a federalist the honorable member knew that a High Court would be established.

MR. WILKS.—Yes, at the proper time. Does the honorable and learned member imagine that people voted in favour of federation simply because the Constitution provided for the establishment of a High Court? I find that the total amount represented by associates' salaries, travelling expenses, &c., throughout the Commonwealth is £35,989. These figures are compiled from the States Governments Estimates for the year ended 30th June, 1902.

MR. ISAACS.—By whom?

MR. WILKS.—By a most zealous man in the interests of the public. If the honorable and learned member for Indi were possessed of half as much zeal as is that gentleman, he would be on the side of the opponents of this measure.

MR. ISAACS.—The honorable member must have his joke.

MR. WILKS.—It is no joke for the people who have to pay this money. The District and County Court Judges throughout Australia absorb £22,000, and the law officers £118,431, of which Victoria pays £20,440. The sheriffs receive £51,062. Of course, we are told that the High Court can utilize the services of the sheriffs of the various States, together with buildings which are owned by the States Governments. But I

cannot accept that statement. If the High Court is to be such an exalted tribunal, how can it use second-hand officers. Are we to have a High Court, the officers of which are to be dressed up in second-hand clothes? The Masters-in-Equity throughout Australia receive £16,342, of which New South Wales contributes £7,650, and Victoria £8,692. The stipendiary magistrates draw £63,920; the expenses of petty sessions aggregate £128,024, and "miscellaneous" covers an outlay of £68,638, making a total of £571,306. That is the amount which about 700,000 adults pay for the administration of justice, exclusive of police protection. I predict that upon the establishment of this tribunal the courts will be found to overlap in their jurisdiction. Moreover, the full number of Judges constituting the High Court will not be able to go upon circuit, and will the Justices who can do so be any better qualified to give decisions upon cases which come before them than are the Supreme Court Judges of the States? I intend upon every possible occasion to oppose this Bill, with the object of destroying its efficacy. I trust that the arguments which have been advanced in favour of economy will not be again characterized as "miserable." Those ardent federalists who desire the Commonwealth to be respected, and who wish it to acquire further powers from the States, ought to remember that every extravagant act in which we indulge will be an obstacle to our progress in that direction. One reason why the High Court should not be invested with additional jurisdiction is that before a man can appeal to it his claim must exceed £300. Consequently, admission to that tribunal is not open to the masses. It is all very well to say that the Federation should be properly plumed. It sounds very exalted to say so, but the public who have to bear the expense ought to be considered. I would further point out that the Minister for Trade and Customs, when a member of the Federal Convention, advocated practically everything which the opponents of this Bill have urged to-night. If ever there was a vote recorded in this House which was uninfluenced by party considerations, it was that cast upon the second reading of this Bill, and I trust that the same feeling will prevail throughout its discussion in Committee. Now that honorable members have been released from the power of the whip—

Mr. AUSTIN CHAPMAN.—Nonsense.

Mr. WILKS.—It is not nonsense. They were squirming like scorpions, and Ministers themselves were openly whipping for the measure. It is well that the public should be informed of this fact. The honorable and learned member for Corinella, with a tremor in his voice, declared that for the first time in his life he was compelled to vote against his party.

Mr. MCCAY.—I stated that I voted against the Bill without any reluctance, as will be seen by a reference to *Hansard*.

Mr. WILKS.—I must accept the honorable and learned member's denial, as it is the parliamentary practice to do so. I am sorry that it is the parliamentary practice.

AN HONORABLE MEMBER.—Is this a stone-wall?

Mr. WILKS.—If I thought that the Bill would be passed as it stands, I would "stone-wall" it for a fortnight. I notice that the Government whip is anxious to get the measure through. Will he be as anxious to tell his constituents that it will involve the appointment of ten, twenty, or 25 Judges? It is of no use saying that so many Judges will not be appointed. The legal members themselves, who are impartial on the subject, have exposed the whole business. They say that the cry is for more and more legal machinery, and more and more courts and Judges. So it will be in the case of the High Court. The Attorney-General himself admitted at the second reading stage that it was intended to appoint five Judges "for a start." When we give them more jurisdiction more will be wanted. The honorable member for North Sydney has stated that eight or ten will be required, and the Attorney-General did not deny it. There are so many out of the 25 I have mentioned. The honorable and learned member for South Australia, Mr. Glynn, has quoted a number of eminent authorities on this question. He quoted, amongst others, that eminent American writer, *Cooley*. There is no better authority. The honorable and learned member for Indi, who is so well acquainted with the constitutional writers, must have had many of his opinions shattered when *Cooley* was quoted. Some one interjected that Mr. Dooley ought to be quoted. Mr. Dooley, who is an excellent judge of human nature, would be a good authority to quote on the present occasion. It is a pity in the interests of the

Commonwealth that we have not got a Dooley here. Under cover of his humour Mr. Dooley exposes many abuses and absurdities, and he would be a powerful and useful member of this Chamber in exposing such abuses as will arise in connexion with the High Court. It was said by those who opposed federation that it was merely a game for the benefit of a gang of lawyers. I would not use such a phrase in this Chamber, but it almost deserves to be used, particularly as we have reason for believing that the appointees to the High Court will be chosen from what are called men of Parliamentary experience, acquainted with the Federal idea. What right have we to give jurisdiction to men of that character? Am I to understand that the Chief Justices of Australia—men like Sir Samuel Griffith, Sir Samuel Way, and Chief Justice Darley, who are of the very highest repute in their States—are not competent to carry out judicial duties for the Commonwealth? Am I to understand that those men are not head and shoulders above the persons alluded to as possessing parliamentary experience and acquaintance with the Federal idea? The most disinterested Judge, and one of the greatest federalists in Australia, Sir Samuel Griffith, has told us that no High Court is required yet. That is a very excellent reason for opposing the extension of this jurisdiction. The legal members of the House who have opposed this Bill are entitled to the thanks of the community. I especially allude to the honorable and learned member for Northern Melbourne, the honorable and learned member for Corinella, and the honorable and learned member for South Australia, Mr. Glynn. Some of them have voted against their party because they knew there was no necessity for the measure. I deeply regret that I have not the legal training which will enable me to oppose it as effectively as I should like to do. Why have the labour party been so significantly silent? All I have heard from them was an interjection from their leader, who said that for constitutional reasons, constitutional questions ought to be settled by the High Court. Surely we have a right to expect a more definite expression of opinion on the subject from them. Probably the honorable member for Bland is possessed of information to the effect that this High Court would confer benefits upon the section of the community which he represents.

Mr. Wilks.

Mr. WATSON.—Will the honorable member ask the leader of the Opposition what is his opinion on the matter?

Mr. WILKS.—I believe that the leader of the Opposition, being a busy man, did not look into the question sufficiently carefully. Now that he sees the enormous expense that will be imposed upon the public by the constitution of the High Court, he may take a different view. But why do not the labour party express themselves more clearly?

Mr. O'MALLEY.—Individual members of the party are in favour of the Bill, but not the whole party.

Mr. WILKS.—How many of the members of the party favour the measure?

Mr. O'MALLEY.—Six are against it and ten are for it.

Mr. WILKS.—When they are so equally divided, before extending the jurisdiction of the High Court, the benefit of the doubt ought to be given to so strong a minority.

Mr. SPENCE.—I expect that they will all vote for the Bill after the honorable member has finished!

Mr. WILKS.—Out of deference to the honorable member for Darling, who expresses his opinion of my speech in such a nice manner, I think I shall conclude the argument. I believe that the honorable member voted for the Bill. Now, perhaps, he is prepared to vote against it. If I have changed his opinion I have done good work.

Amendment (by **Mr. DEAKIN**) agreed to—

That the words, "(c) Admiralty and maritime jurisdiction," be omitted.

Mr. CONROY (Werriwa).—I should like to point out that in effect we are now considering whether we shall have not only three or five Judges, but even a greater number. At the Melbourne Federal Convention in 1898 two members of the present Ministry actually voted to reduce the number of Judges from five to three.

Mr. DEAKIN.—As a minimum.

Mr. CONROY.—These two members of the Ministry were the Minister for Trade and Customs and the Treasurer, and the reasons they gave for their votes were excellent. The words of the Minister for Trades and Customs on that occasion were—

Another reason . . . is the necessity for economy. We should be . . . careful lest we involve the Commonwealth in unnecessary expense.

The Treasurer said—

I am of opinion that this court will for many a long day have little or nothing to do. I cannot see where the work is going to come from . . . I believe the Federal Parliament will be of the opinion that a Chief Justice and two Judges will be all that are required for many a long day, and when the necessity arises, they will have full power to increase the number.

The reasons given by those two honorable gentlemen are as good to-day as they were then, and it is an important fact that the number of Judges was reduced from five to three.

Mr. ISAACS.—By one vote; and Queensland was not represented at the Convention, while Western Australia was doubtful.

Mr. CONROY.—We cannot get away from the fact that two members of the Ministry, both legal men, and anxious for economy, expressed the opinion that three Judges would be sufficient. There is no necessity to labour the point, but honorable members ought to be reminded that when they vote for the retention of this clause, they, in effect, are voting not only for five Judges, but for a great many more, even to the number of ten. As far back as 1891, the number of Judges actually proposed by Sir Henry Parkes was ten, and if that number was required for the jurisdiction then proposed it is required to day.

Mr. POYNTON (South Australia).—I regret very much that the Attorney-General will not concede the request made by a great many honorable members, because he must have seen, from the tone of the debate, that the opposition to this particular portion of the Bill has not come from this side alone. If we create this additional work for the High Court we shall to that extent relieve the States Courts, and we should be very careful not to duplicate jurisdiction which is already satisfactorily exercised by the latter. The Constitution is mandatory up to a certain point; but I believe that the creation of powers for the High Court at the expense of the States Courts would be resented throughout Australia, because, so far from being a decrease, it means an increase in expenditure. In Australia, with a handful of people, the Judicial system to-day costs close upon £600,000 per annum, or nearly as much as the cost of the whole of our defence forces. Under the circumstances it is no wonder that outside there is agitation for economy. The honorable member for North Sydney has shown in as good a speech as has been delivered on

the Bill, that the proposal of the Government is wrong "lock, stock, and barrel." While I believe a court of some kind is essential, I am of opinion that we have Judges in Australia quite capable of exercising the jurisdiction, and that their services ought to be utilized. But the decision come to last week has made that course impossible, and honorable members are reasonable when they consent to give the court the powers provided in the Constitution, but no further powers.

Mr. KENNEDY (Moir).—No doubt honorable members are anxious to proceed to a division, but this is a question of such vital importance to the whole of Australia that it is well to discuss it more in detail. I do not claim to speak with any legal knowledge as to the merits of the different proposals which have been made, but I can claim to be able to express an opinion as to the effect the Bill will have, in its economic aspect, on the general community. As the honorable and learned member for Northern Melbourne has already pointed out, the Government proposal means, simply, bringing a second dentist to operate when one is ample, and creating a new and increasing permanent item of expenditure. This is only the beginning of a number of similar proposals to be considered this session, and I desire at this, and every stage of the Bill, to enter my emphatic protest against incurring this increased permanent expenditure. Gentlemen whom we recognise as authorities have told us that there is justification for the Bill, while other equally competent authorities have, with as much emphasis, informed us that no justification exists. When doctors differ in a matter of the kind, the best course is to place the patient in charge of the most competent nurse to be found; and it is time the laymen of the Committee exercised their right to devote a little time to the consideration of what is the proper course to pursue. As I pointed out on a previous occasion, it was the aspiration of a great many Australians, as represented in the Convention, that we should have an Australian Court of final appeal. The Convention in their wisdom did not see fit to carry out that desire. When they drew up the original draft of the Constitution they provided for the establishment of a court to deal with all Australian matters, but having framed that elaborate machinery to deal with conditions which really did not

exist, they forgot when putting the finishing touches on the Constitution, to reduce it in any way. Some of the representative members of the Convention saw fit to point out, towards the close of its proceedings, that in their judgment it was unnecessary then to create an elaborate court, involving considerable expense, to discharge functions which were already being carried out by a very efficient tribunal. That fact has been repeated this evening by authorities in this Committee, and nothing I could say would emphasize the point they have made. I have heard no argument which would justify me in supporting at the present time the establishment of the High Court with all this elaborate machinery for original jurisdiction. It has been pointed out that it will not cause justice to be more speedily or cheaply obtainable by any citizen of the Commonwealth. That being so, I am at a loss to understand the reasons which impel the Attorney-General to follow the course he is now pursuing. It may be that the ideals held by him, as well as by the Prime Minister, are altogether above the level of the average citizen of Australia, and that we cannot follow them; but we all know that States Governments are restricted at present in their operations by their financial position. That being so it behoves us when dealing with exactly the same people to consider whether we should not hesitate before imposing any further burdens upon them until the necessity of doing so is established. We have had statements made from different stand-points, with a view of showing that the necessity exists, but no evidence of sufficient force has been given to justify what has been termed a nominal expenditure of £30,000 on a High Court. That cost within a few years will increase to at least £50,000 per annum. It may not appear to be much to a Government who are dealing with a revenue of millions per annum, but it is this fixing of permanent expenditure that in the past has proved a source of trouble to the States Governments.

Mr. WILKINSON.—Cannot the States correspondingly reduce the expenditure on their Judiciaries?

Mr. KENNEDY.—That hope was held out to many people when we were asked to accept federation.

Mr. WILKS.—It was a bait.

Mr. KENNEDY.—Exactly. I was foolish enough to plead that it would be possible to reduce the cost of the States judicial systems.

Sir JOHN QUICK.—The bait will not take this time.

Mr. KENNEDY.—No. I am going to have something more substantial.

Mr. McDONALD.—Kyabram has decided against this proposal.

Mr. KENNEDY.—The question is not what Kyabram has done; and as a matter of fact I have not been an enthusiastic supporter of the Kyabram proposals. The only argument put forward in support of this Bill is that advanced by the Attorney-General, that the judgments of this court may at some future time attract business to it. Is that a sufficient ground to support the creation of a court upon which the present expenditure will be nearly £30,000 per annum? It offers no justification whatever. We have also to remember that this is not the only item of permanent expenditure with which the Government propose to deal this session. We have other infants coming along in swaddling clothes—the Inter-State Commission, for example.

Mr. McCAY.—And the appointment of a High Commissioner.

Mr. KENNEDY.—That appointment may be absolutely necessary, but I am not dealing with it now. These various proposals will involve a very considerable expenditure, and we must deal with each on its merits. In this matter it would be well to hasten slowly. With all due deference to the Attorney-General, I would appeal to him to accept the suggestion which has been thrown out, and to agree to the omission of the clause extending, so to speak, the jurisdiction of the court. Unless that is done we shall have to fight the Bill right through. As a Government supporter I feel very strongly about this matter, and it was with considerable reluctance that I opposed the second reading of the Bill. I have no little sympathy with the Government generally, and because I have a full knowledge of the facts, I am in sympathy with some of their administrative acts which have met with considerable condemnation on the part of the press. It will be seen, therefore, that it is with some reluctance that I felt impelled to enter my protest against the incurring of this expenditure; and I appeal to

the Attorney-General, even at this stage, to say that he will accept the suggestion.

Sir EDMUND BARTON.—We are all ready for a division.

Mr. KENNEDY.—I do not feel ready for a division to be taken on this question. During the second reading debate I pointed out that honorable members sitting behind a Government are often induced to support the second reading of a measure because of a desire to avoid giving that Government a slap in the face; but during the complications which may subsequently ensue in Committee, those who are opposed to the Bill generally, but who have voted for the second reading because of these considerations, are frequently defeated. That is why I took the first opportunity to enter my protest against this proposal. It has already been pointed out that the five Judges whom it is proposed to appoint would not meet the requirements of this clause. We have been told that instead of a court of five Judges, with a maximum expenditure of £30,000 a year, we shall require a court of ten Judges, with an expenditure amounting to anything between £50,000 and £100,000 a year. However, as the hour is late, and I do not wish to detain honorable members, I shall take the next opportunity that offers for expressing my opinion on this subject.

Mr. G. B. EDWARDS (South Sydney).—I think it was inevitable that the debate on this clause should become practically a second reading debate, because the position of affairs has changed since a majority carried the Bill into Committee. We are now considering the details of the measure, and have come to the parting of the ways, and I feel it necessary to occupy a few minutes in explaining my own position. When the Bill was introduced last session, I confess that I did not know how to vote in regard to it. I am one of those who look upon the Constitution as worthy almost of veneration, and I was prepared to go to almost any lengths to carry its provisions into effect. I looked upon the establishment of the High Court in some form as absolutely necessary to keep faith with the framers of the Constitution, and I was, therefore, constrained to be very careful how I committed myself to take any part against the Bill. I was then prepared to agree to the appointment of the Chief Justices of the States as an interim arrangement during the initial stages of

Federation. But after I had committed myself to that temporary expedient, the Government practically withdrew the measure. Since then so long a period has elapsed that it seems necessary to me to make some permanent provision to obtain an interpretation of the difficult points which have already arisen, and which must arise in the future in regard to the meaning of the Constitution. Therefore, I listened very carefully to the speech of the Attorney-General, and, in common with other lay members, derived great assistance from the able statements of the other legal members who spoke. Having listened carefully to those speeches, I came to the conclusion that the creation of a High Court to exercise the functions contemplated by the Constitution was inevitable, and to that extent I am entirely in accord with the proposal of the Government. The Attorney-General, the Prime Minister, and the honorable and learned member for Indi demonstrated very fully the absolute indispensability of a High Court of some kind, and therefore I paired for the second reading of the Bill. But now that we have entered upon the consideration of the details of the measure, I am face to face with a number of minor difficulties. In keeping faith with the Constitution, we may go further than its provisions require us to go, and create a body which will be too expensive for our present purposes and circumstances. However, as I understand that it is the wish of the Government to report progress now, I will continue my speech to-morrow.

Progress reported.

House adjourned at 10.57 p.m.

Senate.

Thursday, 18 June, 1903.

The PRESIDENT took the chair at 2.30 p.m., and read prayers.

IMMIGRATION RESTRICTION ACT.

Senator PEARCE asked the Postmaster-General, *upon notice*—

1. Has the attention of the Government been directed to the statement made by Mr. Clayton T. Mason, Collector of Customs, Western Australia, in his letter of 27th February, 1903, re imported boiler-makers under contract, to the

effect that "his staff is very small and over-worked," that "he has no facilities for boarding vessels," and, in consequence, is not able to efficiently administer the Immigration Restriction Act, these statements being repeated in his letter of 20th April?

2. Will the Government take steps to inquire as to the accuracy of these statements?

3. If, on inquiry, they are found to be accurate, will they take steps to remedy the alleged state of affairs?

Senator DRAKE.—The answers to the honorable senator's questions are as follow:—

1. Yes.

2 and 3. The Minister for Trade and Customs reports that the staff is sufficient for Customs' purposes, but the Minister for External Affairs is considering whether it will not be necessary to make further provision by which the duties in connexion with the administration of the Immigration Restriction Act may be performed without any risk to its efficiency.

TRADE PREFERENCE.

Senator HIGGS asked the Postmaster-General, *upon notice*—

1. Has the Prime Minister seen the following statements published in the press of the 17th June, 1903:—"The exact terms of the cable message recently sent by Mr. Deakin, Federal Attorney-General, to the editor of the *British Australasian*, on the subject of Mr. Chamberlain's proposals, were disclosed yesterday, as follows:—"Federal and all State Governments approve Chamberlain's proposals. Only extreme section free-traders oppose. Immense majority assured when put before the country. Personally consider preferential tariffs indispensable foundation of empire unity?"

2. Is this cable message true?

3. Were the State Governments consulted before the above message was sent?

4. Has the Prime Minister seen the following reference by the Premier of Victoria (Mr. Irvine):—"Whether Mr. Deakin is correctly reported or not, the matter cannot be allowed to pass without comment, inasmuch as to do so would imply acquiescence in the view that this Government concurs in Mr. Chamberlain's policy. The Government has not expressed any view either for or against the suggested policy, and it is intended to communicate that fact to the editor of the *British Australasian*, through the Agent-General for the State?"

5. Will the Prime Minister be good enough to state what are Mr. Chamberlain's proposals?

6. Are the members of the Federal Government agreed on the details of preferential trade so far as they have been outlined by Mr. Chamberlain?

7. Will the Prime Minister give the Parliament an opportunity of discussing the proposals at an early date?

8. Until Parliament discusses the proposals, is it wise for a member of the Ministry to give the British electors the impression that the public of the Commonwealth are—with the exception of certain free-traders—favorable to preferential trade?

Senator DRAKE.—The answers to the honorable senator's questions are as follow:—

1. Yes.

2. The Attorney-General states that the report is correct, and it is a correct expression of his personal opinion.

3. No.

4. Yes.

5. The fullest statement of these proposals which I have seen is the report in this morning's newspapers of a speech delivered by Mr. Chamberlain at Birmingham.

6. No: as the details have not been outlined by Mr. Chamberlain, so far as the Government is aware.

7. Parliament will be consulted when it is considered that the proper time has arrived.

8. Mr. Deakin's message was the reply to a question telegraphed by the *British Australasian*, a paper published in London. It embodied his personal opinion, which, in the judgment of the Prime Minister, he was free to give.

STANDING ORDERS.

In Committee (consideration resumed from 17th June, *vide* page 1011):

Standing Order 421—

The following motions are not open to debate shall be moved without argument or opinion offered, and shall be forthwith put by the President from the Chair and the vote taken:—

(a) That the Senate do now adjourn.

(b) That the Senate do now divide.

(c) That this debate be now adjourned.

Senator Lt.-Col. NEILD (New South Wales).—I move—

That paragraph (a) be omitted.

During the past two years we have not been permitted by the temporary standing orders to debate the final motion for adjournment. In the majority of British Legislatures the rule is to permit a member, on that motion, to mention matters which require redress. At the present time we can only mention a matter which appears to be of urgency, by going through the undesirable process of moving the adjournment of the Senate, interrupting the whole business, and perhaps provoking a debate which may last hours on a question which might fairly be dealt with in a few moments at the end of the sitting. It must be patent to honorable senators that it is an undesirable thing to be continually upsetting the whole course of business by formally moving the adjournment of the Senate at the commencement of the sitting. I believe that it would make for the saving of time if we had, as the members of other Legislatures have, the opportunity of dealing with matters of grievance and urgency on the final motion for adjournment.

Senator DRAKE (Queensland — Postmaster General).—I presume that the members of the Standing Orders Committee had some good reason for putting this provision in the rule, and I can hardly understand its being struck out without a word from some member of that body. It appears to me that if the other two motions are to be put without argument or opinion offered, it is necessary to impose that limitation also in the case of the motion for the adjournment of the Senate. The right to debate the motion should not be given unless it is carefully safeguarded, and then it might, on special occasions, be of advantage in enabling honorable senators to ask questions, as they do sometimes. If it could be moved at any time and debated we might as well give up all attempts to regulate business. I should like to hear some opinions offered before the question is put.

Senator Sir RICHARD BAKER (South Australia).—I have stated once or twice, and I think that the statement is incontrovertible, that all these standing orders are designed to introduce the most convenient practice for getting on with the business of the country. For over two years this rule has been in force. Has it led to any inconvenience? Has it not worked well? If that is so, why not leave it as it is? I do not for a moment suggest that it involves any great principle. The majority of the standing orders are regulations for the conduct of our own business. I have lived under this rule for 35 years, and have never known it to work inconvenience. I do not think that any one can say that it has worked inconvenience in the Senate. Before the business of the day is called on, honorable senators have an opportunity of bringing forward any question which they think ought to be submitted at once. Is not that sufficient? They will also have the opportunity of ventilating any grievance which they may have whenever a Bill which the Senate may not amend comes from the other House. Is not that sufficient? I ask the Committee to consider this matter simply from the business point of view. Shall we get on better with the rule or without it? If the motion is to be debated, it certainly will be very inconvenient to some senators, especially on a Friday. I think that we should consider not only the convenience of the Senate, but the convenience of its members generally. There is no doubt that every senator must

put aside his own convenience if the business of the Senate demands it. But will it not give unnecessary opportunities for debate if the paragraph is omitted? I hope that the rule will stand as printed.

Senator Lt.-Col. GOULD (New South Wales).—Although I am a member of the Standing Orders Committee, still I am unfortunately in conflict with Senator Baker on this question. When I found that under the temporary rules it was impossible to debate a matter on the final motion of adjournment I was quite astounded, for I had no idea that the Parliament of any State had such a rule in its code. Senator Baker has said that he has lived under the rule for a great many years. Those of us who come from New South Wales, and I believe those who represent Victoria and Queensland, have lived under an entirely different rule. That fact might be regarded as a very strong reason why the amendment should be carried. It is perfectly true, as Senator Baker has said, that if an important matter arises which requires debate and consideration, a senator may move the adjournment of the Senate at the beginning of the sitting. But it should be borne in mind that only one such motion can be moved on the same day, and that it must relate to one subject matter. In the Legislative Assembly of New South Wales, where the adjournment was very frequently moved at the beginning of the sitting, the standing order had to be altered so as to provide that it could only be moved—

For the purpose of discussing a definite matter of urgent public importance, the subject of which shall be first stated to the Speaker in writing.

A small box resembling a ballot-box was provided by the Speaker for the reception of these notices, and on some occasions as many as eight or ten notices would be placed in the box by honorable members who desired to debate certain questions. He had to take by chance one of these motions out of the box. The number of matters of urgency which members wanted to have discussed was large. It is true that they had an opportunity of discussing them at the close of the business of the day, but they thought it better to take an earlier opportunity. Unless a matter is of very great importance it is not wise to bring it forward in the early part of a sitting, when there are great inducements

to talk which do not exist later in the day. A member who has a question which he wants to have discussed often says—"I do not like to waste three hours of the time of the House in debating this subject and delaying matters of importance; I shall have an opportunity at the close of the sitting at 10 or 11 o'clock to make known my opinions." At that time the Government may be able to give the member the satisfaction he requires. It also has to be remembered that at a late period of the evening an honorable member will probably condense his remarks and speak only for five or ten minutes, whereas earlier in the day he would be inclined to take his full half-hour. The question will not be debated by others at such great length as would be the case earlier in the day. In this way the practice which I advocate conserves time and gives half-a-dozen members an opportunity to speak briefly upon subjects in which they are interested before the adjournment. Of course there are other opportunities of dealing with subjects of importance, but the bringing of them under the notice of the House on the motion for the adjournment has the effect of saving time. Take the case of a member who makes himself a bore and a nuisance by frequently moving the adjournment. At the close of a sitting it is possible to count him out. He will then have had his opportunity, and the subject will be closed. In New South Wales a subject that had been once discussed on the motion for the adjournment could not be discussed again in the same session. I presume that we shall adopt that rule also. Senator Baker has mentioned the inconvenience of the sittings being prolonged on Friday afternoons, when many honorable senators wish to get away by train to South Australia and New South Wales. I should have no objection, speaking personally, to amending the standing orders in such a way as to provide that on Friday afternoons there should be no debate on the motion for the adjournment. We should thus conserve the interests of honorable senators who wish to get away earlier in the day on Friday, and should not unduly restrict the opportunities of others to discuss matters of importance. I hope that the Committee will accept the amendment with the modification that it shall not apply on Fridays.

Senator BARRETT (Victoria).—If only upon the score of convenience, I have no

hesitation in supporting Senator Neild's amendment. It is very convenient to be able, upon the motion for the adjournment, to lay before the Senate matters of importance. It may not be as convenient to do so earlier in the day. There are occasions when matters of urgency arise during the day, and there is no opportunity of discussing them, unless latitude is given in the way suggested. I was very much surprised when we commenced business in the Senate to find that no latitude of this character was given to honorable senators. The rule which prevailed in the Victorian Legislative Assembly was a good one—that motions for the adjournment at the commencement of a sitting must be supported by at least twelve members rising in their places. But it was always permissible upon the motion for the adjournment at the close of a sitting to discuss grievances or questions of importance in connexion with the business of the country. I think that is a good rule. I agree with all that has been said by Senators Neild and Gould. I believe that the proposed practice will save time, because at the end of the day honorable senators will not be inclined to go as fully into matters as they would do if there were more time at their disposal. I shall support the amendment.

Senator Lt.-Col. NEILD (New South Wales).—I wish to make a remark in reply to what Senator Baker has said with reference to the opportunities we have of discussing questions on Money Bills. It will be within the recollection of honorable senators—certainly it is within my recollection—that the President has pulled up honorable senators in attempting to discuss public questions on such Bills. He pulled me up when I was discussing a matter of public interest in connexion with the Customs administration for instance. On one occasion I had to argue that the Bill before us was one for raising money, and that I was justified in discussing the expenditure of the money so raised. I refer to that simply to show that we have not any great amount of latitude to discuss questions of a general character upon Money Bills. With all respect to Senator Baker, I would point out that we are not bound to slavishly follow the practice of the South Australian Legislature, merely because we have been using South Australian standing orders for two years. Why are we passing new standing orders at

all if we are not to improve or alter the past practice? We are only wasting time. Let us tear the document up, scatter the work of the Standing Orders Committee to the four winds, and proceed with something else. We also might as well copy the South Australian statutes and make none of our own. I protest against the idea that because we have done something in the past we must never alter it. At that rate we should never have had the Federation; we should have been content with the old system. We have already, in the standing orders which we have adopted, made an immense innovation upon the old practice in allowing three speeches to be made by the mover of a motion; at any rate, the new standing order seems to me capable of being read in that way. Hitherto the mover of a motion has had the right to reply, but not to speak to an amendment. Therefore we have gone back on our former practice, and on this fetish of the South Australian standing orders. It is a perfect fetish to some honorable senators. No doubt the South Australian standing orders are in many respects admirable, as is shown by the fact that we are taking extracts from them wholesale. But if we worship the sun, surely we may also recognise that the sun has some spots upon it; and when we have an opportunity of removing the spots from the brilliant orb of the South Australian standing orders, we ought to do so. I have moved this amendment with a view of removing one of those sun spots, and of conserving the time of the Senate. I am quite willing, however, if it be the general desire, to alter my amendment in the direction indicated by Senator Gould, so as to meet the convenience of those who desire to leave Melbourne on Friday afternoons.

Senator MCGREGOR (South Australia).—I do not think there is anything very serious to argue about. The sense of the Committee is in favour of Senator Neild's amendment. A great number of us have a large amount of admiration for the South Australian standing orders, but we are not so keen about them as Senator Neild may imagine. I, for one, have no fear of any serious abuse in connexion with a suggestion which, to my mind, is an improvement; because I believe that no senator would have the hardihood to take advantage of a provision like this to provoke a

discussion at a late hour of the evening. If the Government perceived any danger of a senator embracing such an opportunity to "slate" them, all they would have to do would be to keep the business going until the last train was about to start, and then everybody would be anxious to get away. It would be almost impossible if, at half-past eleven, a senator got up to discuss a serious grievance, to keep a quorum. There would be a count-out very soon. In that way there would be a means of checking any abuse. If a senator wishes to bring forward a grievance which is worthy of being debated, he ought to have an opportunity, and the most convenient time would be on the motion for the adjournment. I do not think that any alteration should be made in the case of Friday afternoons. The amendment should apply all round. If a senator wishes to bring forward a grievance on a Friday afternoon he has as much right to do so then as on a Thursday evening. The amendment can do no harm and should be allowed to be carried as it stands.

Senator DRAKE.—I wish to draw Senator Neild's attention to the fact that Standing Order 182 gives any honorable senator the opportunity of speaking upon a subject which is not relevant to a Money Bill. He may not have noticed that we have already agreed to this standing order, which says that—

In Bills which the Senate may not amend, the question "That this Bill be now read a first time" may be debated, and the debate need not be relevant to the subject matter of such Bill.

That gives an opportunity, every time a Bill which the Senate may not amend comes down, to discuss any subject.

Senator Lt.-Col. NEILD.—Perhaps once a month.

Senator DRAKE.—That, I think, should be sufficiently often for an all-round discussion upon grievances. I mention this in order to show that honorable senators are not so entirely without opportunity for discussing subjects generally as might be imagined from what has been said. I hope honorable senators thoroughly understand what will be the effect of this amendment if it is carried.

Amendment agreed to.

Standing Order, as amended, agreed to.

Standing Order 422 agreed to.

Standing Order 423—

If the motion "That the Senate do now divide" be carried, the Senate shall vote on the question immediately before it, without further debate or amendment; but if the motion to divide be lost the debate should be resumed where it was interrupted.

Senator PEARCE (Western Australia).

—In order to bring this into line with the standing order dealing with this matter in Committee, as we have amended it, I move—

That the following words be added—"Provided that a vote on the question that the Senate do now divide shall require at least thirteen affirmative votes."

Honorable senators having already agreed to a similar amendment, it is unnecessary that I should repeat what has already been said.

Amendment agreed to.

Standing Order, as amended, agreed to.

Standing Orders 424 to 427 agreed to.

Standing Order 428—

If any senator—

- (a) persistently and wilfully obstructs the business of the Senate; or
- (b) is guilty of disorderly conduct; or
- (c) uses objectionable words, and refuses to either explain same to the satisfaction of the President, or withdraw such words and apologize for their use; or
- (d) persistently and wilfully refuses to conform to the standing orders, or any one of them; or
- (e) persistently and wilfully disregards the authority of the Chair;

the President may report to the Senate that such senator has committed an offence.

Senator Sir RICHARD BAKER (South Australia).—I intend to ask the Committee to amend this standing order by the omission of the words, "either explain same to the satisfaction of the President, or withdraw such words and apologize for their use," with a view to inserting in lieu thereof the words "withdraw such words." My object is to allow an honorable senator who has been named, to offer an explanation or apology in all cases. It will be seen that under the standing order an honorable senator is only given an opportunity of offering an apology and explanation under paragraph (c), and I think he should have that opportunity under all the paragraphs. I must ask the Committee to recollect that when these standing orders were reported, the Standing Orders Committee of the House of Representatives had not reported their standing orders. They have since reported them, and it will

be found that they have altered the practice. The practice they recommend is that when a member of the House has been named, he shall in all cases be entitled to stand up in his place and explain or apologize. I think that it is advisable for several reasons that we should follow the recommendation of the Standing Orders Committee of the House of Representatives in this matter. In the first place what they propose is not so drastic as what is here proposed, and in the next place it is advisable that the standing orders of both Houses should be similar upon a question like this. In the third place I think that it is possible we may save a long debate if we permit latitude in these cases to any honorable senator who is named to explain his conduct. It is quite true that the conduct objected to has been in the view and hearing of honorable senators, and it may therefore, perhaps, be considered superfluous from one point of view to ask for an explanation. But I think it cannot do very much harm to permit an honorable senator who is named to make an explanation. I confess that I have altered my personal opinion upon this standing order since the Standing Orders Committee reported. Speaking for myself, and not for the Standing Orders Committee, I perhaps did not allow sufficient weight to the consideration that we have only 36 members of the Senate as against 678 members in the House of Commons. This is the House of Commons rule, but what might be wise and even necessary for a House of 678 members might be objectionable in a House of 36. There is another consideration, that judging by the past, these standing orders are not required at all, because the conduct of honorable senators has been such that there has never been even a suspicion that any honorable senator on either side could have been named. It is however, advisable to have such a standing order as this for the future. But I think we might make it a little milder than it is at present. I therefore move—

That the words "either explain same to the satisfaction of the President, or," in paragraph (c), be omitted.

Senator DAWSON (Queensland).—This is an important matter, and I should like to know exactly what is proposed. What does the honorable and learned senator propose to insert in lieu of the words which he suggests should be omitted?

Senator Sir RICHARD BAKER (South Australia).—Nothing at all, because I propose when we come to Standing Order 430 to include these words—"When any senator has been reported as having committed an offence, he shall be called upon to stand up in his place and make any explanation or apology he may think fit."

Amendment agreed to.

Amendment (by Senator Sir RICHARD BAKER) agreed to—

That the words "and apologize for their use," in paragraph (c), be omitted.

Amendment agreed to.

Standing Order, as amended, agreed to.

Standing Order 429 agreed to.

Standing Order 430—

When any senator has been reported as having committed an offence, a motion may immediately be moved—"That such senator be suspended from the sitting of the Senate." No amendment, adjournment, or debate shall be allowed on such motion, which shall be immediately put by the President.

Amendments (by Senator Sir RICHARD BAKER) agreed to—

That the words, "He shall be called upon to stand up in his place, and make any explanation or apology he may think fit, and afterwards," be inserted after the word "offence," line 2.

That the word "immediately," line 2, be omitted.

Senator PEARCE (Western Australia).—The provision that no amendment, adjournment, or debate shall be allowed on such a motion seems to me to be a very arbitrary method of dealing with the matter.

Senator Lt.-Col. GOULD.—It is better that there should be no debate. It would only result in an acrimonious discussion.

Senator PEARCE.—Is it not intended that the senator who moves the suspension of an honorable senator shall be allowed to state his reasons?

Senator Sir RICHARD BAKER.—No.

Standing Order, as amended, agreed to.

Standing Order 431—

If any senator be suspended, his suspension on the first occasion shall be for the remainder of that day's sitting; on the second occasion, for one week; and on the third or any subsequent occasion, for one month.

Senator DAWSON (Queensland).—I should like to ask Senator Baker if there is any reason why the latter portion of the standing order should be so arbitrary. I have no intention of contesting it, but I think a little more discretion might be

allowed. Under the standing order as proposed, it is imperative that the suspension on a third or any subsequent occasion shall be for one month. I should like to hear whether honorable senators do not think that some discretion in the matter should be given to the Senate.

Senator Sir RICHARD BAKER (South Australia).—I remind honorable senators that it is a very serious thing indeed for the President to name an honorable senator, and it will not be done except under the very greatest provocation, because if the President named an honorable senator, and a motion for his suspension were not carried by the Senate, he would be placed in a very difficult position. During the time I occupied the position of President of the Legislative Council in South Australia—eleven years—I only named a member of the Council once, and Senators Charleston and McGregor can certify that there was immense provocation, and that the legislative councillor concerned was not named without good reason. Here we have the certainty that no honorable senator will be named without the greatest provocation, and he should not be named unless he has wilfully and persistently disobeyed the orders of the Chair, and infringed the standing orders. But if he persists in such conduct for a third time he certainly should be punished. Business would be impossible if some punishment were not meted out. We provide that for the first offence an honorable senator shall be suspended for the remainder of the sitting.

Senator DAWSON.—That may be the worst offence of all.

Senator Sir RICHARD BAKER.—It may be; but if an honorable senator habitually misconducts himself, surely he ought to be punished. I do not know whether there is any great magic in the provision for one month's suspension for a third offence, but that is the period prescribed in the proposed standing orders of the House of Representatives. It is advisable to have the standing orders of both Houses identical if possible in regard to this question.

Senator STEWART (Queensland).—It is extremely undesirable that this standing order should pass as it stands. I hold that view, because we are placed in a rather peculiar position. If an honorable senator were suspended for a month, the State which he represented would be deprived of

its full measure of representation for that period, and that is a consideration which ought to weigh with us.

Senator FRASER.—That suspension would probably be an advantage to the State.

Senator STEWART.—That is a matter which the State concerned would be best fitted to judge. I think that the ends of justice would be served if an honorable senator were suspended for each offence for the remainder of the sitting. I do not think that we should go further. If an honorable senator were guilty of habitual misbehaviour, his constituents would be the proper judges to determine what should be done with him. If we have the right to deprive any State of its full measure of representation for any considerable period, we ought not to exercise it. I trust that the Committee will take these considerations into account, and amend the standing order accordingly.

Senator WALKER (New South Wales).—There is a great deal of force in the contention put forward by Senator Stewart, that a State should not be deprived of its full measure of representation for one month. I move—

That the words "one month," line 5, be omitted, with a view to insert in lieu thereof the words "a fortnight."

Senator HIGGS (Queensland).—The members of the Standing Orders Committee must have been led to adopt a standing order of this kind owing to some unhappy experience with regard to certain persons in the Commonwealth. They seem to be under the impression that, instead of dealing with honorable senators, they are dealing with a lot of common criminals—people who go round and steal, or who are probably confirmed drunkards.

Senator DOBSON.—The honorable senator really does not mean that.

Senator HIGGS.—I cannot understand why the provision that the Senate shall deal with each offence on its merits was not allowed to stand. Why should any particular sentence be provided in this standing order?

Senator PLAYFORD.—If we were to substitute the word "may" for the word "shall," I think that would meet the case.

Senator HIGGS.—If that alteration were made, the standing order would not be so objectionable. It would be a disgrace to the Senate to have a standing order such as is now proposed. Honorable senators, with

the exception, perhaps, of Senator Fraser, cannot think that an honorable senator who has the confidence of the people of the State which sent him here, with a considerable backing of votes, is likely to offend in such a way that he ought to be sentenced to a month's suspension, or to what would be practically a month's imprisonment. I do not entertain such a poor opinion of the elect of the Commonwealth. The standing order should not be agreed to.

Senator Lt.-Col. GOULD (New South Wales).—This standing order is supposed to work automatically, and the period of suspension should be stated definitely, instead of being left to the Senate for determination when a case occurs. If the amendment suggested by Senator Playford, and approved by Senator Higgs, that the Senate "may" suspend an offending member for a month or a fortnight, were made, the matter would necessarily involve a debate which would probably be very acrimonious, and extend over a considerable period, to the detriment of our general business. It would be much better to have some specific punishment fixed. Senator Stewart's proposal, that a man should be suspended only for the remainder of the sitting, would not act satisfactorily. If an honorable senator were suspended to-night, for example, he would attend to-morrow, and might be prepared to create another scene. He would be again suspended, and that state of affairs might go on from day to day.

Senator STEWART.—Why should it not be so?

Senator Lt.-Col. GOULD.—Because we desire to conserve the time of the Senate. If an honorable senator became so objectionable he would not be of much service to his constituents, and probably, as Senator Fraser has said, those constituents would be much better served by his absence from the Senate. The Senate has power to expel an honorable senator for misconduct, but is it not better that we should have certain specific rules which will lead to no debate when a matter of this kind is being dealt with, than to have a provision which would necessarily involve debate, and might end in a representative of the Government having to propose the expulsion of the honorable senator?

Senator DAWSON.—Does the honorable and learned senator think that a month's suspension should be provided?

Senator Lt.-Col. GOULD. — I adhere to that provision, because it is similar to one contained in the standing orders of the House of Representatives, and because it is generally adopted. Take the case of an honorable senator who happened to offend to-day. He would be suspended for the remainder of the sitting. If he were a sensible man he would realize that he should not have behaved in the way which led up to his punishment; but if he misbehaved again, that misbehaviour would be deliberate, and under the standing order he would be subject to further punishment. I think it is necessary to superadd the punishment to be inflicted in a case in which an honorable senator constantly offends. Whether the punishment for the third offence should be a month or a fortnight might be left to the discretion of the Senate. I am inclined to leave the standing order as it is, but if it is altered as suggested I shall not complain.

Senator Lt.-Col. NEILD (New South Wales).—I should like to ask the President whether he thinks that the Senate possesses an inherent power of expulsion apart from the standing orders?

Senator DOBSON.—Certainly it does.

Senator Lt.-Col. NEILD.—I assume that it has that power, but Senator Gould's remarks seemed to imply that we should have to take special power under the standing orders.

Senator Lt.-Col. GOULD.—I have no doubt as to the power of the Senate to expel an honorable senator if it thinks fit to do so.

Senator Lt.-Col. NEILD.—Then I do not think we need trouble about providing for frequent misconduct on the part of an honorable senator. If an honorable senator were punished for misbehaviour twice, it would be right to expel him—if two lessons were not sufficient for him, it would be about time for him to go. I would not pile up penalties under the impression that any honorable senator is likely to be continually disorderly. I take it that there will never be a case of disorder except when an honorable senator is under the influence of some special excitement. We know that men sometimes give way to temper, and create scenes. It happens all over the world, and the Senate is not likely to be any more immaculate than is any other legislative body. But it is impossible to imagine that there will

be any persistent misconduct on the part of an honorable senator sent here by the whole body of electors of a State. We ought not to burden our standing orders with regulations imposing penalties under the impression that honorable senators will misconduct themselves intentionally and persistently. I protest against loading the standing orders with any proposal of the kind.

Senator SAUNDERS (Western Australia).—I think it would be well to allow the standing order to remain as it is. If an honorable senator is guilty of misbehaviour, he deserves to be suspended for the day for the first offence. As the President has said, such a punishment is by no means severe. The standing order provides that for a second offence an honorable senator shall be suspended for a week. No doubt an honorable senator so punished would recognise the true import of that suspension, but if he offended a third time, one month's suspension would not be too great a penalty. The knowledge that he was liable to a month's suspension for misbehavior would prevent any honorable senator from behaving in a disorderly manner. We have to provide standing orders which will stand for all time, for it is highly undesirable that we should be continually tinkering with them. It is our duty to look at the matter from every point of view, and to endeavour to make standing orders which will not require amendment. In these circumstances, I think it would be far better to agree to the standing order as submitted.

Senator STEWART (Queensland).—I desire that the standing order should be amended at a point earlier than that named by Senator Walker.

Senator WALKER.—By leave of the Senate I shall temporarily withdraw my amendment.

Amendment, by leave, withdrawn.

Senator STEWART (Queensland).—I move—

That the words "on the first occasion" be omitted.

If the amendment is agreed to I shall move a further amendment so as to make the standing order read as follows:—

If any senator be suspended his suspension shall be for such period as the Senate may terminate.

Senator Lt.-Col. GOULD.—That would give rise to discussion and to a great deal of unpleasantness.

Senator STEWART.—The honorable and learned senator does not appear to realize the importance of taking such a step as suspending an honorable senator for a single moment from the performance of his duty.

Senator Lt.-Col. GOULD.—I do.

Senator STEWART.—Let each offence be dealt with on its merits. I wish to leave the fixing of the punishment to the Senate. Only yesterday an honorable senator actually suggested that the members of the labour party ought to be both gagged and flogged. If those words are not objectionable, I do not know what words can be objectionable. We ought to approach the consideration of this question in a broad spirit. We must look beyond the senator to the people whom he represents. In suspending a senator for a sitting, or a week, or a month, we are not only punishing him, but doing an act which is of very much more consequence—depriving the people who sent him here of their proper share of representation for the period of his punishment. We ought to give the advantage to the people who send a senator here. If a senator commits an offence of this kind, to suspend him for the remainder of the sitting ought to be quite sufficient punishment. If on the second day he offends again, repeat the punishment. If on the third day he offends again, repeat the punishment. Probably on the fourth day he may come here clothed in his right mind. It is exceedingly improper, under any circumstances except the most extreme, to deprive a State of its share of representation. It seems to be the height of folly to say that for a first offence a senator shall be punished by suspension for the remainder of the sitting; for a second offence by suspension for a week; for a third or any subsequent offence by suspension for a month, while the offences may be altogether different in their heinousness. The first offence might be the worst of all, and the last offence might be a most trivial one.

Senator Sir RICHARD BAKER (South Australia).—Senator Neild has asked me for my opinion on the question—Can we expel a senator? Undoubtedly we can. I have called the attention of Senator Neild and others to two sections in the Constitution Act. Section 49 says—

The powers, privileges, and immunities of the Senate shall be such as are declared by the Parliament, and, until declared, shall be those of the

Commons House of Parliament of the United Kingdom.

We cannot by standing orders curtail or extend our privileges. Our standing orders are framed, and have validity only under the following section :—

Each House of the Parliament may make rules and orders with respect to—

1. The mode in which its powers, privileges, and immunities may be exercised and upheld.

We cannot by standing orders give ourselves any new powers, privileges, and immunities. Unless it is done by statute, they remain the same as those of the House of Commons. If these standing orders proposed to give us any new power which the House of Commons does not possess they would be *ultra vires*, and if they proposed to limit our powers they would be equally *ultra vires*, because by standing orders the Senate can only provide for the mode in which its powers, privileges, and immunities, may be exercised and upheld, and for the order and conduct of its business and proceedings.

Senator GLASSEY (Queensland).—I am sorry that I cannot see my way clear to support the amendment. Of course, Senator Stewart, like myself, has great faith in the leniency and fairness of his fellow senators; but I can conceive that, in a period of great excitement, even the Senate may resort to extreme measures, and perhaps exclude a senator who was considered objectionable for a considerable period. I am not anxious to see the standing order passed without the term of punishment being specified. I have gone through periods of excitement in the Legislative Assembly of Queensland. I remember times when it has got into such a condition of mind that if the occasion had arisen I believe it would have excluded a member for the session. In many instances it was grossly unjust in its treatment of certain members who were considered objectionable. We are only framing this standing order for times of extreme excitement; and, if the period of punishment is not specified, gross injustice may be done, not only to a senator, but also to the State which he represents. If a senator by his conduct makes himself thoroughly objectionable, undoubtedly he ought to be punished, because every legislative body must have some rules for maintaining order and good conduct. If a senator grossly offends those who may be endeavouring to do the work of the country in the

best way, he ought to be suspended for a day, and if on another occasion he makes himself grossly obnoxious to his fellow senators, surely additional punishment ought to be inflicted. I do not think that he should be suspended for a month. It will be reasonable and fair if he is suspended for fourteen days. I do not wish to go to the extreme limit in the matter of punishment, nor do I desire to leave the rule in such a loose form that under certain circumstances the majority might not only act unfairly in a period of excitement, but on many occasions might act unfairly with the deliberate object of excluding a senator. I am sure that Senator Stewart can imagine that some circumstances may arise which may put the Senate into a condition of mind like that which he witnessed in the Queensland Assembly ten years ago. I hope he will recognise that it is unwise to leave the rule in a loose form.

Senator DRAKE.—There is one insuperable difficulty in carrying out the idea suggested by Senator Stewart. A motion has to be made for the suspension of the senator for a certain time, and that has to be carried without debate or amendment. The term of suspension really will be fixed by the senator who moves the motion, probably a Minister. Supposing that a Minister proposes that the offending senator be suspended for a week. Seeing that there can be no amendment or debate, the motion must be either carried or negatived. But Senator Stewart desires that the term of suspension shall be fixed by the Senate.

Senator STEWART.—I ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Senator DRAKE.—I am glad that the amendment has been withdrawn. I am inclined to think that suspension for a month is rather too severe punishment. I think that, without detracting from the salutary effect of the standing order, the suspension might very well be limited to fourteen days. I take it that these successive suspensions refer to offences committed in the same session, so that it would only be in the case of a senator's third offence in the same session that this would apply. It is only in extreme cases that the heavier penalty would be inflicted. I admit that the standing order is not quite clear, and I think an alteration should be made.

Amendment (by Senator WALKER) agreed to—

That the words "one month," line 5, be omitted, and the words "fourteen days" inserted in lieu thereof.

Amendment (by Senator DRAKE) agreed to—

That the following words be added—"Such suspension occurring within the same session."

Standing Order, as amended, agreed to.

Standing Orders 432 and 433 agreed to.

Standing Order 434—

If any senator shall wilfully disobey any order of the Senate, he may be ordered to attend in his place, or, if he is under suspension, at the Bar, to answer for his conduct, and unless his excuses be deemed satisfactory the Senate may direct the Usher of the Black Rod to take such senator into custody

Senator DAWSON (Queensland).—I think it is just as well to alter the word "excuses." The word used should be "explanation." I move—

That the word "excuses," line 4, be omitted, and the word "explanation" inserted in lieu thereof.

Amendment agreed to.

Standing Order, as amended, agreed to.

Standing Orders 435 to 440 agreed to.

Joint Standing Order—

Every Public Act of the Parliament, commencing No. 1, from the day of . . . , 1901, shall be numbered in Arabic figures, and in regular arithmetical series in the order in which the same shall be assented to by His Excellency the Governor-General, or in which the King's assent thereto is made known, together with the number of the year in which such Act shall receive the Royal assent.

Senator Sir RICHARD BAKER (South Australia).—I desire to move an amendment in this standing order which relates to joint standing orders, for the reason that since the Committee reported the Government have adopted a slightly different course of procedure than that which was contemplated. It is necessary to conform to the practice of numbering the statutes which the Government have adopted by using the words "in arithmetical series of each year." I move—

That the words, "commencing No. 1, from the . . . day of . . . , 1901," be omitted; and that after the word "series," line 4, the words "for each year" be inserted.

Amendment agreed to.

Joint Standing Order, as amended, agreed to.

Joint Standing Order (Disagreement between the Houses) agreed to.

Progress reported

SUGAR BONUS BILL.

SECOND READING.

Senator DRAKE (Queensland—Postmaster-General).—I move—

That the Bill be now read a second time.

It will be remembered that last session, when the Tariff was going through, a proposal was made to give a certain amount—we will call it a bonus—by way of encouragement, to persons who should grow sugar-cane by means of white labour only. The encouragement took this form in the Tariff—that whereas there was to be an Excise duty of £3 per ton on all sugar manufactured within Australia, a payment equivalent to £2 per ton of manufactured sugar was to be given to those who grew their cane with white labour only. There was some doubt at the time as to how that provision would operate, and before the payments commenced to be made the amounts collected in excise, in the various States, were paid into a trust fund. From that fund the bonuses were paid. The balance of the money so collected has not yet been distributed to the States, with the exception of a sum that has been, as it were, advanced. There has been no final settlement because the exact basis upon which those payments shall be made to the States from the trust fund has not yet been decided. It has turned out in operation that this amount of £2 per ton, if deducted merely from the excise paid in respect of sugar grown by white labour, would fall inequitably on the various States. During this period the quantity of sugar grown by the aid of white labour was 30,000 tons. That is to say, bonuses have been paid to the amount of £60,000. The proportion of sugar grown by white labour, as compared with black labour, in Queensland, is as 15 to 85. The proportions in New South Wales are exactly the reverse, being 15 grown by black labour and 85 grown by white labour. A great difficulty has arisen because, notwithstanding all the care that has been taken, the sugars become so inexplicably mixed in the process of refining, that it is not possible to trace sugar from cane grown by black labour, as distinguished from that from cane grown by white labour. We must treat the two kinds of sugar as being indistinguishable after refining. Therefore, supposing the payment of the bonuses were made as a rebate of £2 per ton from the £3 per ton excise, the

burden of the policy we have pursued would fall entirely upon those States that are consuming locally-produced sugar. The proportions of locally-produced and imported sugar consumed in the States vary considerably. I do not think that any one could possibly have foreseen that the burden of assisting the sugar-planters in making the change from black labour to white labour was going to fall exclusively upon the consumers of locally-grown sugar; and I do not think that any one believes that that would be an equitable arrangement. If it were followed out it would lead to most extraordinary results: because the States that use imported sugar receive £6 per ton Customs duty upon that sugar, whereas the States which consume locally-produced sugar only get at most £3 per ton. If that state of things were to exist permanently it would be an advantage to the sugar-producing States to export their sugar, and to import sugar for their own consumption.

Senator HIGGS.—What State would do that?

Senator DRAKE.—I do not say that any State would do it, but it was suggested in a letter written by the Premier of New South Wales that such a thing as that might possibly occur. I use the argument to show that an absurd result would happen if the burden were to fall entirely upon the States which consume locally-grown sugar, to the extent to which they do consume it. This question would not have been so acute had it not been for the partial failure of the sugar crop in New South Wales, and more particularly in Queensland. Had there been an abundant crop, as in previous years, the local wants of Australia would have been nearly met by the local production of sugar, and in that case the burden would have fallen upon the whole of Australia fairly equitably according to the consumption of sugar. But it so happened that there was a very short crop, and consequently some of the States have relied almost entirely upon imported sugar. The consequence of that has been that their Treasurers have the great advantage of receiving £6 per ton import duty. That state of things cannot be expected to continue. As the local production increases, it must gradually disappear. When the local production overtakes the local consumption, this contribution as a bonus to the sugar-growers will, if we take as a

basis the consumption of sugar, be fairly equal throughout Australia. It cannot be expected that we should wait until that time arrives, and that cannot be a good system to adopt which depends upon such accidents as I have pointed out, the accident of the relative consumption of locally-produced and imported sugar in the various States, and the accident of the seasons. The Treasurer has supplied me with some interesting tables of figures which I have caused to be circulated amongst honorable senators. The total production of Australian sugar for the year 1902-3 is stated in these tables as 91,500 tons, and the total quantity of sugar imported was 85,500 tons. So that already during this year we are supplying more than half of our requirements, notwithstanding the very bad season we have had.

Senator CHARLESTON.—We must allow for stocks held.

Senator DRAKE.—The stocks held at the commencement of the year were 2,000 tons less than at the end of the year, so that involves a very slight variation. Of the 30,000 tons of sugar produced in Australia this year by white labour, it will be seen that 12,000 tons were produced in Queensland, and 18,000 tons in New South Wales. The total consumption in New South Wales is 68,000 tons, of which 60,000 tons is the quantity consumed within New South Wales, and 8,000 tons were distributed amongst the other States in this proportion :—3,000 tons to Western Australia; 4,500 tons to Tasmania; and 500 tons to South Australia. In connexion with the point to which I have previously referred honorable senators will see that these quantities of sugar being refined in New South Wales from sugar produced in New South Wales and Queensland, and then sent in these varying quantities to the other States, it is almost impossible, under the previously existing arrangement, to secure an equitable payment of the amount due to the growers on the production of sugar by white labour. The Treasurer has shown at page 2 of the statement of figures circulated what would be the result of a distribution on a basis of consumption, and on a population basis. From these figures it will be found that New South Wales, on a basis of consumption, would have to find £44,400 out of a total of £60,000, and on a population basis £21,642; Victoria, on a basis of consumption, £2,500, and on a population basis £18,786; Queensland, on a basis of

consumption, £7,100, and on a population basis £7,962. Honorable senators will see that, so far as Queensland is concerned, the proposed change in the method of distribution makes a difference of only a few hundreds of pounds. South Australia did not consume any locally-produced sugar, and on a basis of consumption she would therefore not have to pay anything, but on a population basis she would have to pay £5,658. Western Australia on a basis of consumption would have to pay £2,400, and on a population basis £3,246; Tasmania, on a basis of consumption £3,600, and on a basis of population, £2,706. If we were to adopt the principle of paying on a basis of consumption the amounts would of course vary from year to year. As I have pointed out, as soon as the local production overtook local consumption it would practically be the same all over the continent, but up to that time it would vary very much, because of the accident of one State relying more upon local production and another more on importation. It may be fairly admitted, however, that until the time arrived when local production overtook local consumption there would be a tendency to a larger consumption of the local article in the States in which sugar is produced, but it is only in that respect that the proposed alteration would be of benefit to the States which produce sugar. The proposal made is simply to substitute for an unsatisfactory and inequitable principle of distributing this particular expenditure upon a basis of consumption, the principle of distribution upon a population basis. The only advantage to the States of Queensland and New South Wales, in which sugar is produced, will be that there will be a tendency in those States to a continually increasing consumption of the local article, until the local production overtakes the local consumption. It is only in that respect that there will be a slight and continually diminishing advantage to those two States.

Senator CHARLESTON.—This will disturb the revenue of South Australia a good deal.

Senator DRAKE.—It cannot disturb the revenue of South Australia, because the amounts collected under the Excise Act have all been paid into a trust fund, and they have not yet been distributed. We are here simply dealing with the question of how we should distribute them.

Senator CHARLESTON.—To South Australia it will mean the difference between £1 and £6 per ton of sugar.

Senator DRAKE.—As there is nothing in the trust fund at the present time to the credit of South Australia, it cannot be said that the action we are now proposing to take will have a disturbing effect upon the revenue of that State.

Senator BEST.—Still it will mean a loss of revenue to South Australia of £5,658.

Senator DRAKE.—That is the amount collected upon sugar imported into that State. South Australia has had the great advantage—and it has been an accidental advantage—of collecting a large revenue upon imported sugar. But, as I say, if we were to adopt a distribution on the basis of consumption permanently it is perfectly clear that the various States might soon be engaging in a sort of cut-throat game by trying to unload locally-produced sugar on other States and importing their own.

Senator CHARLESTON.—But the other States would not accept it.

Senator DRAKE.—The honorable senator knows that in the ordinary course of trade a trader will take the sugar which he can get cheapest. There would be nothing to prevent a State like Queensland—and I freely mention Queensland in this case, because for 1902–3 that State will not be greatly affected by this measure, though in future it may be—there would be nothing to prevent Queensland, if it could be done—and I admit all the difficulty of entering upon any sort of enterprise that conflicts with the ordinary course of trade, but we can discuss it as a possibility—systematically sending all its locally-produced sugar to the other States and importing its own. Queensland would then secure a return of £6 per ton on the imported sugar. I do not really suppose that the Government of any State would set themselves deliberately to interfere with the ordinary course of trade.

Senator PLAYFORD.—Private people would not do it, because they would gain nothing by it.

Senator DRAKE.—Private persons would not do it, and the ordinary course of trade would probably not be interfered with; but it is not desirable to have a state of things in which an interference with the ordinary course of trade would result in an advantage to the Government of any particular State. There

is an interesting table on page 3 of the paper circulated to honorable senators, which shows the total revenue derived in the various States from sugar, and the amount of rebates paid. I need not go through the table, because honorable senators have it before them.

Senator MILLEN.—Will this Bill be retrospective so far as the trust fund to which the honorable and learned senator has referred is concerned?

Senator DRAKE.—The Bill dates back to the very first. The principle laid down in the Bill is the principle upon which we propose to deal with the trust fund. We propose to deal in this way with all the amounts paid in respect of excise.

Senator MILLEN.—The Bill does not state that.

Senator DRAKE.—I think it is quite clear that it does. No payments have yet been made, and the Bill we are now considering is a Bill to provide for a bonus to the growers of sugar by white labour.

Senator MILLEN.—After a certain date—the 28th February, 1903.

Senator DRAKE.—The Bill refers to sugar from cane or beet “in the production of which sugar-cane or beet white labour only has been employed after the 28th day of February, 1903.”

Senator MILLEN.—How will that affect sugar produced prior to that date by white labour, and in respect of which the Government have funds for distribution.

Senator DRAKE.—The honorable senator will find that it is stated in clause 7 that—

All rebates of excise duty upon sugar paid before the commencement of this Act shall be taken as bonuses under this Act.

That is retrospective, and when we come to discuss the clauses I shall be able to satisfy the honorable senator that the Bill will deal with the matter from the very first. Though, in one sense it may be held that the Excise Act settles the mode of distribution, as a matter of fact it has never been acted upon, and the money has all been paid into a trust fund, because there was this question to be decided. This measure, if accepted, will determine the question, and then we can distribute the money, which is at present in the trust fund, in accordance with the principles of this Bill.

Senator PLAYFORD.—How much does that fund amount to now?

Senator DRAKE.—As I have said, a small amount has been paid. The honorable senator will find the figures on page 3 of the statement circulated. He will see that the total consumption of Australian sugar was 91,500 tons, and the total revenue from Australian sugar was £274,500.

Senator PLAYFORD.—Who is going to get this money?

Senator DRAKE.—The States.

Senator PLAYFORD.—How much will New South Wales get?

Senator DRAKE.—The honorable senator will find the figures upon page 3 of the tabulated statement supplied. The revenue which New South Wales derived from imported sugar amounted to £66,000, and the revenue which that State derived from Australian sugar was £168,000, or a total of £234,000. Each State will get the amount of excise that has been paid in respect of sugar according to the consumption in that State, and the amount to be paid by way of bonus is new expenditure which under terms of the Constitution will be equally distributed amongst the States on a population basis.

Senator WALKER (New South Wales).—I think we are to be congratulated upon the presentation of this Bill to the Senate. It is a measure of fair play. The people of the Commonwealth as a whole, and particularly the people of Victoria and South Australia, were anxious that the policy of a white Australia should be carried out, and they must, therefore, be prepared to pay their proportion of the expense of that luxury. The peculiarity of the position is that the greater the success obtained in the cultivation of sugar by white labour the less will be the income received by the States of Victoria and South Australia from the present duty. In my opinion the whole of the revenue obtained from the sugar duties ought under existing circumstances to be distributed upon a population basis. If Queensland succeeded after a time in growing sufficient sugar by white labour to satisfy her own requirements, her revenue from it would be only £1 per ton under the existing arrangement, whereas if the people of South Australia used only imported sugar the Government of that State would secure a revenue of £6 per ton. It will thus be seen that the present arrangement is manifestly unjust. In order that all the States may be fairly dealt with all the revenue at present obtained from the

duty on sugar should be divided on a population basis, no matter where it is collected. I intend to support the second reading of the Bill because it is a measure of fair play. I sympathize to some extent with the people of Victoria and South Australia, but they have only themselves to blame, because they were the most enthusiastic in supporting this form of protection. The result of the introduction of this policy of a so-called white Australia is a manifest instance of the unfairness of protection. The very State which has to bear the great burden of the cost of giving effect to it is being punished, inasmuch as the revenue obtained by it from the excise duty on sugar is only £1 per ton as compared with the revenue of £6 per ton obtained by the other States consuming imported sugar. Under the present system that state of affairs would exist until Queensland could supply the whole of Australia with the local article, when all the States would secure only £1 per ton from the excise duty. Every honorable senator knows that I did not favour the proposal for the expulsion of kanakas from Queensland, and I sympathized with New South Wales and Queensland, who appeared likely to be called upon to bear the whole of the cost of the white labour movement. Under this Bill, New South Wales will secure the treatment that it well deserves, for on a population basis, as against a consumption basis, it will gain £22,758 per annum. Tasmania will also gain £894 per annum. It is quite true, as the Postmaster-General has said, that at present it would almost pay the Government of Queensland to offer inducements for the export of locally-grown sugar, so that the people there would use the imported article and the State would secure the increased revenue. It affords a striking illustration of the fallacy of protection.

Senator Lt.-Col. NEILD (New South Wales).—At this stage I shall make very few observations, because I have given notice of an amendment which will perhaps afford me, in Committee, an opportunity of saying a little more on the subject which I am about to mention.

Senator GLASSEY.—What is the amendment?

Senator Lt.-Col. NEILD.—It is opposed to the payment of bonuses on sugar-cane cultivated by women and children.

Senator GLASSEY.—Oh!

Senator Lt.-Col. NEILD.—My honorable friend shakes his head; but if he gives the

matter a moment's consideration, I am sure he will be in entire agreement with my case. The whole course of his life, so far as we know him in this Chamber, has been that of a gentleman, who considers the well-being of his fellow men—and the well-being of women and children—before a great many other matters. That is his great characteristic, and I honour him for it. I think, therefore, that what I have indicated will meet with his approbation rather than the opposition that the shaking of his head perhaps implied. I desire to challenge one statement made by the Postmaster-General, and that is as to the quantity of sugar which has been grown by white labour in Queensland. I assert that the rebate has been allowed on sugar nominally grown by white labour, but in reality not grown in that way. At the close of last session I went to the north of Queensland for the express purpose of making a study of this matter on the spot. I took care to keep out of the reach and beyond the influence of proprietors of sugar plantations and sugar mills; and, as far as possible, I sought my information from unprejudiced sources. This rebate, which has been allowed upon thousands of tons of sugar, has not been given in respect of sugar grown by white labour, but of sugar cultivated by coloured labour. It was probably only after the actual cultivation had ceased that the white labour came in.

Senator DRAKE.—Everything had to be done by white labour.

Senator Lt.-Col. NEILD.—The cultivation and trashing of the cane was done by coloured labour. It was only after the crops were growing "on their own," as the colloquial phrase goes, that white labour was employed.

Senator DRAKE.—That is a mistake.

Senator Lt.-Col. NEILD.—If the honorable senator will tell me that he knows more about this matter than do the official inspectors of the Queensland Government, I shall, of course, implicitly accept his assurance. I am speaking, however, upon the authority of officials who have no interest in politics or in profits, and I say that it is a perfect sham to suggest that much of the cane which was made subject to rebate was ever grown by white labour. Stalwart men are not employed in cultivating sugar cane in Queensland. We have abundant evidence to show that it is

practically impossible to obtain white men to cut cane, let alone to cultivate it.

Senator DAWSON.—That is nonsense.

Senator Lt.-Col. NEILD.—The honorable senator is one of the representatives of Queensland, and has a perfect right to his own opinion; but I have in my possession the reports of certain companies and mills, which show most conclusively that men who contracted to find white labour for cutting the cane were unable to fulfil their contract, and that in two cases they forfeited their deposits.

Senator DAWSON.—Does the honorable senator refer to the Mossman mill?

Senator Lt.-Col. NEILD.—That is one case.

Senator DAWSON.—It is the most important.

Senator Lt.-Col. NEILD.—If the statements made in connexion with the Mossman mill are not correct, I am making reference to assertions which are not facts. I have yet to be assured, however, that a number of directors of a public company which has been in existence for years, and whose interests are concerned in the working, not the mere flotation, of a company, would deliberately meet together and publish statements that were untrue. The statements to which I refer were made not only by these directors, but by those who wrote to them asking for the return of deposits which they had forfeited, owing to their inability to supply white labour to cut the crops. That failure to supply white labour has occurred not once but twice. One contractor forfeited his deposit, and the directors made it a gift to the next man who came along and undertook the work. He was promised the deposit, but he not only failed to secure it, but lost his own as well. It is impossible to suppose that these statements are untrue, for they are contained in official documents. There is the *ad misericordiam* appeal for consideration at the hands of the directors, which was made by the man who failed to win the deposit offered to him and also lost his own.

Senator DAWSON.—What crop did the contractor undertake to cut? Was it not a crop of ratoon, where the weeds were troublesome, and the cane half-grown?

Senator Lt.-Col. NEILD.—I think the statements go to show that the contractor was satisfied that the crop was a fair one.

Senator DAWSON.—It was not.

Senator Lt.-Col. NEILD.—The honorable senator will have an opportunity of dealing with the matter later on. If it is difficult and apparently impossible to secure white labour to cut a crop that creates its own breathing space, how much more difficult must it be to obtain white labour to work within the rows of cane, and to trash it, or, in other words, to remove the dead leaves. I am not speaking without some little personal knowledge of sugar-growing, because my late father was one of the most prominent pioneers of the sugar industry in New South Wales. He lost years of his life and thousands of pounds in endeavouring to establish the industry of sugar-growing in New South Wales, at a point south of the line at which it has since been found profitable. Therefore, I am speaking with an intimate knowledge of sugar-growing and sugar-making up to a certain point. I am not speaking as a man whose knowledge has been wholly obtained by reading reports and newspaper paragraphs, or even by visiting cane-fields. I am speaking with a sense of heavy family loss which, to a certain extent, is reflected upon myself as the son of a man who lost large sums of money, and many years of his life, in an endeavour to achieve success in a new industry. I hope that I shall be forgiven for this personal reference. I have made it simply with a view of showing that I am not a mere *doctrinaire*, or one who has picked up a few phrases about sugar-growing. So far back as the sixties, I had an immediate connexion with the industry.

Senator PEARCE.—Would the efforts made by the honorable senator's father have been successful had kanakas been employed?

Senator Lt.-Col. NEILD.—Not where we were situated. But I have not raised the question of kanaka labour, except in so far as I have said that we have been paying a rebate on sugar produced from cane supposed to have been grown by white labour, but which was never in reality cultivated by white labour. The future lies before us. Whether by Act of Parliament we can succeed in altering the decrees of Providence is a problem we are now attempting to solve. We have heard of the Frenchman who regretted his non-existence at the time of the Creation, because if he had been there he could have given the Almighty several useful hints; and if, in accordance with a belief of that kind, we think we can alter the climate, the

temperature, the atmosphere of the country, and also the characteristics of the worker, to suit existing labour conditions, by Act of Parliament, well and good. We are now engaged in that experiment, but I repeat that as regards the employment of white women by therapacious husbands and fathers, and the employment of young children, there is no word of condemnation that can be offered in opposition to such a state of affairs, which is not worthy of a man who attempts to represent the people. I am saying nothing under the shelter of privilege. I published the same statements, with my name attached, in the morning press of Sydney when I came back from North Queensland. It is notorious that there are persons engaged in the sugar industry who are debasing their women folk and destroying the health of their young children by placing them at labour which the average white man will not tackle, and the advantage they obtain from this sweated labour is supplemented by a bonus. It is the worst form of sweating for a man to make use of a wife or a daughter or a child to do such work, which even with a £50 bonus thrown in he cannot get white labourers to tackle. That is what I am objecting to, and that is what I intend to take the vote of the Senate on. I think that my honorable friends in the labour party will be the first to support the refusal to pay a bonus in respect of cane grown by female labour or by child labour, because if there is one particular subject to which they have devoted themselves, and for which they are entitled to credit in their career as a political body, it is the effort by which they have successfully assisted to put down sweating in various trades. What sweating can be worse than the sweating of a man's own children and wife?

Senator DAWSON.—Does the honorable senator mean to say that that is generally done in North Queensland?

Senator Lt.-Col. NEILD.—No; but I say that there are many instances of its being done.

Senator DAWSON.—In what portion of North Queensland?

Senator Lt.-Col. NEILD.—I do not think that the dragging in of names would raise the character of the debate. I am not going to drag in any names.

Senator DAWSON.—If the honorable senator makes a charge he ought to name the district to which he refers.

Senator Lt.-Col. NEILD.—If my honorable friend says that the evil I speak of does not exist, I reply that he has his sources of information and I have mine. Surely he cannot be opposed to me in endeavouring to prevent an occurrence of the kind in the future, even if he says it does not exist at present.

Senator DAWSON.—No ; I am denying the accusation, and asking that the district shall be named.

Senator Lt.-Col. NEILD.—If my honorable friend knows all that has been going on for the last twelve months in every part of Queensland, well, he has almost achieved omnipotence.

Senator HIGGS.—Surely the honorable senator can name the districts in which this thing takes place.

Senator Lt.-Col. NEILD.—I shall not give any names. I am speaking on the authority of Government inspectors of cane-fields, and that should be good enough information even if I had no further knowledge of the subject. If my honorable friends do not think that it exists, let them go up and inquire on the spot. I am sure that Senator Dawson will not suppose that I am making an assertion except on what I believe to be good authority.

Senator DAWSON.—Hear, hear. All I ask is that the district in which it exists shall be named.

Senator Lt.-Col. NEILD.—It is admitted that I do not wish to slander anybody. I am only speaking in respect of information communicated to me on the spot. Even if my honorable friend has sources of information which justify him in thinking that I have been misinformed, still that does not alter the fact that in the interests of the womanhood of Australia it is desirable that we shall under no circumstances permit the employment of women and children under a tropical sun in work for which it has hitherto been found difficult to obtain white labour.

Senator FRASER.—If they could not get black labour should they allow their crop to go to ruin?

Senator Lt.-Col. NEILD.—My honorable friend, with his known kindness of heart and goodness of disposition, will see that his question lays him open to the charge of being an advocate of the sweating of womanhood where the planter cannot get male labour. I am sure that he does not mean that.

Senator FRASER.—Not necessarily.

Senator Lt.-Col. NEILD.—With this exception, and, perhaps, one other that I believe Senator Millen intends to bring forward, I am entirely in favour of the Bill, which is, I believe, based on broad equity, because if Australia, as a whole, is to benefit by the white Australia policy, then all the States should pay the price of it, and the burden should not be thrown on one or two States. I give the Government every credit for bringing in a Bill which is equitable so far as I am able to form an opinion. I support the measure with the exception that I wish to see a provision made that child and female labour shall not be used to gather in the bonus, and I shall give my assent—at least, I think I shall—to the amendment which is to be submitted by Senator Millen with the object of securing a greater measure of equity in the distribution of the bonus.

Senator MILLEN (New South Wales).—As regards the measure itself, I have nothing to add to what has been said. I propose to support the second reading. The oversight that has rendered its introduction necessary was one which was quite natural, and for which no blame can possibly attach to anybody. As Senator Drake has remarked, it was hardly possible to foresee everything when shaping the Tariff in the early portion of last session. It is one of those little oversights which we all have to share the responsibility of, and which may very well be pardoned. What I desire to draw attention to is the exact meaning of clause 2. I assume that its purpose is to insure that the bonus shall be paid to every cane-grower who uses white labour. But as it stands it almost seems to me that it will be only some of the employers of white labour who will get it. It decrees that the bonus shall be paid on sugar-cane or beet—

In the production of which sugar-cane or beet, white labour only has been employed after the 28th February, 1903.

As we know that kanakas are being lawfully employed in Queensland, and as the Act which provides for their deportation countenances their employment until the termination of their existing contracts, it seems to me that, under the wording of this clause, a sugar-grower using a kanaka after that date, and subsequently dispensing with him, and then reverting to white labour, could not claim the bonus on the sugar which will

be the result of the employment of white labour. I understand that in the case of sugar-cane it is possible to get two or three yields from one planting.

Senator DAWSON.—I have known a tenth crop to be got

Senator MILLEN.—It will be sufficient for my purpose if a planter gets only a second crop. The plant having been planted and the crop reaped with black labour, and the second year's cultivation effected by white labour, it will be possible to say that the second crop was not entitled to the bonus. I cannot think that that is the intention of the Government.

Senator DRAKE.—Yes, after 19th March, 1903.

Senator MILLEN.—I am very glad to have that straight-out declaration, because if so I propose to vote against the Bill. Are we to understand that, if a planter who to-day is employing a kanaka under the State law, and can employ him for a certain time longer, next year dispenses with him to employ white labour, he is not to get the bonus, although he employs white labour?

Senator DRAKE.—If he employs black labour after that date, he will not be entitled to the bonus.

Senator MILLEN.—Supposing that in Queensland to-day a planter is employing black labour with the countenance of both the State law and the Federal law, and that next year he dispenses with black labour and employs white labour, will he get the bonus on next year's crop?

Senator DRAKE.—No, because he has been employing black labour. If he plants his cane with white labour he gets the bonus.

Senator MILLEN.—We have a Federal law in which the planters were told that they could continue their engagements with their kanakas—under their State law they can continue to employ kanakas for a given period—and that those who dispensed with kanakas were to get a rebate. Taking advantage of the opportunity which was afforded to them of gradually dispensing with coloured labour, the planters proceeded to do so. This year a planter who has 50 or 100 kanakas under contract lets that contract run out, dispenses with black labour, and then employs white labour, but next year, although for the whole period of twelve months—from the reaping of one crop to the gathering of the other—he

has never had other than white labour on his plantation, he is not to get a bonus, because the plant was planted some time previously.

Senator CHARLESTON.—Would the honorable senator expect the planter to get the whole of the bonus?

Senator MILLEN.—I lay down this principle: that if, from the gathering of one crop till the taking in of the other, the whole of the work is done by white labour, the planter is entitled to the bonus.

Senator GLASSEY.—That is the only practicable plan to carry out the whole of the arrangement.

Senator MILLEN.—It is the only honest plan.

Senator DRAKE.—All the planters told me that they were perfectly satisfied with this extension.

Senator MILLEN.—After that explanation, sooner than see the Bill put through I shall vote against it. Because I do not believe for a moment that it was ever intended to tell the planters, when we passed the Pacific Island Labourers Act, concurrently with the sugar rebate provision in the Excise Act, that we were playing a fraud with them, for that is really what it amounts to. What was the good of offering this opportunity of gradually dispensing with kanaka labour if we were simply to say that for the whole time, seven or ten years, as long as a single root remained under cultivation, in the planting of which the kanaka had anything to do, the planter was not to get the bonus?

Senator DRAKE.—That is not so.

Senator MILLEN.—Then the honorable and learned senator is to blame for my being in the wrong, because I asked him the question, which I will put again. If a planter plants a crop with black labour this year, and dispenses with black labour on the 31st December this year; and if during the whole of next year he employs white labour only, does he get the bonus?

Senator DRAKE.—If he plants with black labour he does not get the bonus.

Senator MILLEN.—The root of the cane is put in this year, and will produce several harvests. Yet the Postmaster-General says that if that root has been planted by black labour this year or last year—

Senator DRAKE.—I do not say last year.

Senator MILLEN.—When, then?

Senator DRAKE.—This year; if it is planted by black labour this year there will be no bonus.

Senator MILLEN.—That is the position I am taking up—that during this year some planting is done with kanaka labour; a crop is taken off; and from that time to the gathering of the next crop, nothing but white labour is employed on the plantation. Yet for the subsequent crop, and for the next one, and for the next crops up to ten—because I have the assurance that ten crops can be taken from one plantation—no bonus will be paid.

Senator DRAKE.—A plantation would not be much good if ten crops were taken off it; five might be taken.

Senator MILLEN.—If roots have been planted by kanakas and one crop has been taken off with the aid of black labour it is at all events admitted by the Postmaster-General that the planter would be able to take off four more crops from the same stools. But no bonus will be paid on account of the four subsequent crops.

Senator Lt.-Col. CAMERON.—That is only in the future; it does not apply to the past.

Senator MILLEN.—Does the honorable senator suppose that I want him to tell me that?

Senator Lt.-Col. CAMERON.—The honorable senator did not seem to understand it.

Senator MILLEN.—It may be impossible for the honorable senator to understand what I understand, but I think I know. I have an assurance that four or five crops can be taken from one plant or root; and, although the kanakas are there to-day under the Federal law as well as under the State law, if a plant is put in to-day with the aid of kanaka labour, and four subsequent crops are taken off it with the aid of white labour, and those four are entirely cultivated by white labour, the planter cannot get the bonus. What is the planter to do with the kanakas whom he already has in his employ?

Senator DRAKE.—Get rid of them.

Senator MILLEN.—He cannot; because if he did he could be sued for breach of contract under the State law. I am not saying that so long as a planter employs kanaka labour he should get the bonus, but I do say that when he has "white-washed" his plantation and done what this Parliament wants him to do by dispensing with kanakas and employing white labour

only, he should receive the bonus for the crops taken off his plantation during the time it was cultivated by white labour. He is entitled to ask for and receive the bonus provided for in this measure for what he has done in that respect.

Senator DAWSON.—Otherwise he will keep his kanakas for the five years.

Senator MILLEN.—There is a distinct inducement to do so.

Senator DRAKE.—If we alter this regulation the inducement will be to keep the kanakas.

Senator MILLEN.—What inducement is there to dispense with the kanakas when the planter cannot get the bonus?

Senator DRAKE.—The honorable senator wants the planter to get the bonus for sugar partly grown by white and partly by black labour.

Senator MILLEN.—If the honorable and learned senator means that the planting of the root by black labour means partly growing the cane by black labour, he is correct. But it is surely necessary to allow for the transition stage between the employment of white and black labour. It is necessary to recognise that something of the kind had to take place. You should not bring your guillotine down so sharply.

Senator DRAKE.—We have extended the time twice.

Senator MILLEN.—For what?

Senator DRAKE.—To give the planters an opportunity of planting with white labour.

Senator MILLEN.—I am not speaking of the action of the Government in the past. If I were I might have to employ stronger language. I am speaking of the Bill now before the Senate, and I ask for the judgment of the Senate as to whether it will allow the clause which I have been criticising to be passed as it stands. It is inevitable that, kanakas having been employed upon the sugar plantations of Queensland, some legacy of their work should remain. You cannot get rid of them all at once. It must be seen that there is necessarily a stage when the planter will be passing from the use of black labour to the use of white. There must be a reasonable recognition of the facts of the case. The planters who have put in roots with the aid of black labour, cannot be expected to rip up those roots and re-plant with white labour.

Senator DRAKE.—They are not required to rip up their roots, but they should not

claim the bonus until they have done the work with white labour.

Senator MILLEN.—Surely if a planter puts in rattoons, and a crop is taken off them, and afterwards he dispenses with black labour, and harvests his crop, and cultivates his plantation with white labour, he is entitled to claim the bonus.

Senator CHARLESTON.—He would then be getting a bonus on the black labour employed in planting.

Senator MILLEN.—But what is the other position? If you do not give the planter the bonus, he has every inducement to retain kanakas in his employment until his stools are worked out. I could understand it if the Government said, "While we intend to pay the full measure of the bonus for sugar which from the inception of the first planting has been handled by white labour, we will pay a smaller proportion of the bonus for sugar produced from crops that have been only partly handled by white labour." In the cases I have indicated, where plants were put in with kanaka labour and in subsequent years crops were taken off by white labour, to give the planters some proportion of the bonus in recognition of the fact that they have dispensed with black labour would be a fair solution of the difficulty. But to say that they are to get no bonus at all in the future and no inducement for dispensing with black labour is most unfair. Some provision should be made on the lines I have mentioned. While the full bonus is paid to those who plant and handle and cut their cane with white labour only, at least some proportion of the bonus—what proportion I do not say—should be given to those who in the later stages of cultivation have employed white labour only. I would allow nothing for the crop produced while kanaka labour was employed; but the moment the planters dispense with their kanakas and employ white labour let them have the benefit of the policy we have sought to inaugurate, and give them a proportion of the bonus.

Senator DOBSON (Tasmania).—This matter is so intensely complicated that unless we give it very long and careful consideration I believe that we shall make another blunder. The Bill now before us is certainly an improvement upon the previous measure, but it does an injustice to the State which I represent as compared with New South Wales to such an extent that I feel bound

on behalf of Tasmania to ask my honorable and learned friend, the Postmaster-General, to pay careful attention to me for a few moments while I consider the terrible loss that Tasmania is going to sustain, and the exceedingly advantageous position in which New South Wales is about to be placed. I am alluding to the fact that very few black labourers have in the past been employed in New South Wales, and to the enormous loss of revenue which my State is suffering, while New South Wales suffers no loss whatever.

Senator DRAKE.—Some honorable senators want to give £2 a ton to piebald-grown sugar for ever.

Senator DOBSON.—I should like the Minister to understand that for the year 1900 the consumption of sugar in Tasmania was 7,800 tons, which at £6 per ton brought us in a revenue of £47,000. That meant a larger revenue than the whole of the income tax of Tasmania. But we are now called upon to suffer a loss of that revenue to such an extent that the question becomes very serious. I do not know whether my brother Tasmanian senators are going to support me, but I shall feel bound to propose some amendment with the object of doing justice to my State. Taking the excise at £3 per ton and the rebate for white-grown sugar at £2 a ton, if all foreign sugar is shut out, and if no rebate is claimed, Tasmania will lose £23,500 a year. But if rebate of £2 a ton is claimed on all sugar produced in Australia and consumed in Tasmania, our loss will be £40,000 a year.

Senator DRAKE.—Is the honorable and learned senator giving those figures from the tables issued by the Treasury?

Senator DOBSON.—No; from information supplied by the statistician of Tasmania. Our loss may range from £23,000 to £40,000. Even in the tables now put before us, Tasmania's revenue is put down at £34,500, whereas I have shown that in 1900 we received £47,000 from this source. A small State like mine cannot afford to suffer this enormous loss. I never heard that there was any black labour trouble in northern New South Wales. I understood that the great bulk of the sugar cane produced there was—to all intents and purposes—cultivated by white men. My argument is borne out by the figures before us, which show that the sugar produced by black labour in Queensland was 85 per cent. of

the whole quantity, whereas in New South Wales the sugar produced by black labour was only 15 per cent. of the whole. Those figures show that there are really very few kanakas employed in New South Wales. Yet Ministers have been induced to bring in a Bill which will make the consuming States, which are already losing seriously on their sugar revenue, pay a bonus to New South Wales for inducing her to do what she has always done.

Senator STANFORTH SMITH.—Can we differentiate between New South Wales and Queensland?

Senator DOBSON.—I certainly think we ought to do so. I quite understand that there would be a difficulty about differentiating between Bundaberg, Mackay, and Cairns; but if there are 300 or 400 miles between the Tweed and the Richmond rivers, where sugar is grown in New South Wales, and Bundaberg, why cannot we differentiate between the State which has no black labour and the State which has?

Senator DRAKE.—Can we, under the Constitution, give a bonus to one State and not to another?

Senator DOBSON.—I am afraid we cannot, but that is no reason why an injustice should be done to Tasmania. The facts show that instead of conserving the interests of Australia, as some of us thought we were doing, we were simply the slaves of a phrase when we inaugurated this policy. I want to call attention to the loss of revenue which the Commonwealth is going to sustain. Let us look the facts fairly in the face and see exactly what we are doing for the sake of making Australia white—when we know all the while that it is going to be piebald. I understand that the consumption of sugar is about 180,000 tons, and if the time comes—as come I hope it may—when the whole of our sugar is produced in Queensland and New South Wales—principally in Queensland—we shall lose on the basis of £5 a ton about £900,000 a year. When the consumption has increased to 200,000 tons the loss will be absolutely £1,000,000. I should like Senator Drake to supply us with an estimate showing what the Minister for Trade and Customs and his officers think we shall have to pay for a white Australia. Let us know what it is going to cost, and then let us ask ourselves whether the game is worth the candle? Probably our friends in the labour corner

may say that it is worth while, and other honorable senators may have the courage to say that it is not. If it is going to take from Tasmania a revenue of £30,000 a year in one item, all I can say is that we cannot possibly afford it.

Senator PEARCE.—Does it require courage to speak the truth?

Senator DOBSON.—What is the use of my honorable friend talking in that way? It is not a question of telling the truth, but a question of opinion. We all know that at certain times it is human nature for people to wish to go with the crowd. It is not a question of the truth—I wish it was—it is a question of opinion upon which no two of us agree. Our experience, since we passed the Act, goes to show, so far as evidence can be obtained, that we have probably made a mess of it. I do not care to consider whether they can or cannot, but we have evidence to show that white men will not do the work required to be done in the north of Queensland. That evidence comes to us from bishops, clergymen, and missionaries, who desire to see a white Australia as much as any honorable senator in this Chamber. All the evidence coming to us goes to show that we cannot get the sugar industry efficiently attended to by white labour.

Senator HIGGS.—As a lawyer, what does the honorable and learned senator think of the evidence given by Senator Neild?

Senator DOBSON.—As a member of the Senate I read every pamphlet and every article published on the subject, and I believe—having confidence in men who understand the matter probably better than Senator Higgs—that if the work has got to be done by white labour the effect will probably be to deteriorate the race in the north of Queensland.

Senator FRASER.—The race will object to that.

Senator DOBSON.—Of course it will. If Senator Higgs is prepared to dispute that, the honorable senator is prepared to dispute the opinion of men who know more about the subject than he does himself.

Senator GLASSEY.—Would not that apply equally to all the industries in the north?

Senator DOBSON.—Not to the same extent. I understand that it was stated in another place that the real difference in cost between the cultivation and harvesting of cane by white labour, as compared with

black labour, is only 6d. per ton. Honorable senators will see that, in this Bill, we are allowing 4s. per ton. Do not let us make any more blunders. Is a bonus of 4s. per ton a fair bonus? We have been told by an honorable member in another place that 6d. per ton would be a fair thing, and it will be admitted that there is a vast difference between 6d. and 4s. I ask the Minister in charge of this Bill, and every other honorable senator, before we agree to pay a bonus of 4s. per ton, to see that we have statistics and facts to enable us to determine what a fair bonus would be. There is an enormous difference between 6d. and 4s., and I should like to know where the truth lies. Another matter alluded to at some length by Senator Millen is old ground as far as I am concerned. When I went to Bundaberg I found the planters there up in arms, and when I came back I tabled certain questions in the Senate, to which Senator O'Connor gave me bluffing answers, amidst the cheers and laughter of the labour party. When I got back to Tasmania, I was so impressed by the gross injustice of what the Government was doing that I wrote to the Minister for Trade and Customs, and I got back a snubby letter. Within a month from that time, the Minister for Trade and Customs had done the very thing which he had been requested to do by the planters and by myself. On two occasions he very properly extended the time during which the planters could register as being willing to cultivate entirely by white labour. The Senate has sanctioned the continuance of kanaka labour until the 1st January, 1907, and we have also sanctioned the introduction of kanakas up to the 31st December, 1903. Taking those facts in conjunction with the point in which Senator Millen and myself are interested, it will be seen how grossly unjust this Bill is. We allow the planters under the law to introduce black men up to the end of this year, and we compel them to introduce them under, I believe, a three years agreement. We thus facilitate action on the part of the planters in introducing kanakas. Some of the planters may have extended their agreements with the kanakas for a further three years. Yet if they plant cane by black labour, and at any time hereafter say that they are going to employ white labour, and actually cultivate with white labour for twelve months, they will not be entitled to a bonus. If the planter

has entered into an agreement with his kanakas, and is bound to keep them, surely he has a right to plant cane with that black labour; and if the moment their agreement is up he deports them to their islands, and then continues to cultivate that cane for twelve months with white labour, as a matter of right and justice we cannot deny him the bonus. Just as the Minister for Trade and Customs would not listen to what he was urged to do by the planters and by myself, and yet on two subsequent occasions extended the time, so will the right honorable gentleman again have to extend the time provided for under this Bill.

Senator DRAKE.—The planters told me that this was all they wanted, and that they would not ask for any further extension, and I told the Minister for Trade and Customs so.

Senator DOBSON.—I ask Senator Millen not to think me guilty of inconsistency because, while agreeing with him that, as between planter and planter, a great injustice is proposed under this Bill, I hold that, as between Tasmania and the planters, another consideration of justice is involved, and I am inclined to think that the poorer States, who require revenue, have gone to the end of their tether in trying to do justice to the planters. As between the poorer States and the planters, I do not know that we should go a step further. We have treated them most liberally. I am in a difficulty, because while, as between planter and planter, I agree with Senator Millen's contention, as between my own State and the planters I think we are being asked to pay far too much for a white Australia, when we might have avoided paying anything if we had simply allowed the kanakas to die out.

Senator PEARCE.—The honorable and learned senator is in a difficulty upon every question.

Senator DOBSON.—Senator Pearce will, I hope, admit that I have made my difficulty plain. In dealing with a measure of this kind a number of side issues demand consideration, and all I plead for is that honorable senators will give this Bill full consideration in order that we may not make another blunder which we would have to correct later on. So firmly do I believe that we shall make a blunder, that I should like to limit the Bill to some extent, and if it could be done under the Constitution I

should certainly move the omission of the words "the Commonwealth," with a view to insert in lieu thereof the words "within the State of Queensland." If that cannot be done under the Constitution I scarcely know what course we should adopt, but I shall avail myself of such opportunities as present themselves to show the injustice which Tasmania is suffering from. I should like Senator Drake to supply us with figures showing the actual difference in cost in the planting and harvesting of sugar-cane by white and by black labour, because, as I have stated, we have been informed that the difference is only 6d. per ton and not 4s. as provided for in this Bill.

Senator DRAKE.—I shall tell the honorable and learned senator all I know about it.

Senator DOBSON.—I should also like to have statistics showing how many black men were engaged on the sugar plantations in New South Wales when we passed the Pacific Island Labourers Act, and how many there are there now?

Senator CHARLESTON (South Australia).—This Bonus Bill will operate very unfairly as regards South Australia. In South Australia we have been paying a heavy penalty for a great many years in order that the idea of a white Australia might be given effect to. In obedience to the sentiment in favour of a white Australia we prevented the introduction of coloured labour into the Northern Territory. But, notwithstanding the sacrifice we have made, of some £80,000 a year for several years, we are now called upon to make another great sacrifice on behalf of a State that paid no respect whatever to the white Australia sentiment, but whose people on the contrary, in the most selfish way, proceeded to develop its territory in the way most profitable to themselves. We have laboured under the disadvantage of maintaining the idea of a white Australia, and have suffered a large loss of revenue. The prodigal daughter, Queensland, is now coming back to the fold, and is making a great appeal for consideration, because she is prepared to support the idea previously given effect to by South Australia, and we are now asked to put the ring on her finger and kill the fatted calf.

Senator MILLEN.—Did not South Australia once make an experiment with coloured labour, which proved such a ghastly failure that she was glad to let it alone?

Senator CHARLESTON.—South Australia made no experiment with coloured labour.

Senator MILLEN.—Not in the Northern Territory?

Senator CHARLESTON.—It is true that Chinese were allowed in to build the railway in the Northern Territory, but years ago we passed an Act in South Australia prohibiting any further introduction of Chinese. The taxpayers of South Australia have already paid about £50,000 towards the cause of Federation in connexion with the consumption of the one article of sugar. The revenue derived from sugar prior to Federation was something like £45,000, and this year it is £97,500.

Senator PLAYFORD.—And yet we get our sugar just as cheaply.

Senator CHARLESTON.—We do not get it just as cheaply. I can give the honorable senator figures to prove that the consumer in South Australia does not now get his sugar as cheaply as before Federation.

Senator PLAYFORD.—I know I am getting the same sugar from the same man, in the same bags, and at the same price.

Senator CHARLESTON.—Then the honorable senator is being more generously treated than other people in South Australia. I can quote figures taken from official statistics of the State of South Australia, and also figures supplied by the Colonial Sugar Refining Company. It will thus be seen that the Colonial Sugar Company's charges have really been increased by £3 per ton, and it is difficult to understand how Senator Playford is able to obtain sugar for the price at which he previously secured it. As a matter of fact, consumers of sugar in South Australia are to-day paying £4 5s. per ton in excess of the price they would have had to pay for it if we had not federated. On October 1st, 1901—seven days prior to the laying of the Tariff on the table of the House of Representatives, and at a time when the duty on sugar was £3 per ton—the price of the Colonial Sugar Company's 1A sugar was £16 5s. per ton under bond, and £19 15s. duty paid. On 1st November of the same year—a few days after the introduction of the Tariff—the prices were £16 5s. under bond, and £22 5s. duty paid, the duty having been increased to £6 per ton. Honorable senators will see, therefore, that the price was increased to the

full extent of the additional duty imposed. On the 1st November, 1902, the price of sugar all over the world—and this is a matter to which I would call Senator Playford's special attention—had fallen £1 5s. per ton. The prices in South Australia were then £14 5s. under bond, and £20 5s. duty paid. The price of sugar under bond had fallen, but it will be seen that the full extent of the duty was added to the ruling rates. The present prices in Adelaide are £15 10s. per ton under bond, and £21 10s. duty paid, so that even now we are paying more for our sugar supplies than we had to pay prior to Federation. There has been no juggling in connexion with these prices. They are quotations from the Colonial Company's 1A sugar, and they show that, notwithstanding the fall of £1 5s. per ton since 1st October, 1901, the price of 1A sugar, duty paid, in Adelaide has increased by £1 15s. per ton. The fall of £1 5s. per ton in the price of sugar all over the world, and the additional £3 for extra duty, represent £4 5s. more than we should be paying had we not federated. Senator Playford tells us, however, that he is paying no more for his sugar than he had to give for it prior to the introduction of the Tariff. Instead of now being called upon to pay £1 15s. per ton in excess of the price demanded before Federation, we should really be paying £1 5s. per ton less. That would have been the position had we not federated. The position is very clearly stated. Owing to the imposition of the duty of £6 per ton, the people of South Australia are now called upon to pay 100 per cent. more duty on their sugar than they were required to give for it before. But it may be urged that the whole of the £97,000 revenue which has been collected from this source has gone into the coffers of the State, and that the Government has received the full benefit of the increased collection. We have been clearly told, however, by the Postmaster-General, that in prosperous years sufficient sugar will be grown within the Commonwealth to supply the wants of the people of Australia. That is what we are all hoping to see; but we have to remember that as soon as that position is reached, South Australia will be credited with only about £16,000 a year, instead of the £97,000 per annum now obtained from this source.

Senator PLAYFORD.—That will be about £1 per ton of sugar consumed.

Senator CHARLESTON.—Yes. Consequently South Australia will have to make up that loss of about £80,000, which represents about $\frac{1}{2}$ d. in the £1 on our land tax by means of increased taxation. Notwithstanding that we shall lose that amount through the Customs, the consumers will not pay less for their sugar. We are asked to contribute a further sum of £5,000 per annum to Queensland and New South Wales, although it has been shown that New South Wales never employed coloured labour to any great extent. This proposal would not have been applied to New South Wales but for the fact that the Constitution provides that a bonus shall not be given for a specific purpose to any one State, but shall be applied to the whole Commonwealth. South Australia has been making great sacrifices, and now she is to be called upon to sacrifice nearly £100,000 a year, in order that she may subscribe to the finances of New South Wales and Queensland. The financial position of these States is better than that of the State which I have the honour to represent. New South Wales at all events is in a better position than South Australia, while Queensland is doing what we decline to do in the interests of this sentiment. This Bill will be monstrously unjust to the people of South Australia.

Senator STANFORTH SMITH (Western Australia).—Senator Charleston has referred at considerable length to the great injustice which will be inflicted upon the State which he represents if this rebate is applied on a population basis. Prior to Federation no Excise duty was levied on sugar grown in Australia, and the existing duty of £3 per ton really means that the sugar-growers of the Commonwealth have to pay that impost for the privilege of carrying on their operations. In other words they are called upon to pay to the people of Australia as a whole the sum of £274,500 per annum, although to those who produce their sugar by white labour a refund of £60,000 is to be made. It will thus be seen that instead of any injustice being inflicted upon any State by reason of the imposition of this excise duty, a very great benefit is being conferred upon the States among whom the revenue so obtained is distributed. The imposition of the duty has been a distinct advantage to the various States. Of course, a portion of the impost is returned if the sugar upon which it is levied is grown by white labour;

but I cannot see where any injustice occurs.

Senator CHARLESTON. — The honorable senator should not forget the bookkeeping period.

Senator STANIFORTH SMITH.—But the excise will continue after that period has elapsed. The honorable senator said that South Australia had made enormous sacrifices in order that the policy of a white Australia should be carried out, and that Queensland had acted in a most selfish manner. South Australia certainly prohibited coloured people from entering the Northern Territory. The Government of that State had an opportunity of leasing the Northern Territory to a syndicate upon the condition that they should have a free hand in regard to the employment of coloured labour, and they are entitled to a certain degree of credit for refusing that offer. It must be remembered, however, that no State would have allowed a syndicate or a chartered company to take such an enormous area under its exclusive control. Therefore, while South Australia is to be commended for its action in that matter, the fact must not be overlooked that it did only what any other State would have done in the circumstances.

Senator CHARLESTON.—We could have given up the Northern Territory and saved over £80,000 a year.

Senator STANIFORTH SMITH.—But South Australia took it over.

Senator CHARLESTON.—For the benefit of Australia.

Senator STANIFORTH SMITH. — Purely for the benefit of South Australia. I would point out that Queensland was the first State in the Commonwealth to prohibit the introduction of coloured labour. Thirty or 40 years ago when there were something like 30,000 Chinese on the gold-fields near the Palmer River, Sir John Douglas brought in a Bill to prevent coloured labour from coming into Queensland. That Bill was not assented to by the Imperial authorities, and, in order to carry out its object, the State Government had to resort to something in the nature of a ruse—it had to apply strict quarantine regulations, and quarantine all ships which came from China and other parts with coloured labour for Queensland. In view of the fact that the present proportion of coloured labour in Queensland is not nearly so large as it is in the Northern

Territory, the remarks made by Senator Charleston are somewhat harsh. There is a larger proportion of coloured people in the Northern Territory than there is in South Carolina, United States. For every three white people in the Northern Territory there are two coloured aliens, but in Queensland the ratio is very small.

Senator PLAYFORD.—But the whole of Queensland is not within the tropics, while the Northern Territory is.

Senator STANIFORTH SMITH.—I am not referring to that fact. I think that Senator Millen's contention is an admirable one. If the people who are growing sugar in Queensland desire to substitute white for coloured labour, surely we should give them every encouragement. In dealing with this matter we must recollect that having put in a crop, the planters do not plant again for from three to six or seven years. If we say to them that until they have put in their crops by white labour, they shall not reap the benefit of this rebate, although they employ white labour in all the remaining operations, we shall force them to continue the employment of coloured labour, although, ostensibly, we desire them to discontinue it. If the amendment is carried, and we provide that as long as they employ white labour from the time of one cutting until the next take-place, we shall mete out justice to them. If they comply with that condition they will be undoubtedly entitled to the refund. Many of these people are employing coloured labour at present, and if we carry the Bill as presented by the Government every kanaka that it is possible to introduce this year into Australia will be brought in. Those who are in the unfortunate position of having failed to plant since the 25th February last will receive no benefit so long as their crops continue, and therefore they will import as many kanakas as they can in order to derive the benefit of cheap labour.

Senator DRAKE.—But they have known all about this matter from the first, and two extensions have been granted to them.

Senator STANIFORTH SMITH. — These people must be in the unfortunate position of not being able to substitute white labour, because they have had coloured labour under contract.

Senator DRAKE.—The planters at Cairns told me that they would be perfectly satisfied if they got this extension.

Senator STANIFORTH SMITH.—Certain planters may have made that statement to Senator Drake, because they may have been in a position to accept an extension and benefit by it, but other planters, probably the majority of them, would not be in that position. It is a common thing for a man to say, "As it does not affect me, I am quite agreeable to it"; he does not think of other persons.

Senator DRAKE.—It affects these men very much.

Senator STANIFORTH SMITH.—It will affect them beneficially, because they can get the bonus. Our desire is to get the planters to discontinue growing sugar by coloured labour. If they comply with this requirement—from one cutting to another cutting—then they ought undoubtedly to be allowed to receive the bonus.

Senator DRAKE.—I hope that my honorable friend will give me an opportunity of explaining the clause before he makes up his mind.

Senator STANIFORTH SMITH.—Many senators are in favour of a white Australia so long as it does not cost their State anything. For instance, Senator Symon said the other day that if the bonus had to be paid on a population basis, it would cost South Australia a couple of thousand pounds and put a strain on the Federal feeling there.

Senator DOBSON.—Does not the honorable senator think that there ought to be a limit fixed? Is he prepared to pay £1,000,000 to get rid of the kanakas?

Senator STANIFORTH SMITH.—We do not pay anything; we receive a large sum and hand back a small portion of it as a bonus. We receive £274,000 a year from the planters for the privilege of growing sugar-cane, and a small portion of that sum, £60,000, is given back.

Senator FRASER.—Those figures are wrong; we are handing back two-thirds of what they pay.

Senator STANIFORTH SMITH.—Yes, if it is all grown by white labour, but not one-half of it is grown by white labour. If we were handing back everything, we should be in no worse a position now than we were in before federation, because we should be handing back only what we received from them. We all enjoy very great benefits as the result of sugar-growing in Queensland, and therefore we ought to be very well satisfied to encourage the white

Australia policy, and to agree to the bonus being debited to the States on the *per capita* basis.

Senator HIGGS (Queensland).—I am sure that Queenslanders generally must feel very grateful for the manner in which senators from other States have met this proposal of the Government. There are only two States—Queensland more so than New South Wales—which are particularly desirous of getting this bonus. While we are naturally anxious to get the benefit of the bonus, and of a white Australia, we must see that we do not defeat our aim. I venture to think that if Senator Millen's proposition is carried out we shall not succeed in our desire to have cane produced by white labour. Perhaps honorable senators may think it strange that I should urge a limit to be put on this proposal, but I do so in the interests of the producers of white-grown sugar. When the Pacific Island Labourers Bill was passed, towards the end of 1901, all the planters knew that kanaka labour was to be done away with. The Government and all those of us who favoured a white Australia were in a dilemma as to how best to encourage the white grower, and it was decided that the best way would be to give a rebate of 4s. a ton to the man who produced his cane with white labour. A number of growers—over 1,000—registered to produce white-grown sugar, and the question was put to the Minister—"Am I to be debarred from getting the bonus because I planted my cane with black labour in 1901? I do not think I should be so debarred." The Minister said "No; we shall not debar you because your cane was planted in 1901. We shall not debar you if your cane was planted in the early part of 1902. But if you plant cane with black labour after that time you will not get the bonus." That was the limit at that time. Senators Dobson, Drake, and others went through Queensland, and a number of cane-growers said that they did not know that the white Australia policy was likely to be so successful, otherwise they would not have planted their cane with black labour, and they wished to know if they would be debarred from getting the bonus this year if their cane was planted with black labour at the end of 1902. The Minister came out with a new regulation, and said—"Those who plant cane with black labour up to February, 1903, shall get the bonus, but we are not going to allow

any further extensions. If you plant cane with black labour after the date you will not get the bonus." What will happen if it is made possible up to the end of 1907 for a man to claim the bonus for white-grown sugar? How will the Government be able to say what is white-grown sugar?

Senator STANFORTH SMITH.—They will register twelve months before.

Senator HIGGS.—If they register twelve months before, I imagine that it will not be open to the end of 1907. To show the success of the rebate or bonus system, 1,600 out of the 2,610 planters mentioned by Dr. Maxwell in his report—all small men it is admitted—are registered to produce white grown sugar. If we allow a man to get the bonus this year, to employ kanakas next year to do the greater portion of the work in producing white grown sugar, and to come along in 1905 and ask for a bonus, is that fair to the planters who have continued to employ white labour since the commencement of the operation of the Act? I do not think it is. Senator Drake knows of some cases in which the planters have taken advantage of the bonus for 1902, and as soon as it was paid, reverted to the use of black labour. Is that what the Senate wishes to encourage? Senator Drake has told us that at Cairns he was waited upon by a deputation of planters, who said that they would be perfectly satisfied with this concession. Some honorable senators think that an injustice is being done, but I am satisfied that no injustice will be done in limiting the time to 1903. The great injustice which I think the Bill does is in providing that at the end of 1907 the bonus shall cease, because in the Commonwealth we have 80,000 coloured aliens. The Premier of Queensland, who hoped the white Australia policy would get a fair trial, has said that a number of the planters in that State are employing Hindoos, Chinese, and other coloured aliens in place of the kanakas. What is to happen at the end of 1907, if one plantation has 100 Hindoos employed and a neighbouring one has white men employed? Should not the planters who employ white labour receive some encouragement? Would honorable senators by the withdrawal of the bonus compel those planters to revert to the employment of coloured labour—Papuan, South Sea Islanders, or Hindoos? I imagine that there will be considerable difficulty in getting rid of the kanakas.

I shall do my best to see that the provisions of the Act are carried out, but we do not know what obstacles may be placed in our way. Now, dismissing the kanakas from our consideration, we have in the Commonwealth 70,000 other coloured aliens, in respect of whom we have no legislation. Until the law is altered we shall not be able to send the Chinese away, and in all probability a number of the bigger planters who now employ South Sea Islanders will, as soon as they have to get rid of that labour, employ Hindoos and Chinese. The small grower who is prepared to employ white labour should be in some way encouraged in that regard, and should not be asked to compete with the planters who can employ Hindoos and Chinamen. This sugar question has given the free-trade party a nut to crack. Although we have an import duty of £6 per ton and an excise duty of £3 per ton, yet the people throughout the Commonwealth, so far as I can ascertain, get their sugar cheaper now than they did before.

Senator CHARLESTON.—They do not.

Senator HIGGS.—As a small household, I know what I pay, and from the grocers I know what is charged generally. In Melbourne sugar which was sold at 2½d. per lb. before federation is now sold at 2¼d.

Senator CHARLESTON.—The world's price has fallen £1 5s. a ton.

Senator HIGGS.—There may be a slight difference in the wholesale price, but I am speaking of the cost of the article to the consumer, whom the free-trade party said would have to pay the extra duty.

Senator MILLEN.—The imposition of the duty has been an injury and not an advantage to the grower, because he has to sell for less now than he did before, according to the honorable senator.

Senator HIGGS.—No; what I mean to say is that there has been such a lowering of the price of sugar in Europe that, with our duty, it can come in and keep down the price of the local article to what it is. I commend this fact to Senator Millen's notice, because he was very much amused when somebody said that the consumer did not pay the duty. We can now show that the sugar consumer is not paying the duty in this case.

Senator MILLEN.—If that is the case, will the honorable senator vote for abolishing the duty, and putting up the price for the benefit of the growers?

Senator DRAKE.—If we abolish the duty the price will go down lower.

Senator HIGGS.—If we took off the £6 per ton, the sugar industry in Queensland would be ruined. Even with black labour we could not compete with sugar-producers in other parts of the world. There is no getting away from the solid fact that, while we are paying £6 per ton on imported sugar, we are paying less for our sugar retail. I shall try in Committee to secure an extension of the term from 1907 to, say, 1910. I know that the date 1907 which we fixed in the Customs Tariff Bill has created a fear in the minds of sugar planters that the rebate may be taken away from them at that date. The date ought to be extended in order to give them an additional assurance. The excise ought to be retained, because it does not come out of the growers' pockets, but largely out of the pockets of the Colonial Sugar Refining Company. The bonus or rebate of £2 per ton has been a God-send to the growers of cane by white labour in Queensland, because they get the same price now for their cane—12s., 13s., or 14s. per ton—as they did before, in addition to the bonus from the Government. The storekeepers and others throughout Queensland are delighted with the change, and have become converts to the white Australia policy. I do not anticipate that those who favour that policy will have any trouble with their constituents at the next election, so that Senator Fraser's doleful prognostications as to what is going to happen to me at the hands of Queenslanders are not likely to be realized.

Senator FRASER (Victoria).—I have frequently said that the Government policy in respect to sugar was very foolish. It is now proven to be so from the very Bill which we have in our hands. They now have to undo what they formerly did. I am not going to oppose the Bill—unless I change my mind afterwards—but even if we make this alteration there will be more trouble ahead. The Queensland sugar industry was making enormous headway under the State Government. It had no protection whatever.

Senator DRAKE.—Oh yes it had.

Senator FRASER.—What was it?

Senator DRAKE.—£5 per ton.

Senator FRASER.—That was of no use to the growers.

Senator HIGGS.—Oh, yes, it was.

Senator FRASER.—There was a nominal duty throughout Australia I am quite aware, but every honorable senator knows that it was of no value. It was of about as much use to the producer as would be a duty imposed on wool, wheat, and butter. I have bought sugar in Queensland for the last 35 years. Quite recently I have paid as low as ten guineas for No. 3 sugar produced in Queensland. The sugar was sold in Melbourne, Sydney, Adelaide, and Tasmania, and even in London, without any advantage from a duty and competed with sugars grown in other parts of the world. It was a remarkably cheap product from the point of view of the Queensland people. Of course Queensland sugar, sold in Melbourne in competition with sugars produced elsewhere, could not be cheaper than the other sugars because it had to pay duty.

Senator DRAKE.—The Queensland growers would not like to sell sugar in Melbourne now in competition with the world.

Senator FRASER.—Exactly. When we imposed a duty of £6 per ton on imported sugar we gave the Queensland grower an immense advantage because their sugar is sold throughout the Commonwealth without paying any import duty whatever.

Senator DRAKE.—Then there is the £3 excise.

Senator FRASER.—Yes; but the men who grow their sugar by white labour have now and always will have the advantage of £5 per ton over imported sugar. Of course that is an immense pull to them, and until their sugar is exported will continue to be an advantage. I do not begrudge them the advantage, considering the disabilities under which we have placed them. But, though it is of no use trying to gather up spilt milk, what ought to have been done was to leave the sugar business alone for a few years. Really and truly there was no white Australia about it. The industry would have made great headway if we had let it alone. It will not make great headway under difficulties, because, no matter what honorable senators say, it will be impossible to grow sugar north of Townsville, without black labour—or labour that will be able to stand the climate. It cannot be done. We now have proof that it cannot be done. I have repeatedly said on the floor of this Senate and

now repeat that we ought to have left the sugar-growers alone; because people cannot, even if they wish to do so, grow sugar by white labour in Cairns and similar districts.

Senator STEWART.—They are doing it.

Senator FRASER.—I do not say that there may not be a struggling small man here and there who may attempt to do it, but I maintain that sugar will not be grown north of Townsville as successfully as it has been grown with the aid of black labour. It is impossible. To grow it with the aid of white labour means asking white men to do what they ought not to do, and cannot do if they try. This policy means putting back that part of Queensland into a primeval condition, which is a foolish thing to do. The statistics before us fully prove my statement. Only 15 per cent. of the sugar grown in Queensland is produced by white labour. This Bill does not treat the growers fairly. Suppose a man puts in a crop this year. The stools will produce sugar for five or six years. It does not appear to me to be at all fair or equitable to refuse to pay that man the bonus, if in the future he cultivates and harvests his sugar with white labour. Is it to be said that because the cane was put down by black labour last year, and because the grower continues to produce sugar from the roots that are in the ground, and employs white labour only, he is to be deprived of the bonus which is to be paid to other growers? The position is absurd and unfair. A grower may have put in a crop with the aid of black labour some years ago, and there may be alongside him a man who put in his cane with white labour. It will require an army of inspectors to carry out this business. We have too many inspectors already. The Commonwealth is overladen with public servants.

Senator DRAKE.—One of the objections to Senator Millen's proposal is that it would make the work of inspection more difficult.

Senator FRASER.—I grant that it may. But are you going to perpetrate a glaring injustice because to do otherwise will entail some expense?

Senator DRAKE.—We cannot see the injustice.

Senator FRASER.—I do.

Senator PLAYFORD.—We say to the planters—"Do away with black labour, and you shall get the bonus."

Senator FRASER.—But that is not quite so. A planter has put in his cane

with black labour, but has afterwards entirely done away with black labour. He is producing his crop of sugar with the aid of white labour. He will get crops off his plantation for five or six years. Yet, because he put down the roots with black labour, he cannot participate in the bonus.

Senator DRAKE.—He can, unless he has planted with black labour after the date mentioned in the Bill.

Senator FRASER.—As I understand it, because a crop was put in by black labour last year, although for the five succeeding years the planter grows sugar with the white labour, he cannot participate in bonus.

Senator DRAKE.—We say that after the 1st March, 1903, he must not plant with black labour.

Senator FRASER.—That is not quite so severe as I understood it to be. But are the people of the far north of Queensland to be ruined entirely by trying to comply with this law? I say there will be very great difficulty, and very great loss entailed. Of course they are getting a great advantage, and I shall personally offer no objection to it; but, unless I find that I am mistaken in some of my facts, I shall have to vote for the amendment suggested by Senator Millen.

Senator Lt.-Col. CAMERON (Tasmania).—I should like to say a few words about this Bill, which is one I entirely disapprove of. I do not desire to touch upon the subject of a white Australia, beyond saying that when Queensland spoke out so very strongly upon that subject, she ought to have realized also that if her policy was to be carried out she should be responsible for the burden it entailed. She should not have expected that she would be allowed to come cap in hand and ask such a poor State as Tasmania to pay for the privilege she desired to obtain. Last year Tasmania's share of the burden to enable Queensland to secure the privilege was £16,206. We lost that amount of money, and got nothing in return for it.

Senator MILLEN.—Did not Tasmania pronounce for a white Australia, and did not Tasmanian representatives approve of the Pacific Island Labourers' Bill?

Senator Lt.-Col. CAMERON.—I do not think that Tasmania did. Speaking for myself I was most strongly against it. I say that here in the Senate Chamber, and I can go out upon it. I do not see why the Government should now penalize Tasmania still further to the extent which will result from

the operation of this Bill. I am sure that every honorable senator is animated as I am myself with a desire to deal fairly and squarely, and to treat all the States of the Commonwealth liberally and properly. But in a matter of this kind it is the duty of the Government to consider the straits that the smaller States are put into financially by the passage of legislation of this character. If we must adopt the bonus arrangement to meet the necessities of Queensland—

Senator DRAKE.—That is not so. It does not affect Queensland.

Senator Lt.-Col. CAMERON.—I do not say that I shall do anything to prevent it, but if we must adopt some such legislation I hope that while the bookkeeping provisions of the Constitution have to be maintained, the Government will bring forward some scheme whereby the difficulties we are labouring under in various ways, and in this way particularly, may be alleviated to some extent, pending the equalization of the Customs revenue *per capita* over the whole community.

Senator MILLEN.—The honorable senator must not take it for granted that the *per capita* system is going to obtain.

Senator Lt.-Col. CAMERON.—I quite admit that, but the honorable senator will agree with me that we require some scheme which will deal fairly with all parties. The honorable senator spoke of honesty of purpose just now, and all I ask for is honesty of treatment for the different States. When I find that the small State of Tasmania, which is now in great difficulty financially, is called upon to pay £16,206 for this purpose, it appears to me that the Government cannot have given sufficient consideration to the position of that State, or they would not have brought forward a Bill like this without some provision to meet the case I have laid before the Senate.

Debate (on motion by Senator Sir JOHN DOWNER) adjourned.

SUGAR REBATE ABOLITION BILL.

SECOND READING.

Senator DRAKE (Queensland—Postmaster-General).—I move—

That the Bill be now read a second time.

This is a small Bill consequent upon the Bill which we have just been considering.

The matter with which it deals is necessarily put in a separate measure, for reasons which are well known to honorable senators. It deals with the Excise Act of 1902, and makes a necessary alteration in the schedule so as to enable the payments to be made as bounties, and not by way of rebate. The Bill is a very simple one, as honorable senators will see, and consists of only three clauses, giving the necessary authority for the alteration to which I have referred.

Senator MILLEN (New South Wales).—I rise only for the purpose of asking the Postmaster-General how far he proposes to proceed with this measure? The honorable and learned senator himself has stated that this is a natural sequence of the measure which we have just set aside, and it would clearly not do to pass this Bill before we have dealt with the other measure.

Senator DRAKE.—I wish it to follow the other measure.

Senator MILLEN.—So long as it is not intended to go on with this Bill now, I am satisfied.

Debate (on motion by Senator Sir JOHN DOWNER) adjourned.

CANADIAN-AUSTRALIAN MAIL CONTRACT.

Senator DRAKE (Queensland—Postmaster-General).—I move—

(1) That the Senate approves of an extension for a period of two years of the arrangements entered into on the 5th day of June, 1899, and the 10th day of August, 1899, by the Governments of New South Wales and Queensland respectively, for the carriage of mails between Australia, Fiji, and Canada by the steamers of the Canadian-Australian Royal Mail Line upon the following terms:—

(a) That the amount of subsidy payable by the Commonwealth be increased by a sum not exceeding £8,000, being the Commonwealth proportion of a total increase of £16,000.

(b) That provision be made for the efficiency of the vessels employed in such service.

(2) That this resolution be communicated by message to the House of Representatives.

In this motion the Government are asking the approval of Parliament to the extension of the present Vancouver mail contract for another two years. At the outset, however, I desire, by leave, to amend the motion as I am able now to state what will

be the exact cost of this extension to the two States primarily interested. I propose to amend it by striking out the words "not exceeding £8,000," and inserting in lieu thereof the words "of £6,363 12s. 9d."

Motion, by leave, amended accordingly.

Senator DRAKE.—The total amount of the increased subsidy, namely, £16,000, will remain, but the proportions had not been worked out at the time that the motion was framed and placed upon the notice-paper, and, therefore, I could not then give the exact amount. I shall now show the proportions of the subsidy which will be paid by the various contributing bodies. The arrangements relate to services which are practically one, and it is just as well that we should deal with them in that light. The contract, which was originally entered upon for a series of four years, expired on the 30th April last. There can be no doubt that during that period the service resulted in a considerable loss, owing largely to the fact that the trade between Australia and Canada has not yet had a fair chance to develop. We hope that in consequence, among other things, of the establishment of more immediate cable communication between Canada and Australia, the traffic between these two great countries will increase. In the meantime we are asking for authority to extend this service for another two years, so that at the expiration of that time we shall be able to consider the very much wider question of a service of a much better character. I may mention here that I have endeavoured to make arrangements, so that all our mail contracts, including the coastal contracts of the various States, shall fall in about the same time. In that way we shall have a very much better opportunity to negotiate for a first-class mail service. I have had some figures prepared which perhaps will be interesting to honorable senators. They involve matters in regard to which I am continually being questioned, and perhaps it would be as well to place them upon record. The contract for the P. and O. and Orient lines, of which we have heard so much of late, will terminate on the 31st January, 1905, and the subsidy is £72,000 per annum. The contract for the Canadian-Australian line, presuming that this extension is ratified, will expire on the 30th April, 1905, and the subsidy in connexion with it will comprise £13,636 7s. 3d. paid by New South Wales, and £10,227 5s. 6d.

paid by Queensland. Then there are certain Queensland contracts. For example, we have the A.U.S.N. contract to carry mails between Brisbane, Cooktown, Gladstone, Townsville, and Cairns—generally known as the Barcoo line—which expires on the 28th October, 1905. The subsidy in that case is £16,750 per annum. There is also the Gulf Line from Brisbane to Normanton, which will expire on the 15th January, 1906, and the subsidy in connexion with which is £6,000 per annum. We have recently entered into a short contract with regard to Tasmania, which will expire on the 30th September, 1906. Under that contract we shall be paying at the rate of £500 per month until the 30th September next, when we shall pay at the rate of £9,000 per annum until 31st January, 1905, when a large new steamer will be put into service; the payment will then be £13,000 per annum. Another contract provides for a service on the north-west coast of Western Australia—from Fremantle to Wyndham. It will expire on the 28th February, 1906, and under it we are paying £4,000 per annum. The contract for a service on the south-east coast of Western Australia—Albany, Esperance, and Eucla—expires on the 31st December, 1905, and for that service we are paying £6,000 per annum. For the service between Adelaide and Port Darwin we are paying £3,600 per annum. These represent the principal contracts that we have for the carriage of mails by sea. It will be observed that they will all expire during the year 1905 or the beginning of 1906, when we shall have to decide the big question of the mail service between Australia and Great Britain. We do not know what service the companies that are now doing the work, or other companies that may attempt to come in, will be prepared to offer us, but I think it will be agreed that we should have as many strings as possible to our bow when the time comes to call for tenders. That time is rapidly approaching, and I am now taking steps with a view to calling for tenders for new services. It is certainly desirable that when that time arrives we should be able to offer what inducements we can to first-class companies. The service to which this motion refers cannot be put forward primarily as being a postal service, nor can any of the others which I have mentioned. It has been the practice in the past for the various States to

debit the expense of these services to the Postal Department. That practice has been looked upon as a convenient one, but I hope that we shall soon follow the example of other countries, such as Canada, and have a commercial or development fund for the purpose of subsidizing services which, in the main, are run, not for the purpose of carrying postal matter, but to develop commerce and accommodate shippers and passengers.

Senator WALKER.—Is it proposed that the cost of the extension of the existing contract shall be charged only to New South Wales and Queensland?

Senator DRAKE.—This particular extension will be charged to those States. Although it will be a new contract in the sense that we shall have to draw up a fresh agreement and sign it, we regard it really as being an extension of the existing service. The old agreement has actually run out, but the company has been paid to continue the service from month to month. We propose now to extend it for two years from the 1st of May last, in order that it shall not come to an abrupt conclusion. There can be no doubt that the company has lost very heavily in the past in carrying out this service. Of course I cannot undertake to say definitely what its losses have been. Various amounts have been stated, but it cannot be denied that the service has been a losing one for them. In making the new arrangement, therefore, we had to consider the terms upon which the company would consent to carry on for another two years. That matter involved long negotiations between the Government and the company, and the increased amount of £16,000 was the lowest that they would consent to accept for the continuation of the service. Hitherto the subsidy has been paid in the following proportions:—New South Wales, £10,000 per annum; Queensland, £7,500 per annum; Canada, £25,000 per annum; and Fiji, £1,500 per annum. Those payments make up the total subsidy of £44,000 which has been given up to the present time. The increase of £16,000, which will bring the total subsidy up to £60,000, has been apportioned in this way: Canada will pay an additional £9,090 18s. 2d. per annum, the Commonwealth an additional £6,363 12s. 9d. per annum, which will be debited as transferred expenditure to New South Wales and Queensland, and Fiji an additional

£545 9s. 1d. per annum. The increased sum of £6,363 12s. 9d. to be paid annually by the Commonwealth will be distributed between Queensland and New South Wales, so that the last-named State will be called called upon to pay £3,636 7s. 3d., while Queensland will contribute £2,727 5s. 6d. per annum. One condition which has been insisted upon by the Government and agreed to by the company is that the *Miwera*, which, as is generally known, is not equal in speed and convenience to the other two boats on the service—the *Moana* and the *Aorangi*—shall be taken off for one trip and completely overhauled. Necessary repairs are to be effected and she is to be improved, so as to be made thoroughly efficient to the satisfaction of the Prime Minister, or at his option, of the Postmaster-General. If the *Miwera* is improved so as to give that satisfaction, we reckon that she will be able to make her trips as satisfactorily as the *Moana* and the *Aorangi*, and we shall then have between Australia and Vancouver a service which will be very satisfactory from a passenger, as well as a cargo, point of view. Of course, as a postal service, it will also be of very great advantage to us as between Australia and Canada.

Senator WALKER. — How about the length of time it will take the mails to go to England?

Senator DRAKE.—From three to four days longer than it takes the mails by the P. and O. line to go to England. So far as Canada is concerned, it is an up-to-date and as good a mail service as we could expect to get. We should have no regular communication with Fiji if it were not for this service. I do not think that I have put the case too strongly because it is of no use to try to make out that it is a first-class mail service. We ask for an extension principally because it is one of our trade routes, and a route in a direction in which we hope that trade will considerably develop. We think that it would be a very unfortunate thing if at this particular time that service should cease.

Senator STANFORTH SMITH.—Is there any condition in the agreement prohibiting the use of coloured labour?

Senator DRAKE.—The contract will be carried out according to the conditions of our Post and Telegraph Act. It is not usual to ask for the approval of Parliament

in a matter of this kind, but the original contract was made subject to parliamentary approval, and obtained that approval, and therefore we think it is right before we take any step to extend the contract that we should again ask for parliamentary approval.

Senator MILLEN (New South Wales).—I do not rise with a view of offering any opposition to the motion, for indeed it has my very cordial support, but there are one or two matters to which I should like to draw the attention of the Postmaster-General. While I say that I am not prepared to take exception at this stage to the proposal that the whole of this expenditure shall be charged to certain States, I wish to place on record that I am not prepared to sanction that as a principle so far as the vessels which have to do with our outgoing commerce are concerned. I admit at once that it is a renewal of an existing arrangement, but that arrangement was made when the States were separate entities and had necessarily to arrange for the conduct of their affairs. Surely it was not unreasonable to assume that once Federation became an accomplished fact all matters of this kind were to be dealt with by the Federal authorities for Federal purposes. This mail service, the cost of which is to fall on two States is distinctly for the benefit of every State in the Union. Can it be supposed for a moment that only the mails of New South Wales and Queensland are transmitted by these boats? I think it would not be at all difficult to show that this is a charge which might fairly be laid on the Commonwealth. I am not prepared now to take any exception to the motion, or to move any amendment, but as one of the representatives of New South Wales, I wish it to be distinctly understood that, whilst at the present time I agree to the motion, I do not, in any way, indorse the proposition which it really contains.

Senator DRAKE.—It is continuance and maintenance: it all turns on that.

Senator MILLEN.—I am quite aware of that. At the same time, I think it must be admitted that I am stating a reasonable case, and I hope in a reasonable way, when I say that this mail subsidy is distinctly for the benefit of the whole Commonwealth. Surely it was to be supposed that in our external relations matters were to be dealt with from a Commonwealth stand-point only—that if there was any purpose in

establishing the Commonwealth at all, it was to permit of that being done.

Senator DRAKE.—Then the bookkeeping clauses come in the way.

Senator MILLEN.—That is quite true, but they will not affect the contention I am advancing—that this charge is one which might fairly have been distributed amongst the States seeing that the result of the expenditure must be a general benefit. I do not mean to say that the lion's share of that benefit may not be reaped by the two States containing the ports of call. These subsidized steamers running to another country must clearly carry the mails of all the States.

Senator DRAKE.—We will charge other States poundage.

Senator MILLEN.—The honorable and learned gentleman cannot charge the other States poundage in this case, because he pays a lump sum.

Senator DRAKE.—Yes, we can.

Senator MILLEN.—If it is done the honorable and learned gentleman is wrong in saying that this cost is to be charged against New South Wales and Queensland.

Senator DRAKE.—That is what will be done first of all; but those States can get the advantage of any poundage which is charged to other States.

Senator MILLEN.—The poundage is so small that it is hardly worth talking about. I do not think that it in any way affects my contention that since this service is for the good of all the States it ought to be paid for by the States in proportion either to the population or to the benefit which it is held that they derive therefrom. Seeing that I have approached the subject with some idea, so far as the representative of one State can do, of rendering some slight assistance to the other States, I may be pardoned for expressing the hope that the representatives of the other States will consider, in a similar spirit, any proposition wherein it may appear that New South Wales gains some slight advantage. I wish to draw the attention of the Postmaster-General to the time-table. If a letter which I had the opportunity of perusing is correct, there has been a great deal of clumsiness in fixing the dates for the despatch of the vessels. I understand that two steamers largely serving the same purpose have sailed on the same date.

Senator DRAKE.—We have no control over one of them.

Senator MILLEN.—The steamer over which the Postmaster-General has no control has a fixed sailing day, and if he knows the day on which the *Oceanic* boat sails, surely it ought to be possible, as an ordinary matter of business, in making his arrangements with a firm he proposes to subsidize, to have some voice in fixing the dates on which their boats shall sail.

Senator DRAKE.—Would not the other company change their sailing dates then? For some reason or other they always will send out their boats on the same day—why, I do not know.

Senator MILLEN.—No; the honorable and learned gentleman sends out his boat at the same time as they send out their boat. I do not hold him responsible for the sailing of the other boat, but I merely suggest that some step might be taken to largely increase our mail facilities with the American continent and Europe. I am sure that the honorable and learned gentleman will admit the desirability of doing that if it can be done.

Senator DRAKE.—We tried to do that, but we found that the non-subsidized boat would run on the same date as the other. That is the tendency, and that is what we want to check.

Senator MILLEN.—Possibly there is a tendency of that kind in order to compete with the subsidized boat, but I still think it is possible to take some step to improve our external communication.

Senator DRAKE.—We are trying to do so.

Senator WALKER (New South Wales).—I am very pleased that Senator Millen has spoken as he has done. My attention has also been drawn to this matter. If it is to be a purely mail service, it is a question whether it would not be more rapid *via* San Francisco. But I take it that the wish of the Senate is rather to support the all-red route, and hence our willingness, I presume, to put up with the slight delay in the carriage of the mails. The information which has been furnished to me would seem to show that very shortly a mail will go from San Francisco to New York in three and a half days, and consequently it is desirable that our mail boats should possess a greater rate of speed than they have hitherto done. I was glad to hear Senator Drake say that the *Alouera* is to be replaced—by a boat of larger tonnage, I presume!

Senator DRAKE.—She is to be overhauled and repaired.

Senator WALKER.—I presume that when the contract expires, two years hence, tenders will be called for a service either *via* Vancouver or *via* San Francisco.

Senator DRAKE.—Very soon.

Question resolved in the affirmative.

SENATE ELECTIONS BILL.

SECOND READING.

Senator DRAKE (Queensland — Postmaster-General).—I move—

That the Bill be now read a second time.

The Bill is designed to prevent an inconvenience which, we think, may arise under the wording of the Constitution Act on the occasion of the next election of senators. We have the general provision with regard to the election of members of the Senate, which, I think, is perfectly clear to all senators. We have all gone through an election for the term of six years, and I think I need hardly say anything with regard to that portion of the subject. Section 15 says—

If the place of a senator becomes vacant before the expiration of his term of service, the Houses of Parliament of the State for which he was chosen shall, sitting and voting together, choose a person to hold the place until the expiration of the term, or until the election of a successor as hereinafter provided, whichever first happens. But if the Houses of Parliament of the State are not in session at the time when the vacancy is notified, the Governor of the State, with the advice of the Executive Council thereof, may appoint a person to hold the place until the expiration of fourteen days after the beginning of the next session of the Parliament of the State, or until the election of a successor, whichever first happens.

At the next general election of members of the House of Representatives, or at the next election of senators for the State, whichever first happens, a successor shall, if the term has not then expired, be chosen to hold the place from the date of his election until the expiration of the term.

That has happened in the case of two States—in Victoria by the death of Senator Sargood, and in Western Australia by the resignation of Senator Ewing. Consequently at the next election for senators in those States the people will be called upon to elect three senators for six years, and one senator for the balance of the term of the senator who was previously sitting here.

Senator WALKER. — Senator Ewing's term is only three years.

Senator DRAKE.—I thank the honorable senator for the correction. Still, the one case is sufficient to illustrate the position. The case that has occurred recently

may happen again—that there may be some casual election to fill the place of a senator whose full term was six years. In Victoria at the next election the people will be called upon to elect three senators for six years, and one for three years. The question is, how is that to be done? It might be done by holding separate elections at the same time: one of three senators for six years—for which any one, under the conditions of the Constitution Act, might be nominated—and one for a senator to sit three years. It appears to me that a very great difficulty might arise from holding separate elections for the senators for the six years term, and for the one senator for the three years term, at the same time. It would be exceedingly difficult for electors to know how to vote. In the first place, the probability is that those persons who were nominated for the six years term would also be nominated for the three years term; because the persons who were nominated for one of the full terms might feel that, in order to secure their election, it was wiser also to be nominated for the shorter term. On the voter going to the polling place he would find four, five, or six names on the voting paper for the election of the three senators who were to be chosen for six years. He would have to vote for those senators, and then take another ballot-paper containing the same names, and vote for one senator for the three years term.

Senator MILLEN.—That could be prevented by barring a candidate from double nomination.

Senator DRAKE.—I hardly think we could do that.

Senator MILLEN.—It would be one way out of the difficulty.

Senator DRAKE.—I do not think that we could say constitutionally that Jones or Brown should be debarred from being a candidate for the casual vacancy because he was also a candidate for the full term.

Senator MILLEN.—We have debarred members of States Parliaments from candidature.

Senator DAWSON.—But it had no effect.

Senator MILLEN.—I am not advocating the course I have mentioned, but I suggest that it could be done.

Senator DRAKE.—We have debarred members of States Parliaments under certain conditions, certainly; but apart from that question it is not advisable that what Senator MilLEN recommends should be done,

because a candidate might feel that, in the event of not being elected for the full term, he might succeed in securing election for the shorter term. Why should he be debarred from being elected for the casual vacancy because he was also nominated for one of the seats for six years?

Senator PLAYFORD.—Why can we not say that the successful candidate who gets the fewest votes shall be elected for the shorter term?

Senator DRAKE.—That is exactly what we are saying in this Bill. By following the line of common sense, Senator Playford has reached the conclusion that the Government recommend. Certainly our proposal has the merit of simplicity. We assume that every candidate would like to be elected for six years, if possible, but that if he cannot succeed in securing election for six years, he would like to be elected for three years. Therefore, the fairest course is to elect the four senators together, allowing any number of persons to be nominated for the four seats, letting the first, second, and third on the poll be elected for six years, and the fourth on the poll be elected for three years. This seems to be the simplest and the fairest plan, and obviates the difficulty that might arise if we attempted to have two elections at the same time.

Senator WALKER (New South Wales).—I second the motion for the second reading of this Bill. Having read it through carefully more than once, I cannot find fault with it, and I support it with much pleasure.

Senator BARRETT (Victoria).—I cannot say that I agree with the proposals contained in this Bill, making provision for the election of senators. Probably I speak feelingly upon the point because, as far as I can see, the measure can only affect the State of Victoria on the present occasion. But other senators have an interest in it because, if it becomes law, it may affect them in the future exactly as it will now affect senators from Victoria. There is a provision in the Constitution for the rotation of senators. When we had to arrange as to the retirement of senators, we agreed that the three lowest on the poll for each State should be the first to retire. When that arrangement was made, there were a good many honorable senators who did not agree with the proposal.

Senator PLAYFORD.—They did not agree because they were the lowest on the poll.

Senator BARRETT.—There may be a good many reasons which lead to a candidate being low down on the poll. The money element entered strongly into the last election. A candidate with £10,000 at his disposal in a State election has a much better chance than a candidate with only £100 or £200. On the occasion to which I refer, the Government proposed that for each State the three senators who were lowest on the poll should retire at the end of the first three years. Many of us thought that that was hardly fair. Although I did not oppose the arrangement, I considered that the fairer method would have been to choose the retiring senators by lot, because, as I have already said, there are elements apart from political capacity which play an important part in elections.

Senator MILLEN.—The moneyed men may in some cases have been those who were lowest on the poll.

Senator BARRETT.—The moneyed men have a great advantage in these elections notwithstanding our Electoral Act, because, as the Americans say—"Money speaks." Those whose friends spend money in their behalf always have the best chance. Certain senators were penalized by the arrangement to which I have referred. Now, under this Bill, a retiring senator, because he happens to be 40 or 50 votes lower on the poll than a man who comes in to fill a casual vacancy may, under the peculiar conditions to be created, lose the chance of election for a six years' term. That is not fair. It is not just. I will illustrate the case of those who in Victoria will retire at the next election as against Senator Reid, who has been elected to fill the seat formerly occupied by Senator Sargood. Senators Best, Styles, and myself will retire and seek re-election. At the last election there was a very close contest so far as we three were concerned. A little more than 3,000 votes divided us. Suppose that at the next election there are for the four seats five candidates. It may be that Senator Reid will obtain a few more votes than I secure. In that case, under this Bill, Senator Reid will get a six years' term, and I shall have to face the electors again at the end of three years. That is to say, I shall have to contest three elections in five and a half years.

Senator DOBSON.—Still, he will be the choice of the electors.

Senator BARRETT.—I say it is not so.

Senator MILLEN.—It will not be the honorable senator's own choice if he is at the bottom of the poll.

Senator BARRETT.—The honorable senator knows exactly what I mean—I am speaking of the advantages one candidate may have over another. The chances are that, if we were all similarly placed with regard to monetary support, the results would not be the same. I think that, under the circumstances, the three retiring senators who obtain re-election, should enjoy the six years' term. I would place the other senator, who is chosen to fill the casual vacancy, in the position in which he was when he came into the Senate, namely, of having to sit for the term of the senator whom he succeeded.

Senator DAWSON.—The Constitution says that he has to go up for election.

Senator BARRETT.—But under this Bill, when a senator has been once penalized, he may be penalized again in an unfair manner. I cannot, at this moment, foreshadow any amendment, but I intend to oppose the clause which I have criticised. I think some provision could be made which would do justice all round. I do not think the provisions of this Bill are fair, and I shall, therefore, oppose the second reading.

Senator FERGUSON (Queensland).—I notice that in connexion with the nomination clause of this Bill we are directed to "see the principal Act." I find that the section to which we are referred in the principal Act disqualifies a member of a States Parliament from being nominated for election as a member of the Federal Parliament. That in my opinion is not a section which should have been introduced into the Act. I know that when the Electoral Bill passed this Chamber there was no such clause in it. I was not here when the Bill came back from another place, and I intend to refer to that section now. It seems to me that it was intended to give to honorable senators a monopoly of their seats. I have no doubt whatever that that was the object of the section. Most of us won our place and position through our reputation in State politics, and our only formidable opponents when we seek re-election will be those who are similarly known to the electors. According to the section no member of a State Parliament can be nominated for election to the Federal Parliament, unless

he resigns his seat as a member of the State Parliament at least a fortnight before the day of nomination.

Senator DAWSON.—That is not in this Bill.

Senator FERGUSON.—I am aware of that, but we are directed to that section by this Bill. We know that the Commonwealth Parliament offers very few attractions to State members, because the sacrifice of time involved in attending this Parliament is too great. The objection to the section is that it unduly restricts the choice of the electors.

The PRESIDENT.—I would ask the honorable senator if he thinks that question is relevant to the subject-matter of the Bill!

Senator FERGUSON.—I desire to express the opinion that the nomination of candidates for election to the Senate should be left entirely to the people. It is not for us to make any law which will restrict the electors in their choice.

The PRESIDENT.—Under our standing orders no amendment can be moved in a Bill which is not relevant to the subject-matter of the Bill. I do not think that the question raised by Senator Ferguson has anything to do with the subject-matter of this Bill. I do not give a positive opinion at present, but I doubt very much whether any amendment could be introduced into this Bill dealing with the matter which the honorable senator is now discussing.

Senator FERGUSON.—I bow to the President's ruling.

Senator HIGGS (Queensland).—I think that perhaps upon consideration the President may be inclined to admit that a Bill "to make further provision for the election of senators" might be amended in almost any direction. On the point raised by Senator Ferguson, if I may be allowed just a word, I would say that, while I opposed the section calling upon State members to resign before they could be nominated for election to the Senate, because I thought it was unfair, those who were in favour of that section certainly had something to say on their side. They argued that if such a provision as that were not included in the Federal Electoral Act, a member of the Senate or the House of Representatives might hold two seats, and they pointed to Senator Ferguson as a shocking example of the evil which they proposed

to avoid. The honorable senator, in addition to the seat which he holds in the Senate, holds a seat in the Legislative Council of Queensland.

Senator FERGUSON.—That is as great an honour as to have a seat here.

The PRESIDENT.—I think that this argument is a very strong illustration of the point I took. We are now discussing a Bill to provide in what manner senators who occupy casual vacancies shall be elected, and I do not see that that has any necessary connexion with, or is relevant to, the question now being raised. There may be great differences of opinion upon the matter referred to, but it is not raised by this Bill.

Senator HIGGS.—I shall leave that matter, and deal with the point raised by Senator Barrett. I do not think that the honorable senator's position would be very much improved if the arrangements proposed in this Bill were not made. I think it will be a convenience to the elector, if, when he comes to vote, he has a ballot paper enabling him to fill four vacancies, rather than two ballot papers, one enabling him to fill three vacancies, and the other enabling him to fill one. I would ask Senator Barrett whether he thinks he would not be in just the same position if there were no casual vacancy to be filled? If the honorable senator could not secure a place amongst the three senators to be elected, if there were no casual vacancy he would be left out altogether, and would really be in a worse position. In the case of a man who could not secure a place amongst three senators, but who might secure a place if four were to be elected, it is an advantage to have a by-election taking place at the same time as the election for the three senators.

Senator MILLEN (New South Wales).—I should like to draw the attention of the Postmaster-General and the Senate to what appears to me to be an oversight in this Bill. It sets forth certain forms, schedules (a) and (b), which are modified duplicates of schedules in the principal Act. I see nothing in the Bill now before us to substitute the schedules (a) and (b) for the schedules in the principal Act, and a difficulty will arise as to whether the forms of the principal Act or the schedules of this Bill are to be used. For instance, there is a slight variation in the form of the writ for elections, and the Bill does not say that the modified form here proposed is to take the place of that set out in the principal Act. I

ask which form is going to be used? I think there should be something in the Bill before us to say that the schedules attached to this Bill are substituted for the forms provided in the main Act in order that the matter may be made perfectly clear. Honorable senators will remember that in the Sugar Rebates Abolition Bill, which was discussed this afternoon, it is clearly stated that bounties are to be substituted for the rebates. In a similar way, I think that this Bill should state that the schedules attached to it are to be substituted for those in the principal Act. I invite attention also to the clause of this Bill dealing with the powers of the Court of Disputed Returns. I do not know that the opening for any difficulty is quite so wide in this case, but if honorable senators will look at clause 11 of the Bill they will find that the Court of Disputed Returns is given power to declare three things, one of which is that any candidate who is not returned as elected was elected to fill a periodical vacancy or casual vacancy as the case may be. If honorable senators will turn to the principal Act they will find that under section 197 a similar power is given in slightly different terms. I am not at all certain whether the ingenuity which sometimes marks the legal fraternity may not determine that as this measure is the later one something is intended other than that which is provided for by section 197 of the principal Act. Under sub-section (5) of section 197 of the principal Act the Court of Disputed Returns may declare any candidate duly elected who was not returned as elected.

Senator DRAKE.—This Bill is incorporated with the principal Act.

Senator MILLEN.—If the two Acts are to be incorporated why should we state twice, and in different terms, what we wish the Court of Disputed Returns to do. This is not an additional power, but one which is already given to the Court of Disputed Returns, and there is therefore no necessity to reaffirm it. If it is intended that there should be any variation of the powers conferred upon the Court of Disputed Returns it would be as well to make some reference to the fact in this Bill, and possibly to repeal section 197 of the principal Act. But if that is not intended there is no necessity to reaffirm in this Bill a power already conferred upon the court. I should like to say with regard to the very important and interesting point raised by Senator

Barrett, that no honorable senator ever for a moment entertained the idea which seems to have floated through Senator Barrett's mind, that that honorable senator will have any difficulty in being again returned to the Senate.

Senator BARRETT.—I did not say that.

Senator MILLEN.—The honorable senator seemed depressed by a belief that that might be so.

Senator BARRETT.—If the honorable senator thinks that, he makes the greatest mistake he ever made in his life.

Senator MILLEN.—I am very pleased to hear it, because I am sure that honorable senators, and myself particularly, will welcome the return of Senator Barrett after the coming elections. I could not help thinking that, in the views which the honorable senator enunciated, there was a claim that honorable senators have something like a prescriptive right to a seat in this Chamber. Stated in that bald way that may perhaps appear to be a startling doctrine to enunciate, still, I think the views enunciated by Senator Barrett, when boiled down, come to that. What the honorable senator's contention amounted to was this: If four senators have to be elected, one of them, because he happens to have held a seat here previously, should be given some advantage over another.

Senator DAWSON.—Which would not be possible if there were not a fourth vacancy.

Senator MILLEN.—Senator Barrett appeared to me to be affirming this: That if, as may be the case in Victoria, four ex-members of the Senate stand for re-election, the three of them who previously held their seats for a longer term than the fourth should be given some prior right to the fourth irrespective of the number of votes he may poll.

Senator STYLES.—The fourth was not elected by the people.

Senator MILLEN.—Quite so, but I think Senator Barrett enunciated the doctrine which I have stated in somewhat different words to the Senate—that if on going up for election the four ex-senators are returned, the three who have held seats in the Senate for the longest term shall have some prior right over the fourth, and whatever number of votes they may poll the fourth man shall be the senator returned to serve for a three years' term, even though he may have polled two votes for every one

polled by the other honorable senators. I do not say that the majority is always right, though it generally is when I happen to win an election, but I remind honorable senators that we shall be treading upon very dangerous ground if we attempt to lay down in a Bill of this kind anything which departs from the principle which the Bill itself contains. I see no reason for what has been suggested, and I think that people outside will probably consider that it is an attempt to establish some prescriptive right to the seats they have once given us.

Debate (on motion by Senator STYLES) adjourned.

PAPER.

Senator DRAKE laid upon the table—

Victorian Military Forces.—Alteration of Regulations.

SPECIAL ADJOURNMENT.

Senator DRAKE (Queensland — Postmaster-General).—We have made very good progress this week, and as there is no pressing business for consideration to-morrow, I move—

That the Senate, at its rising, adjourn until Wednesday next.

Question resolved in the affirmative.

Senate adjourned at 8.48 p.m.

House of Representatives.

Thursday, 18 June, 1903.

Mr. SPEAKER took the chair at 2.30 p.m., and read prayers.

PERSONAL EXPLANATION.

Mr. SALMON.—I desire to make a personal explanation with reference to the following paragraph, which appears in this morning's *Argus*, under the heading "In the Federal Galleries":—

Mr. Wilks, desiring to criticise Mr. Salmon's attitude with regard to the High Court, found himself in a quandary. How could he, in addressing the Chairman, criticise the arguments of the occupant of the chair? Mr. Wilks got over the difficulty easily. Speaking with such fervour and fluency that an obvious inadvertence was readily intelligible, he persisted in addressing Mr. Salmon as Mr. Chanter, and in bombarding the supposed occupant of the chair with voluble arguments directed against the speech of the real occupant.

I desire to point out that I have delivered only one speech upon this question, and that that speech was in opposition to the Bill. There must have been some misapprehension in the mind of the writer of the paragraph to which I refer, but I should not like a wrong impression to be conveyed to the public.

CODLIN MOTH PARASITE.

Mr. McCOLL.—Has the attention of the Prime Minister been directed to the report that there has been discovered in Spain a complete remedy for the codlin moth pest, which is the greatest scourge from which our orchardists suffer? I ask him to take steps to procure full information on the subject, and, if necessary, to obtain a supply of the alleged parasites of the moth, and distribute them throughout the States. If he does so, he will confer a great benefit upon the whole Commonwealth.

Mr. SPEAKER.—The honorable member must not debate the subject.

Sir EDMUND BARTON.—The honorable member himself brought under my notice this morning the following press report:—

Mr. George Compere, entomologist to the West Australian Agricultural Department, returned to the State last week, after a lengthy trip through America and Europe in search of parasites for pests that have given trouble to local orchards. In Spain he found six different parasites of the codlin moth. One of these had completely eradicated the codlin moth in one Spanish district. Mr. Compere did not bring any of the codlin moth parasites with him, in consequence of their not being required here.

I do not know in what light the action suggested, if taken by me, would be viewed by the Agricultural Departments of the States, but I shall consider the question with the desire to do anything that lies in the power of the Government to assist the States in the eradication of so deadly a pest.

ADJOURNMENT (*Forma*).

ELECTORAL ROLLS.

Mr. SPEAKER.—I have received an intimation from the honorable member for Macquarie that he desires to move the adjournment of the House to discuss a definite matter of urgent public importance, namely, "the delay in the preparation of, and the incompleteness of, the Federal electors' rolls."

Five honorable members having risen in their places,

Question proposed.

Mr. SYDNEY SMITH (Macquarie).—I make no apology to honorable members for taking this step, because I find that 150,000 people have been disfranchised by the incomplete collection of the names for the proposed Federal rolls. This House took a great deal of trouble to provide a most liberal franchise for the Commonwealth electors. The Adult Franchise Act, which confers the franchise upon females as well as upon males, was assented to by the Governor-General on the 18th June, 1902, so that it has now been in operation for twelve months, and the Electoral Act was assented to on the 10th October following, so that it has been in operation for eight months. Honorable members may, therefore, ask how is it that the rolls necessary under those Acts have not been prepared? In the remarks which I have to make on this subject, I shall speak more particularly of what has been done in New South Wales, because I know more about the state of affairs there than in other States, and I shall leave other honorable members to speak in regard to the States which they represent. Although the Commonwealth electoral law differs very greatly from the electoral law of New South Wales, being much more liberal than it, the Minister for Home Affairs has taken as the basis for the Commonwealth roll the State roll for males which was collected in April, 1902, and revised in October of the same year. To show the difference between the provisions of the Federal law and those of the State law, I may mention that whereas a man is entitled to vote at the Federal elections after he has resided six months in Australia, no person who has resided in New South Wales for less than twelve months, even though he may have been a resident of Australia for twenty years, can obtain an elector's right and be enrolled, and every elector must have resided for a month in the division for which he is enrolled before he can vote at an election. Under the Federal law a man who had resided in Australia for six months and had taken up his residence in any State for one month could vote at the Federal elections, but in New South Wales he would not be able to vote at the State elections until he had resided there for twelve months, and in the division for which he was enrolled for one month. Then, again, under the Federal law, persons in receipt of assistance from the Government

are entitled to vote; but under the State law such persons are disfranchised. Furthermore, the members of the military and naval forces in receipt of full pay are entitled to vote at Federal elections, but they are not entitled to vote at the State elections. The State law also contains other disqualifications which are not imposed by the Federal law, and makes it necessary for intending voters to procure electors' rights, which are not required under the Federal law. Yet, notwithstanding these great differences between the law of the Commonwealth and the law of the State, the Minister for Home Affairs has taken no steps whatever to obtain the compilation of an electoral roll in accordance with the law of the Commonwealth. A roll has been collected upon the basis of the State roll, but there is a discrepancy between the census returns and the names on that roll of about 42,000 males, and about 29,000 females, or about 71,000 in all.

Sir WILLIAM LYNE.—That is not the information which I have given to the House.

Mr. SYDNEY SMITH.—I think that when the honorable member looks into the matter, he will find that my figures are correct. The roll in the hands of the Minister omits several thousands of electors qualified under the Federal law, because it was compiled under the State law. If allowance is made for the omission of the names of such persons, the discrepancy will be seen to be still greater. No doubt the honorable gentleman will tell the House that he has had a Federal roll prepared, but I would inform honorable members what has actually been done. The New South Wales Government authorized the collection of the names of persons entitled to vote under the State law without reference to the Federal law, and on the 24th September, 1902, a circular was issued, also by the State Government, directing the collection of the names of females entitled to vote, not under the Federal law, but under the State law, which, as I have shown, contains many disqualifications which are not in the Federal law. The roll of female voters collected in New South Wales by the State authorities has never yet been revised, and yet the Minister for Home Affairs wishes honorable members to believe that he has taken every step to so prepare the Federal rolls that every male or female entitled to vote under the law passed twelve months ago shall be placed on the roll. I find that in 1891,

when no electors' rights were issued, after deducting those who were entitled to vote under a property qualification, the difference between the number of persons on the roll and the total male adult population of New South Wales was 45,362. When we deduct from this number those who were disqualified from one cause or another, there was a difference at that time between those who were actually on the roll and those who were entitled to vote of only 7,163. From the time that the electors' roll in New South Wales was used in 1901, up to October, 1902, when the last return was submitted, there has been an increase of 14,000 in the number of male adults in the population of that State. Yet we find that, whereas in 1901 there were 318,370 electors' rights issued, the rolls as compiled at present contain the names of only 303,000 male electors. Notwithstanding the fact that there has been an increase of 14,000 in the adult male population of the State, and that many persons were disfranchised in 1901 because of their not having resided in one place for a sufficient length of time to qualify themselves under the State law, and the further fact that the Federal electoral law is much more liberal than the State law, we find that there has been a decrease of 15,000 in the number of male voters as compared with two years before. This shows clearly that there is a real deficiency, and that upwards of 40,000 male electors in New South Wales have not been placed on the roll. I need not at this stage enter into the question of the re-arrangement of the electoral divisions of New South Wales, because I do not think that honorable members have any right to introduce that subject unless they are asked to submit suggestions from the electors. Under the Federal electoral law, the Minister is required to appoint a chief electoral officer for each State, but I would ask if he has done so? He is also required to appoint a Commonwealth electoral officer for each division. I would again ask if he has done so?

Mr. SALMON.—The honorable member has not reason to complain very often about the Minister not making appointments.

Mr. SYDNEY SMITH.—That is quite true. It is also provided that an electors' roll for each State shall be prepared as soon as practicable. That provision was made

eight months ago, and the Minister has not appointed any officer to prepare the rolls, or to ascertain the exact number of persons to whom the right to vote should be extended. I have taken a good deal of trouble to go through the rolls, and I have found a number of decreases. For instance, although there has been an increase of population in Sydney, the number of electors in every one of the eleven divisions of that city show a decrease, compared with the roll of 1901, the total being 4,842. In the suburban electorates there is a decrease of 3,600.

Mr. THOMSON.—There should be an increase.

Mr. SYDNEY SMITH.—Of course we all know that. In the country electorates to the south, there is a decrease of 2,809; in those to the west, a decrease of 2,710; and in those to the north, 1,056; or a total decrease for the State of 15,058 compared with the roll of 1900. The Minister has done nothing to ascertain the number of persons who are entitled to vote, and, although I do not for one moment expect that he should give his personal attention to every detail of the work of his office, I think that perhaps he would have been better engaged in looking after the administration of this Act than in travelling about to some of the States. He might at least have secured the services of a competent officer to ascertain the facts of the case, and to make sure that every man who is entitled to vote is placed upon the roll. I ask the Minister whether he has any Federal roll whatever at this moment—whether he can show that any roll has been prepared under the conditions of the liberal franchise provided for in the Federal law? The basis of the rolls which he has must have been the State rolls which have been prepared under an entirely different law, and a large number of persons who would be disfranchised under the State law would be fully entitled to be placed upon the Federal rolls. There must have been fully 30,000 or 40,000 persons who have never taken up their electors' rights, but under the Federal law every person who has resided in Australia for six months—whether he has taken up his elector's right or not—is entitled to have his name upon the Federal roll for the division in which he lives. Supposing that my name were on the roll for the Bathurst

division, and that I moved from Bathurst to Perth, about four miles distant, I should have my name struck off the State roll unless I resided in Perth for one month; but that would be no reason for omitting my name from the Federal roll. The Federal roll has been framed solely upon State rolls, and apparently no inquiry has been made as to the disqualification attaching to those whose names are not included on the State rolls. I do not wish to detain honorable members any further, but I felt that it was my duty to direct attention to this important matter, and to, if possible, stimulate the administration into taking the steps required to secure the preparation of proper rolls. If we allow matters to drift as the Minister has done, we shall probably find that from 100,000 to 150,000 persons who are entitled to vote, will be left off the rolls. It was the desire of every member who supported the Electoral Act that every man and woman entitled under the law should be afforded an opportunity to exercise the franchise at the next Federal election, and therefore it is important that every precaution should be taken to secure this end. The decreases to which I have referred should have been the subject of inquiry by the Minister, and he deserves censure for not having taken proper steps to administer his Department. He was warned by the leader of the Opposition that he would probably find himself in some such position as that in which he is now placed, because he appointed as the officer in charge of the Electoral Department a gentleman who was recommended for retirement from the public service of New South Wales in 1884, and who was retired in 1896. It was shown at an inquiry into the administration of the electoral office in that State that 55 officers were employed, and the staff was afterwards reduced to fourteen, at which strength it remains to the present day. I trust that the Minister will see that prompt steps are taken to insure that every person entitled to vote under the Federal law shall be placed upon the rolls.

Mr. CONROY (Werriwa).—A very unhappy instance has been afforded of the muddle into which a department can fall. It is a pity that, although the likelihood of this position being brought about was pointed out to the Minister, no provision was made against it. I do not think that we can altogether blame the Minister, because when we

put a man into a position which he is not capable of filling we can expect only one thing, and that is muddle. We did expect a muddle, and we have got it, and those honorable members who support the Government are to blame for continuing to give the Minister their countenance. It is plain that at least 150,000 electors have been disfranchised. If the Minister for Home Affairs had had no time to carry out the requirements of the Act, there might have been some excuse; but over twelve months have elapsed since the passing of one Act, and eight months since the passing of the other, and yet nothing has been done. The collection of Federal rolls in New South Wales, under proper administration, should not occupy more than two months, and if the work were carried out in connexion with the State Electoral Department, the expense need not have exceeded about £1,000. I dare say that fully that sum has been muddled away in other directions, with the result that there is nothing to show for the expenditure. It was pointed out to the Minister at the time that there was a strong probability of confusion arising; indeed, the leader of the Opposition went so far as to absolutely declare that confusion would arise. It has arisen. Of course it may seem hard that the blame should fall upon the Minister for Home Affairs, but upon whom else should it rest? When honorable members find that the same conditions which prevail in New South Wales obtain in the other States, we are afforded an excellent illustration of how much time may be wasted in doing nothing. The 150,000 electors who are at present disfranchised in New South Wales, as well as the 60,000 or 70,000 who occupy a similar position in Victoria, are entitled to lay the whole blame for the loss of their votes upon the Minister himself. At the same time the Government cannot escape from their responsibility in the matter if they allow the Minister for Home Affairs to continue to fill an office which he is incompetent to administer. By the same process of reasoning, Ministerial supporters, if they permit the present muddle to be continued, cannot evade their share of responsibility. In two months this confusion could be rectified. The whole of the Federal rolls could be compiled afresh. I understand that in New South Wales an expenditure of £1,000 will be necessary to bring the Commonwealth roll to a proper

condition. Will the Minister take the necessary steps to achieve that object, or, if not, will the Prime Minister assume control of the matter? As far back as November last I was convinced that, upon some ground or other, the elections for this House would not take place in December next, if the Minister for Home Affairs could possibly help it. I did not know at that time what excuse could be urged against the adoption of that course, but I see now that his intention is to delay the collection of the rolls and thus to confuse the minds of the people. There is still ample opportunity to prepare the rolls in time for the elections, and if that is not done the Commonwealth will be plunged in an additional expense of £50,000 in May next, to cover the elections for this House. If we are prepared to permit that, can we wonder if there is a general outcry against the extravagant expenditure of this Parliament? Apparently, irrespective of the extravagance of the Government, honorable members are quite content to allow them to continue to mismanage affairs. I admit that the mismanagement is not intentional, but the fact remains that they are incapable of doing anything else. They are not to be blamed for their lack of mental ability. It is their misfortune that they were born without it.

Mr. PAGE.—Why does not the honorable and learned member put them out of office?

Mr. CONROY.—I have endeavoured to do so, and to make their enormities known to the people. Through the efforts of myself and other honorable members who have been fighting for sound government, I believe that the great body of the electors, when they have an opportunity, will prevent the return to Parliament of representatives who are willing to tolerate the continuance of the existing muddle.

Mr. KIRWAN (Kalgoorlie).—I am very glad that the honorable member for Macquarie has brought this matter under the attention of the House. It is high time that we expressed our disapproval of the delay which has occurred in making the necessary preparations for the forthcoming general election. I have in my hand a telegram from Western Australia which shows that, bad as may be the condition of electoral affairs in the eastern States, it is infinitely worse there, although I cannot submit figures—as the honorable member for Macquarie has done—to demonstrate the discrepancy that exists between the

census returns and the electoral rolls. More than a week ago I received the following telegram from a member of this Parliament who is at present in Western Australia—

Cannot find any electoral officer for State. Has any appointment been made? No clerical staff has been appointed. Slow progress has been made in the preparation of list of names by the police and postal officials. It is estimated that Kalgoorlie list alone will take several months to complete. The State cannot be distributed into divisions till the lists are complete, and Parliament will not be able to consider the divisions before the elections, unless business is bustled. This will be a very serious position indeed.

That shows that the Department for Home Affairs has been even more lax in the performance of its duties, so far as Western Australia is concerned, than it has been in the other States.

Sir WILLIAM LYNE.—The honorable member knows that that statement is not correct, because I have told him so myself. He has no right to repeat the misstatement here.

Mr. KIRWAN.—I wish to correct the Minister. He is making a very great mistake, because I have had absolutely no conversation with him upon this matter.

Sir WILLIAM LYNE.—Nonsense; the honorable member's mind must be going.

Mr. KIRWAN.—I can assure him that it was not with me that he had a conversation. I am absolutely certain that he is mistaken. I have never spoken to him upon the matter. Had I done so, there would have been no occasion for me to make use of this telegram. I have been waiting for him to return from Tasmania in order that I might bring the matter forward. The Minister's accusation shows that it is his own mind which is becoming weak. But the chaotic conditions of which I complain are not confined to Western Australia. In New South Wales the difference between the census returns and the electoral rolls represents 90,000 names of electors, and in Victoria, 40,000. In those two States, therefore, there are 130,000 electors whose names are entitled to be placed upon the electoral rolls, but which do not appear there. I contend that any division of the electorates, either of Victoria or New South Wales, which is based upon such rolls, will not be a just one. There has been a blundering and neglect which is not creditable to the Department for Home Affairs, or its Ministerial head.

Under the circumstances, only one of three courses can be adopted to rectify that blundering. It has been suggested that the elections for the House of Representatives might be postponed until its members retired by effluxion of time. I am sure that if anything of that kind is done, it will be against the wishes of seven out of eight of the members of this House. It would be contrary to the best interests of the Commonwealth if the elections for the Senate and the House of Representatives did not take place simultaneously. The elections for the other Chamber must be held in December, and the people would be called upon to submit to unnecessary expense if those for the House of Representatives were not held at the same time. That suggestion, therefore, would not receive the support of a majority of honorable members of this House, and I am equally certain that it is opposed to the wishes of the great bulk of the people.

Mr. THOMSON.—A correct roll is also needed for the Senate.

Mr. KIRWAN.—That is so. The same objections which have been urged to the present rolls of electors for the House of Representatives are equally applicable to the rolls for the Senate. There is another proposal which has been made in some quarters, namely, that the elections might be conducted upon the divisions at present existing in the various States. If that course has to be adopted it will certainly be the fault of the Department for Home Affairs, and it will also be contrary to the desire of honorable members as expressed when the Act was passed.

Mr. THOMSON.—It will be contrary to law.

Mr. KIRWAN.—As the honorable member reminds me, it would be necessary to pass an amending Act before such a step would be in accordance with the law. There is only one other course which can be pursued, and that is to endeavour to have all the rolls ready in time to enable the elections for the two Houses of this Parliament to be held—as was originally intended—simultaneously. The elections for the other Chamber must take place prior to the 31st December. If the electorates are to be recast, the Department will have to make almost a superhuman effort to have the rolls ready in time for the elections. I notice that in the press this morning a time-table is published regarding the fixtures for the elections so

far as Victoria is concerned. That table is very much behind the time when compared with the fixtures for the other States. If it were possible for all the divisions of the States to be completed by the 1st July there would be the greatest doubt whether all the necessary work could be accomplished before the elections should take place. The time-table to which I have referred reads—

July 1.—Division of States possibly completed.

July 31.—Plans will have been exhibited for 30 days in accordance with the Act.

August 4.—Plans laid before Parliament.

August 18.—Resolutions passed by both Houses approving of divisions in all the States.

August 21.—Proclamation of the polling places.

August 21 to September 21.—The assignment of electors to polling places, and the preparation and printing of the lists, containing about 1,750,000 names.

September 22.—Exhibition of the lists, and notice of the special courts of revision.

October 22.—The lists will have been exhibited for 30 days.

November 2 to November 12.—Special courts of revision.

Arrangements cannot be made in a shorter time, and if the writs for the elections are issued on 31st October it will mean that the rolls cannot be printed or made available for candidates or electors in sufficient time for the necessary arrangements to be made for the elections. Then, supposing that this Parliament objects to the division of any of the electorates, and sends back the report to the Commissioner for a redistribution, the new divisions cannot be fixed in time for the next election. Under the circumstances the Government are undoubtedly at fault for not having made the necessary preparations beforehand. The Electoral Act was assented to on the 10th October, or nearly eight months ago, and yet the Commissioners were not appointed, nor any effort made to prepare for the elections, until many months subsequently.

Sir WILLIAM LYNE.—That is another misstatement. I shall give the dates presently, and I think I shall make the honorable member rather ashamed of himself.

Mr. KIRWAN.—A start should have been made at the beginning of October, but nothing was done; and I shall be glad indeed if the Minister can show that what I am saying is not in accordance with fact. I am sure that none of us are desirous of making out a case against the Government unless their action justifies

it. But the impression I have is that which any outsider might receive, and the Minister, if he has a good case, ought to be glad that the matter has been brought forward, and an opportunity afforded him to justify himself in the opinion of honorable members, and also in the opinion of the country. As already pointed out, there is a deficiency in two States alone of 130,000 names, and that is a matter an explanation of which is due from the Minister. The Minister would have been far better employed in administering his Department than in gallivanting around Tasmania, telling the people of that State how much he has been attending to the wants of the community. I wish it to be clearly understood that I am not in any way averse to Ministers delivering political speeches so long as the work of their Departments is attended to; that is their first duty, and political speeches might be left for their leisure. It is in the interests of the country that Ministers should travel about the Commonwealth, but it is not in the public interest that, in thus travelling about and delivering speeches, they should neglect their work.

Mr. HUGHES (West Sydney).—I notice that there are deficiencies in certain electorates which I know very well cannot be attributed to data of recent compilation. In Sydney there are certain districts with settled and fixed populations, which may become more dense each year; while there are other districts in which the population is becoming less, owing to the fact that dwellings are being razed to the ground for the purpose of erecting warehouses and other business premises. I see that the re-adjustment of the Federal electorates has been based on the old State rolls—manifestly an incomplete and imperfect basis; and in my opinion this House ought to insist on the rolls being compiled by the Federal, and not by the State authorities. I observe that, in the Glebe electorate in Sydney there was a voting strength of 3,280 in 1901, and that in the intervening period there has been a decrease of 361. I do not know how that result has been arrived at, but it must be within the personal knowledge of the Minister that a fluctuation of that sort is more likely to be accounted for by removals, and by the neglect of new arrivals to apply for electors' rights, which is not essential under Federal law, than in any other way. It is quite true, as the

honorable member for Kalgoorlie said, that the Minister for Home Affairs has been making himself well acquainted with the requirements of this great continent; but the honorable gentleman ought to have left some competent authority to attend to the business in his absence. That, I am afraid, the Minister did not do. As I have already indicated, I am of opinion that the re-adjustments of the Federal electorates ought to be based on data furnished by the Federal authorities. The Minister appointed some presumably competent person to perform the necessary work, but it is quite clear that nothing was done by that person towards compiling the rolls on which the Commissioners were to be asked to complete their work. Under the circumstances the Minister should take a conciliatory attitude, and give the House some sort of assurance that that which has not been done should be done immediately. There is no reason for assuming that this motion for adjournment is hostile; and I am sure honorable members are very much indebted to the member for Macquarie for introducing the subject. I had no idea, and I feel sure other honorable members had no idea, but that the rolls were compiled by the Federal authorities. The female portion of the electors are indebted entirely to the States authorities, although they received the franchise for reasons unconnected with the States, and may vote on considerations different from State considerations. I should like to hear what the Minister has to say to account for the extraordinary lassitude in this particular Department—a lassitude which is only partly explained by the criticism levelled against the head of the Department by the leader of the Opposition, who described that gentleman as utterly incompetent. Whether that is sufficient to explain the lassitude of the Department I do not know, but I can never consent to allow the whole of the blame to rest on the departmental officers. The Minister in charge of the Department must shoulder the responsibility if he chooses to employ incompetent persons.

Mr. BROWN (Canobolas).—I am not in a position to know the cause, but I think the Minister will admit that matters are in a very unsatisfactory condition, in view of the action taken for mapping out the States into new electorates. I do not know that the difficulty could be altogether avoided by the Department. In New South

Wales, on account of the severe drought during the past twelve months, large numbers of electors have been driven away from their usual places of residence. People engaged in agriculture, grazing, and mining pursuits have been compelled to leave the western parts of the State and go towards the east; and I am reminded by the honorable member for Bland, who, like myself, represents a western district, that in a great many cases, although the male population remained, the female population were sent into the towns and cities. In a number of the western centres those entitled to the franchise were temporarily absent when the names were being collected, and in some cases their names were on that ground refused by the police. It is very doubtful whether the names of these people were collected in the districts where they happened to be temporarily resident, and I know of cases where, under the latter circumstances, the names were refused on the ground that the residential conditions had not been fulfilled. These facts account very largely for the big difference which has been discovered between the census returns and the rolls, and seem to indicate the possibility of a very big injustice to country districts under the proposed redistribution. So far as New South Wales is concerned, the political weight in this House has shifted from the country to the city in the case of one representative; in other words, the country has one representative less, and the city one representative more, as compared with the present arrangement. In view of the abnormal conditions, and of the unsatisfactory state of the rolls, the present attempt to carry out the divisions of the State is simply farcical. The whole question of allocating the electors should be considered before a decision is finally arrived at. Those electors whom the Department believe to be in the State, but who cannot be discovered, should be found, or some attempt made to find them before the final decision. The machinery employed by the States in this work up to the present time has been very imperfect. A considerable number of electors who are qualified under the Federal law are disqualified under the State law, and no account is taken of these. Then so far as my inquiries go, no complete list of the female voters in the State of New South Wales has yet been compiled. The only

list which the Federal Electoral Department has, or which is in any way available to the public, is one on which appear the names of those females who themselves applied for electors' rights.

Sir WILLIAM LYNE.—The honorable member should know that that statement is absolutely wrong. I thought he had sense enough to know better.

AN HONORABLE MEMBER.—The police collected the names.

Mr. BROWN.—I am aware that the police collected the names, but I am not aware that rolls containing the additional names have been issued, and there is no certainty as to when they will be issued. My contention is that until very recently the only names of females appearing on the rolls were the names of those who applied personally for elector's rights to the different electoral registrars of the States, and not the names which were handed to the police.

Sir WILLIAM LYNE.—That is not correct. The police canvassed the whole State.

Mr. BROWN.—I have recently made a tour through my electorate, and when there I was asked by female electors how they could ascertain if their names had been collected by the police, and were on the Federal rolls. I could not give them any information on the subject, but if the Minister can do so, he will be conferring a great benefit upon them. Of course, I was able to inform them that the Minister had intimated that, if they wrote to the Electoral Officer for the State, their cases would be inquired into; but unless some other method is adopted, the Electoral Officers will require large additions to their staffs to enable them to deal with the correspondence which will come to them. The whole matter is in a very unsatisfactory position. The Minister should devise some scheme which will enable electors to know definitely if their names are upon the rolls, and to take steps, if they have not been enrolled, to get their names placed on the rolls. If the States are divided in accordance with the States rolls the division will be of very little use. What is necessary is that the Federal rolls shall be brought up to date, and that then they shall be open for the inspection of the public. Then, when they have been finally revised, the States should be divided. But if the redivision of the States takes place before the Federal rolls are complete, it will be simply farcical, because the work will all

have to be done over again. I do not approach this matter in a spirit of hostility to the Department, but I desire that there shall be no delay in the completion of the rolls. If the present anomalies are not removed, the probabilities are that a very large number of the electors of New South Wales will be disfranchised when the Senate elections are held at the end of this year, and if the Government see fit to send the members of this Chamber to the country at the same time, the injustice will be intensified. Therefore it is necessary that consideration should be given to this matter at once, especially as not only is the State of New South Wales affected, but also the States of Victoria and Western Australia, and probably the other States of the Commonwealth, too.

Mr. PAGE (Maranoa).—So far as the electoral rolls in Queensland are concerned, every one is perfectly satisfied with them.

Mr. McDONALD.—No.

Mr. PAGE.—Well, I speak for those of my own electorate, which covers more than half of Queensland. Some honorable members have electorates which might almost be effaced with a postage stamp, but it would take more than a blanket to cover mine. The police have had the greatest difficulty in collecting the Queensland rolls, but the consensus of opinion in my electorate is that the work has been well done. Those whose names have not been collected have in many cases gone to the nearest police station, and had them put on the rolls, and in this way thousands of names have been added since the first collection. Those are mostly the names of the nomadic population, which is very numerous in the western portion of the State—names which the police cannot very easily obtain, because it is impossible for them to visit every water-hole and billabong in the State. But if in New South Wales there has been no systematic enrolment of electors, the dereliction of duty by the officers of the Department is very serious. I know that a house in the middle of Grafton, in New South Wales, was unvisited by the police. If that can happen in Grafton, I do not know what might not take place in the western parts of the State. It is not to be wondered at that 42,000 names have been left off the roll. No one has called at the house where I am staying in Melbourne to collect the names of the inmates, and I have advised them to write to the Chief Electoral Officer. But, as the honorable member for

Canobolas has pointed out, if it is left to the individual electors to get themselves enrolled, a great many will be disfranchised. The intention of Parliament was that every man and woman in the Commonwealth, of the full age of 21 years, should be able to vote at the Federal elections, and I am at a loss to understand why there should be such a discrepancy between the number of such persons in New South Wales and the number of names on the Federal rolls for that State. I know that the Minister is fully alive to the facts, because, in conversation, he told me that he could not account for them.

Mr. SYDNEY SMITH.—He has not taken any satisfactory step to prevent the disfranchisement of electors.

Mr. PAGE.—Perhaps he will justify himself later on. There was a very amusing paragraph in the *Age* this morning, in which it was stated that a policeman had forgotten to hand in 1,000 names which he had collected. I have heard of men in New South Wales holding 500 electors' rights, but this policeman was even a better politician, and could keep twice as many names up his sleeve. The fact of the matter is that, as everything is new, it is difficult to make the arrangements work smoothly, though I believe that everything will be right when the proper time comes. There is one question, however, which I should like to ask the Minister. According to statements which appeared in the Queensland press during the recess, no adequate provision has been made for the printing of the Queensland rolls. As Queensland covers a vast territory, it will take some time for the rolls to circulate through the different electorates. Therefore the sooner they are sent out the better. But it is said that the authorities do not know how to get them printed—whether they should purchase linotypes, or buy more type. If proper arrangements are not made quickly, however, the rolls may not be available when the elections occur, and we shall then be in a worse position than in the first instance. In Queensland they hold revision courts in November, to purge the rolls, and they do it with a vengeance. One court struck off 400 names at a sitting. They do not ask whether the electors are still qualified; they simply strike their pens through the names, and often men are unable to get themselves re-enrolled before the next election. But if the States rolls are

used for the Federal elections, some of us will have great difficulty in getting back. I know that it will be almost impossible for me to do so. I should like the Minister for Home Affairs, therefore, to inform us what provision has been made for the printing of the Queensland rolls, and if everything is in readiness for their publication at the earliest moment?

Mr. WATSON (Bland).—I think we are obliged to the honorable member for Macquarie for bringing this matter forward, because, although the Department has had difficulties to contend with which were almost inevitable, I do not think sufficient expedition has been exercised in the collection of the rolls, and in the adjustment of the electorates. It seems to me that, as things are going, the rolls will not be ready at the time of the Senate elections, and, of course, would not be available if the elections to this House occurred at the same time, as I think they should.

Mr. McCAY.—More than "should"; they must.

Mr. WATSON.—In my opinion, the manner in which the Department is allowing matters to drift is likely to result in our having either to fall back on the old rolls, or to postpone the dissolution of this House for a longer time than is necessary. The report of the New South Wales Commissioner will not be available for presentation to this House for some weeks to come, and in some of the States even a longer period will elapse. I do not know whether we shall have any opportunity of criticising the reports or referring them back to the Commissioners for further consideration. If we have an opportunity for criticism we must consider the time that will be available to the Commissioners for going through the various divisions once more, and allow for a month after they have completed their labours to give time for the lodging of objections. That is an aspect of the matter which shows the necessity for hurrying the work on, because, once the divisions are settled, the rolls will have to be made up for the different districts from the lists now sent in. That will take some time. Then the rolls must be exhibited for a certain period to enable persons to see them before the Revision Court sits. That will mean another month's delay, and after the revision has taken place the rolls will have to be corrected again in order to make them complete, in view of the decisions

given by the courts. Even if we accept without question the decisions of the Commissioners the complete rolls cannot be issued before at least the end of October. On the other hand, if the House refers any of the reports back to the Commissioners for further consideration, or if the Senate exercises its right to take a similar course, another five or six weeks' delay will be involved. This being so, it seems to me that the Minister and the officers of his Department have something to explain. I know that the Minister has shown a desire to push matters on, but his efforts have not been fully seconded by his officers, if one may judge by results. I think that it is time some change was made in the direction of affairs if we are to have the rolls prepared in time for the next general election. I believe this can be done even now, if the work is taken in hand vigorously, and pushed on with all possible speed.

Mr. A. C. GROOM (Flinders).—If the statements appearing in the press are to be believed—

Sir WILLIAM LYNE.—Surely the honorable member does not believe the statements in the newspapers? The statement which appears in the *Argus* to-day is absolutely incorrect.

Mr. A. C. GROOM.—I do not know anything about the statement to which the honorable gentleman specially refers, but if there is any truth in the statements which have appeared in the press from time to time as to the large discrepancies which have occurred in Victoria and New South Wales—the *Age* places them at 150,000—I think honorable members will admit that the matter is very serious. Even if the discrepancy amounts to only half the number stated, I think it was a mistake for the Minister to allow the maps showing the boundaries of the new electoral divisions to be issued.

Sir WILLIAM LYNE.—They are not issued to the public.

Mr. A. C. GROOM.—They have been issued to honorable members, and I took it for granted that they had also been issued to the public.

Mr. McCAY.—They are being exhibited in all the post-offices.

Sir WILLIAM LYNE.—The Commissioners can do what they like with the maps, and they are compelled by law to issue them in the way they have done.

Mr. A. C. GROOM.—A statement has appeared in the press with regard to 1,000 missing electors, and I understand that these belong to me. They will belong to the honorable member for Gippsland, if the new boundaries recommended by the Commissioner are adopted; but, until the new subdivision is confirmed, they belong to me. If the mistake to which I refer had not been made there would have been no necessity to alter the boundary of the Flinders division, and to bring it within a mile of the town of Brighton in order to include a number of suburban residents, and thus make up the number of electors required for the constituency. In this one instance, a serious mistake has occurred in my constituency, and no doubt the same could be said regarding others; and, if there is anything like such a large discrepancy as reported in the press, a very searching inquiry should be made. It has been stated that the police have made a house-to-house visitation in the whole of the electorates in order to enrol electors; but they did not come to my house, and I do not believe they have ever been near the place. One honorable member told me that a short time ago the police visited his house, when he was absent, to obtain information with regard to the roll. The policeman interviewed the housemaid and got information which satisfied him. We know what takes place on such occasions, and, as a matter of fact, in this case the information given was entirely wrong. If that was the general plan adopted to obtain information for the compilation of the rolls, we can quite understand how the discrepancy occurred. I hope the Minister will have the maps withdrawn and new ones issued when the rolls are complete.

Mr. McDONALD (Kennedy).—The object of passing the Electoral Act last session was to afford the Government plenty of time to make the necessary preparations for the forthcoming elections. So far as Queensland is concerned, I must admit that the roll compiled for the purposes of the next Federal election is very much larger than the old State roll, but still a number of names have been omitted. I do not intend to find much fault with this, because I can quite realize the difficulty of collecting names in outlying places, especially when it is remembered that the drought has probably driven some of the country residents into quarters where even the police would

not be able to find them. During the last two or three weeks I have received communications from several persons who complain that their names are not on the roll. They do not blame any one for the omission, but they want to know how they can repair it, and it is difficult to obtain information. I communicated with the Electoral Department, and was told to write to the police, or to send direct to the Federal Electoral Registrar in Brisbane. I have adopted the latter course, but whether this will bring about any result I do not know. My principal complaint is that, although the Electoral Act was passed early in October, 1902, it was not until nearly the end of February last that the Electoral Department started to compile the rolls in Queensland. I understand that some difficulty occurred between the Federal authorities and the Queensland Government as to the mode to be followed in collecting the names. The Queensland Government desired that the State electoral registrars should collect the names, but the Federal Government insisted, and properly so, that the police should collect them. I want to know how it was that such a long time was allowed to elapse before negotiations were entered into? Several months were allowed to pass without any steps being taken; but if the Minister and those under him had been alive to the position they would have taken steps immediately after the passing of the Act to arrange for the compilation of the rolls. Then we could have had the lists printed, and the final reports of the Commissioners might have been presented to the House at the opening of this session. To all appearances, however, it is not likely that we shall receive the report of the Commissioner for Queensland for another two or three weeks. It will be another week or eight days before the maps can be printed. These will have to be sent to the various centres of population for exhibition, so that objections may be lodged, and three weeks must pass from the time the maps are sent out before they can reach such distant places as Camooweal, Burketown, or Windora. What possible chance can residents in such places have of registering any objections they may take to the boundaries defined by the Commissioners? A good deal of blame must be attached to the Department for having allowed a state of confusion to be brought about. It has been stated—I do not say that the report is true—that the Government

do not want the election for the House of Representatives to be held in December. If the elections do not come off then, the country ought to rise up in arms against the Government. I am as sympathetic as most honorable members towards the Government, but I would not screen them if they brought about such a state of confusion that the elections could not take place at the most convenient and desirable time. If the Government do not want the elections to come off in December, why do they not get up and say so?

Sir EDMUND BARTON.—Because it is not a fact.

Sir WILLIAM LYNE.—It is very unfair to make such an assertion.

Mr. McDONALD.—I am not making any assertion. Several questions have been asked as to the intentions of the Government, but up to the present we have not been able to obtain any satisfactory reply. If the statement which I have repeated is wrong, the Minister for Home Affairs will have an opportunity of telling us so this afternoon. From present appearances it would almost seem that there is no possible hope of holding the elections for the House of Representatives in December, and, personally, I very much regret it.

Mr. SPENCE (Darling).—There is no doubt that the compilation of the first Federal rolls has been carried on under exceptional difficulties. In the face of the desire which has been expressed for economy, the Minister has not cared to spend more money than absolutely necessary, and has tried to make use of the States officers. Although the police officers do their work very well, taking it all round, our previous experience in connexion with the compilation of rolls is that they miss a considerable number of names, and it now becomes the duty of the Electoral Department to afford to those whose names have been missed every opportunity to become enrolled. In New South Wales the roll was collected in July, when the condition of the country generally was abnormal. In my electorate a number of large mines were closed down, and in one case alone 300 men were thrown idle, and had to move to other parts in search of work. I understand that in some cases the police refused to enrol men who had no place of residence. This was owing to the difference between the Federal and the State laws with regard to the registration of voters, and no doubt

from this cause alone a large number of men had their names omitted from the rolls. Then a large number of persons were omitted because of their removal from one part of the State to another. It seems to me unfortunate that any Commissioner should be asked to settle the boundaries of the new electorates under the peculiar circumstances in which we find ourselves. When on a recent visit to my electorate a number of residents inquired of me how they could insure getting their names placed upon the Federal roll. I advised them to go to the nearest post-office and ascertain if their names did not already appear there, adding that, if they did not, under the Federal electoral system it was very easy indeed for an elector to get his name upon the roll, and very hard for him to have it removed, whereas the reverse was applicable to the case of the State roll. In New South Wales we have put a stop to the practice which was referred to by the honorable member for Maranoa, so far as elections for this Parliament are concerned. When the Electoral Act was under consideration, I understood that postmasters were to be created electoral registrars. That appeared to me to be a very wise step to take, seeing that postmasters are Federal officers. In my innocence, therefore, I told the electors to interview the postmasters or the electoral officers. Subsequently, however, I was informed that they had acted upon my advice, but could gain no information whatever. Upon my return to Melbourne I at once acquainted the Minister for Home Affairs with the facts, and I understand that he immediately took steps to ascertain what was the real position. At the same time, I think that the officers of his Department have been slow to grip the situation, although I am free to admit that the difficulties which they had to face on the present occasion rendered their work unusually hard, and necessitated the exercise of greater push and energy. I differ from the honorable member for Macquarie when he says that the majority of those who have been disfranchised are to be found in the metropolitan districts. I think that they are to be found in the provincial districts, for the reason that persons belonging to the back country have been taken off the State roll on account of temporary absence from their districts. I could mention instances in which it is quite evident that the police never visited certain homes

to ascertain whether the names of the female inmates were upon the roll. I suggest that the present difficulty could be met, to a large extent, by making use of the services of the police and postmasters. In the country districts the police are acquainted with almost everybody resident there, and if they were asked to search the State rolls to ascertain whether any names which should appear there have been omitted, and if so, to see that the fault was remedied, I think the discrepancy which now exists between the census returns and the Federal rolls would be considerably diminished. The Minister for Home Affairs, I admit, has already taken some steps to overcome the difficulty by advertising, but I would point out that there are many people who do not see the newspapers, and who therefore are particularly liable to be disfranchised. I think that if we made use of the services of the police officers it would be possible, within the limited time still available, to have the rolls ready for the senatorial elections. At the same time, if the elections for this House are to take place simultaneously with those for the Senate—and I have already expressed myself in favour of the adoption of that course—it will be utterly impossible to decide upon a fair division in connexion with the new electorates unless extreme activity is displayed in the preparation of what is practically a new roll. The failure of the Department has been largely due to its dependence upon the State rolls, although I think that, when the Electoral Bill was under consideration, most honorable members favoured the idea of making use of the services of the police. I know of one instance in which a voter obtained his elector's right as far back as the 5th June of last year, and yet his name does not appear upon the Federal roll. I can offer no explanation for this, but we all know that hundreds of similar cases occur in connexion with the preparation of the State rolls—cases which are not remedied before the Revision Courts hold their sittings. I think that if the officers charged with the work of compiling our rolls displayed a little more activity, it would be quite possible to have them ready in time for the elections in December.

Mr. FULLER (Illawarra).—It appears to me that our object in passing the Electoral Act last session was to place every adult in the Commonwealth in a position to

record his or her vote at Federal elections. If the motion submitted this afternoon by the honorable member for Macquarie achieves that result this discussion will not have been in vain. If I followed correctly the figures quoted by that honorable member, it is evident that the last speaker has been misinformed. According to the honorable member for Macquarie, 65 or 70 per cent. of the electors who are at present disfranchised belong to the metropolitan districts.

Sir WILLIAM LYNE.—That is a mistake. The officer at Sydney wrote last night informing me that a number of applications for enrolment were coming in from the country.

Mr. FULLER.—I shall be very glad if the Minister has any information to put before the House in connexion with this matter. Some exception has been taken to the collection of the Federal rolls by State officers.

Sir WILLIAM LYNE.—How could the work have been done otherwise?

Mr. FULLER.—To my mind, it does not matter a twopenny-tram ticket whether the rolls are collected by State officers or not, provided that they are correct. We know, however, that in New South Wales the franchise for the return of members to the State Legislature is so different from the liberal franchise for the Commonwealth elections, that unless special instructions were given to the officers charged with compiling the rolls there, they would naturally fall into error. I understand that no such instructions were given, and the result is that a very great discrepancy exists between the census returns and the Federal rolls. I was really surprised to hear that the female electors had been so overlooked by the Department for Home Affairs. Honorable members have been informed that the female roll has not been revised, much less printed.

Sir WILLIAM LYNE.—The honorable and learned member is basing his argument upon an assumption which is not correct.

Mr. FULLER.—I am glad to have that assurance from the Minister. I had not previously understood that the statement of the honorable member for Macquarie was inaccurate.

Mr. SYDNEY SMITH.—What statement?

Mr. FULLER.—The statement that the female roll has not been printed, much less revised.

Sir WILLIAM LYNE.—It has been revised.

Mr. FULLER.—After the women of New South Wales having given credit to the Minister for Home Affairs for granting them the franchise, and after the nice little presentations which they have made him from time to time in the shape of slippers and dressing gowns, it comes as a surprise to me that he has not treated them better. I trust that he will see that they are placed in such a position that they are able to exercise the franchise at the forthcoming elections.

Mr. CRUICKSHANK (Gwydir).—In dealing with the new electoral divisions which it is proposed to create, I hope that the Minister for Home Affairs will give the residents of outlying districts an opportunity of knowing what position they really occupy. I have recently been in the north-west of my State, where the people, in the absence of maps, do not exactly know in which electorate they are. The electorate of Gwydir is connected with the railway system, and the natural course of trade is with the towns along the North-Western Railway line, but some of the important centres of population in the district have been taken from my electorate and included in that of Broken Hill, a place with which they have no connexion whatever. The people in the Gwydir electorate desire to see maps.

Mr. SPEAKER.—I would call the attention of the honorable member to the fact that the question before the House is the "delay in the preparation of and incompleteness of the Federal Electoral rolls."

Mr. CRUICKSHANK.—Unfortunately I was not here when the motion was submitted, and I understood that it permitted a general discussion of the subject. The placing of the names on the rolls in the outlying districts is of great importance, but I find that a number in my district are omitted. Now that we have the adult franchise it is necessary to have country districts very closely canvassed, or otherwise a great preponderance will be given to the city electorates. In the latter, those who have to collect the names have merely to walk from house to house, and there are certain hours when the complete household may be found at home. In the country districts, however, the collectors have to call at the stations, and possibly be content with a list of the employes and other persons about the place, many of whom are probably there to-day

and gone to-morrow. In the country, at election times, great difficulty is caused by the fact that many of the settlers find that they are not on the rolls, and I ask the Minister to give instructions that the police be required make as complete a list as possible.

Sir WILLIAM LYNE (Hume—Minister for Home Affairs).—In some instances a great deal of feeling has been imported into the discussion. I do not object in the slightest degree to the motion submitted by the honorable member for Macquarie; indeed, I am rather indebted to him for it, because it affords me an opportunity of justifying everything that has been done by my Department, and of clearly proving that there has not been that neglect and delay which some honorable members attribute to my officers. The Electoral Act was assented to on the 10th October last, and immediately afterwards preliminary steps were taken with a view to ascertain the conditions under which the co-operation of the States officials would be available in the collection of the lists. When the Electoral Act was before this House, as will be admitted by honorable members, a great desire was shown for economy; and, therefore, in the compiling of the lists, my object was, as far as possible, to keep down expenditure. It did not seem to me possible, in a reasonable and complete manner, to collect these lists without the aid of the States. Apparently the proper course was to endeavour to get their assistance through the police. The only other course I could have taken was to appoint special collectors throughout the various States, and pay them large sums of money for the work done. I might, of course, have obtained the assistance of the various post-office officials; and, indeed, in some of the northern parts of Western Australia that was done. On the 17th November a circular letter was issued to each of the States, with the exception of New South Wales, asking officially for the services of the States officers in collecting the names of electors. To that circular letter replies were received from Victoria on the 22nd November, from Queensland on the 26th November, from Western Australia on the 1st December, and from Tasmania on the 6th December. An interim reply was received from South Australia on the 6th December, the question being raised in

that State as to which was the best course to adopt. The authorities in South Australia were prepared to take their rolls as completed at the last revision, but I did not agree to that, and after correspondence, an arrangement was made under which the plan suggested by the South Australian authorities was carried out in the northern parts of that State, but in the settled parts in the south, the aid of the police was called in. Immediately on receipt of consent from the States to the members of the police force collecting the names, it was arranged that the necessary books and printed instructions should be issued. I arranged that the Federal Government should pay to each foot policeman, and each mounted policeman, so much for the day or week he was employed in the collection of the names. The books and instructions were issued to Victoria at dates from December, 1902, to January, 1903; to Western Australia in January, 1903; to Tasmania in January, 1903. The preparation of these book-lists, as they were called, took up a great deal of time, considerable difficulty being experienced in getting the printing done with reasonable celerity. I ask honorable members if there was any delay up to this stage?

Mr. KIRWAN.—That was two months after the passing of the Act.

Sir WILLIAM LYNE.—The Act was approved on the 10th October, and communications were sent to the various States on the 17th November.

Mr. KIRWAN.—Six weeks later.

Sir WILLIAM LYNE.—No, five weeks later, and in the meantime considerable work had to be done in devising the scheme under which we were to work. I think the honorable member for Kalgoorlie is unfair and unreasonable in saying that there was any delay up to this stage.

Sir MALCOLM McEACHARN.—Unless, of course, the Minister was expected to do the work himself.

Sir WILLIAM LYNE.—If I had gone to expense in engaging special collectors throughout the States, I should have been attacked now for not employing the States officials. A specimen book was forwarded to the Queensland Government on the 31st January, the delay in this case arising from a little difficulty between the Electoral Department here and the Electoral Department in that

State, where the desire was to have lists differently worded. A similar difficulty arose in one or two of the other States, but a little longer time was occupied in the case of Queensland, in arranging definite terms, than in other cases. The lists were then collected by the police, by whom the work was completed in Victoria, Queensland, and South Australia in May, and in Tasmania in June. The completion of the work in Western Australia is promised by the end of this month. When once the books had left my hands I had no control over the action of the police, but I repeatedly corresponded with the Premiers of the various States, and, through my officers, with the police authorities. I was in Western Australia in February, when I ascertained that difficulty had arisen because the police did not desire to do the work. I thought I had arranged matters satisfactorily, but when I returned to the east I found it necessary to send an officer to Western Australia. It was not, however, until after a great deal of trouble that the arrangement was made for the police to collect the names in that State. Had it not been for the action taken by Mr. James, the Premier of Western Australia, when my officer arrived there, I should not have been able to have the rolls compiled by the police in that State; but I understand that since then the work has gone on satisfactorily. Honorable members must not blame the Department, or the gentleman who has been attacked, though not by name, in one or two instances to-day, particularly by the honorable member for Macquarie. That officer, Mr. Lewis, has done the work as well as it could be done by any officer. He may not be everything that everybody desires, but I must give him every credit for working hard, early and late, in overcoming the difficulties and differences which arose in the States. First I had to send Mr. Lewis to Queensland, and afterwards to Western Australia and to Tasmania, though the last-mentioned visit was due to a misunderstanding. Mr. Lewis has done the work in a manner that reflects the greatest credit on himself, and before I resume my seat, I shall refer further to his character and his ability for conducting business of this kind. It is most unfair to attack an officer who is doing his best.

Mr. WARSON.—His best does not seem to be very good.

Sir WILLIAM LYNE.—I have had, perhaps, as much experience as any honorable member or Minister in dealing with public officers.

Mr. PAGE.—Mr. Lewis did his work well in Queensland, at any rate.

Sir WILLIAM LYNE.—Mr. Lewis has done his work in the face of great difficulties in every State. It must not be supposed that the Federal Government had simply to say that a thing should be done in order to have it done. We had to make interim arrangements with the States, and in some cases antagonism was shown. What I have said describes the position of matters up to the present time. The honorable member for Macquarie said that he could not find a Commissioner, Electoral Registrars, or other Electoral Officers in any of the States. The Commissioners are appointed, and are doing their work; but I have not yet appointed all the officers who will be appointed, because the time has not come when they are required, and thus I am saving money all the time.

Mr. SYDNEY SMITH.—But a large number of people in New South Wales are prevented from getting on the roll.

Sir WILLIAM LYNE.—The officers mentioned could have nothing to do with the collection of the rolls, and there would have been no difference had they been appointed seven or eight months ago, except that salaries would have been paid where no necessity existed. Surely I could expect that, with the assistance of the police, the rolls would be as well collected as by the State authorities on other occasions?

Mr. SYDNEY SMITH.—What did the Minister do in New South Wales?

Sir WILLIAM LYNE.—In New South Wales, the Revision Court, so far as the male voters were concerned, had just completed its work, and I should like to know whether I was not justified in accepting that revision, and thus saving double expense?

Mr. SYDNEY SMITH.—No; the Minister was not.

Sir WILLIAM LYNE.—The honorable member for Macquarie has laid great stress on the fact that twelve months' residence is required in the State, as against six months in the Commonwealth, to qualify for a vote. But I would point out that the total number of residents of under one year in the State of New South Wales is estimated at

only 8,800. If the difference pointed out by the honorable member had any effect, it would not, under these circumstances, be so serious as represented. We must remember that, between the publication of the maps and the final forwarding of them to the Federal Government, there will be an opportunity given of rectifying any omissions. As soon as the matter has been dealt with by Parliament another revision court must be held; and, therefore, if a few names have been left off, they may very easily be placed on the roll. There are two periods of a month each in which electors will have an opportunity of getting their names on the roll.

Mr. WATSON.—During the first period there will be no officer other than the Electoral Officer for the State, of whose existence very few people are aware, to apply to.

Sir WILLIAM LYNE.—I have appointed an officer in New South Wales, whose office is in Sydney, and I have extensively published the fact that all information on the subject is obtainable from him. The discrepancy to which reference has been made is between the number of adults residing in the State according to the last census returns and the number of names appearing on the lists. Now, the collection of names was finished in October last, only about twelve months after the census returns were compiled.

Mr. SPENCE.—The names were collected in July.

Sir WILLIAM LYNE.—In July and September; but the final revision was made in October. Therefore the discrepancy should have been smaller than it would be now. In connexion with the collection of the female rolls, I agreed with the Government of New South Wales to pay a portion of the cost, because it was more economical for us to pay part instead of the whole cost, since the New South Wales rolls are practically the same as the Federal rolls. Those rolls have now been collected, and most of them have been printed. But when I discovered the discrepancy which has been referred to, I at once arranged with the Premier of New South Wales and the Government Printer of that State to have all the rolls printed. I am getting the work done at a most reasonable cost, and the rolls have now nearly all been sent to the various post-offices in the State. An advertisement has also been published in

the newspapers of each district stating why the rolls are being circulated, and asking the electors to look through them, and, if they find that their names have been omitted, to make application to the Chief Electoral Officer in Sydney.

Mr. WILKS.—Would it not have been wiser to do that earlier?

Sir WILLIAM LYNE.—I could not do it until I knew of the discrepancy.

Mr. SPEAKER.—The time allotted to the honorable member under the standing order has now expired.

Sir WILLIAM LYNE.—I hope with the indulgence of the House to finish my remarks.

Mr. SPEAKER.—Is it the pleasure of honorable members that the Minister for Home Affairs have leave to finish his speech?

HONORABLE MEMBERS.—Hear, hear.

Mr. BROWN.—Will the rolls which have been sent out contain the female names collected by the police?

Sir WILLIAM LYNE.—Yes; they will contain every name that has been collected.

Mr. WATSON.—How are they divided—according to the proposed divisions or according to the existing divisions?

Sir WILLIAM LYNE.—Only the roll for the district is sent to that district, and I believe that the rolls are divided in accordance with the State electoral divisions, the names on them being arranged in alphabetical order. The honorable member's question brings me to a matter which has caused a great deal of difficulty. The Act says that in the final arrangement of the rolls, each roll must show the polling places at which the electors must vote.

Mr. WATSON.—There must be a separate roll for each polling place.

Sir WILLIAM LYNE.—Yes. It is a very inconvenient arrangement, because it will necessitate the printing of twenty or thirty very small rolls; but it is my duty to conform to the provisions of the law. The rolls, however, cannot be arranged in the manner I speak of until I know what the divisions will be, and what arrangement will be made in regard to polling places. Not only have I sent the rolls to every post-office in New South Wales, but I have asked the Postmaster-General to instruct his officials to pay particular attention to the matter, and to give every facility to persons who wish to inspect the rolls or to

make application for enrolment where their names have been omitted.

Mr. SYDNEY SMITH.—On what date was that done?

Sir WILLIAM LYNE.—About a fortnight ago.

Mr. BROWN.—When does the Minister expect to be able to make up the new rolls which will include the names which have been sent in to the Chief Electoral Officer?

Sir WILLIAM LYNE.—I hope, because of the active measures which have been taken, to be able to place the Commissioner for New South Wales in possession of all the names so sent in before he finally forwards his proposed divisions to the House, which will probably be done during the first week of next month, because the addition of a large number of new names to the rolls may have the effect of causing him to alter his divisions to some extent. All I can do, however, is to try to induce the public to take sufficient interest in the matter to get rid of the present discrepancies, and not allow themselves to be disfranchised. Honorable members who accuse the Department, and myself in particular, of not taking active measures to do what is necessary, have not understood what has been done. When the matter has been dealt with by the House, every opportunity will be given to persons whose names still do not appear on the rolls to be enrolled, because a revision court will be held after an interval of a month. I do not know what people want more than that. In Tasmania the rolls have been completed.

Sir EDWARD BRADDON.—When will the maps showing the Tasmanian divisions be ready?

Sir WILLIAM LYNE.—The Commissioner for Tasmania had the quota telegraphed to him yesterday, with instructions to commence the work of dividing that State at once. He is engaged upon that work now, and we hope to have his report either at the end of this week or next week. The South Australian divisions have been completed.

Mr. MAHON.—What about Western Australia?

Sir WILLIAM LYNE.—The returns were promised in May, but the advice we have since received from that State is that we may expect them any day. I cannot prevent the State officers from taking a little longer to do the work than was originally promised. Honorable members

must be reasonable, and acknowledge that I cannot do more than urge the State authorities to see that as little delay as possible occurs. I hope to know within a week at furthest what is proposed in regard to Western Australia. Therefore, things stand in this position at present. The Queensland division has been made, and we have received the maps from that State. The same remarks apply to New South Wales, Victoria, and South Australia. We hope to receive the Tasmanian report within a week, and we shall have the Western Australian report within a few days. Honorable members have said that it will be almost impossible to have the rolls ready by December next. Not only will the rolls be ready then, but, even if the House returns to the Commissioners both the New South Wales and the Victorian divisions for alteration, we shall still have time to get the rolls ready by December.

Mr. WATSON.—The honorable gentleman will be very lucky if he does.

Sir WILLIAM LYNE.—The whole thing has been arranged, and I am prepared for the contingency. Every opportunity will be given to both Houses to deal with this matter without being rushed. The insinuation that the Government have had in their minds the desire to prevent the holding of the elections for this House simultaneously with those for the Senate is one which it should be beneath any honorable member to make. I deny the truth of such a statement. I have now pointed out the difficulties with which I have had to contend. Perhaps honorable members will be surprised when I tell them that altogether about 4,500,000 documents will have been printed and circulated before the elections can take place. I mention that fact to show how gigantic the work is.

Mr. WILKS.—And yet some people say that the honorable gentleman's Department has nothing to do.

Sir WILLIAM LYNE.—My Department is very much undermanned.

Mr. MAUGER.—And very much overworked.

Sir WILLIAM LYNE.—Yes. Unless I had really earnest men to deal with this matter I should be in a difficulty.

Mr. MAUGER.—The honorable gentleman should engage more men. He ought not to sweat his officers as he is doing.

Sir WILLIAM LYNE. — I am glad the honorable member for Macquarie has brought the matter forward, because his motion has afforded me an opportunity to show that the statements which have been referred to have been made under a misconception. Although the honorable member for Kalgoorlie has evidently forgotten the occurrence, I am certain that he spoke to me in one of the lobbies about a fortnight or three weeks ago on the matter he mentioned.

Mr. KIRWAN.—I am certain that I never had a conversation with the honorable gentleman on the subject. He cannot mention the date of the conversation, the place where it occurred, or anything about it.

Sir WILLIAM LYNE.—I can mention the place, though I cannot mention the date. Of course, the honorable member would not knowingly make a misstatement, and I am sure that he will accept what has been said in regard to the matter. The trouble which has been referred to as existing in Western Australia does not exist there.

Mr. KIRWAN.—I read from a telegram which I had received from a member of the Federal Parliament, who is now in Western Australia.

Sir WILLIAM LYNE.—I know that that is so, but I may mention that I was told the other day at Menzies' hotel, where I stay, that no one had taken the names of the persons living there. When I made an inquiry on the subject, I found that my officers had collected every name. I have investigated three or four complaints of the same kind, and in each instance I found that the names had been collected. People often found statements upon surmises which are not true. The acting head of the Electoral Department has been attacked to-day, and I feel that he has been unfairly dealt with. He was connected with the Electoral office of New South Wales from the year 1887. He was specially appointed by the late Sir Henry Parkes, and his salary was advanced to £600 a year.

Mr. WATSON.—And he was specially removed by the Public Service Board.

Sir WILLIAM LYNE. — He was intrusted by the leader of the Opposition, not very long before the right honorable gentleman went out of office in New South Wales, to prepare, in conjunction with Mr. Kelynack, a Local Government Bill, and I believe he did his work well.

Mr. WATSON.—He did not do his work in the Electoral office well.

Sir WILLIAM LYNE.—I am inclined to think that he did. I think that in fairness to the gentleman in question I should read the following statement to the House :—

Mr. Lewis was engaged for 25 years in the Survey Department of New South Wales, during the latter part of which he had charge of the Reserves Branch, having the administration of some 40,000,000 acres of Crown lands.

On the 30th June, 1887, when in receipt of a salary of £490 per annum, he was retired from this position owing to the abolition of the office consequent on the reorganization of the Department, and the introduction of the scheme of decentralization. Prior to this retirement, Mr. Lewis (together with the Surveyor-General, the Deputy Surveyor-General, the Chief Draftsman, and many other senior officers similarly situated) was granted three months' leave of absence, and was paid by the Government the unpaid superannuation deductions, in consideration of meritorious service. On the day that the three months' leave should have commenced, the late Sir Henry Parkes sent for Mr. Lewis and appointed him as Local Government Officer with electoral reform at an advanced salary of £600 per annum. More recently this position was continued by Sir George Dibbs, and, as Commissioner for the subdivision of the State of New South Wales into districts under the new (State) Act for electoral purposes, Mr. Lewis was entirely responsible for the organization of the new system which came into operation in July, 1894. This service extended over a period of nine years, and it was not until the year 1896 that Mr. Lewis retired from the public service of New South Wales. (Seven years ago, not twenty years, as stated by Mr. Reid.)

Mr. WATSON.—He was asked by the Public Service Board to retire.

Sir WILLIAM LYNE.—That does not appear, and I think the New South Wales Public Service lost a good officer in Mr. Lewis.

Mr. WATSON.—I think that they saved money by getting rid of him.

Sir WILLIAM LYNE.—I do not think so. The statement proceeds—

Mr. Lewis also held a commission (from the Right Honorable George Reid) for the subdivision of the State of New South Wales into shires, boroughs, and district Government districts, under Mr. Reid's proposed legislation. In conjunction with Mr. Kelynack, he prepared a Local Government Bill under instructions from Mr. Reid. Mr. Lewis was appointed in January, 1900, as one of a Commission of three to divide the State of New South Wales into Commonwealth divisions for Federal purposes. In 1901, the gentleman referred to was appointed as one of a Commission of Experts to formulate a scheme, or electoral system, to embrace the entire Commonwealth.

I may mention that instead of Mr. Lewis getting a high salary, such as has been stated, he receives only £300 per annum, in addition to the pension to which he is entitled from the New South Wales Government.

Mr. WILKS.—He also gets travelling allowances.

Sir WILLIAM LYNE.—His expenses are paid when he is travelling, but he has no special allowance.

Mr. WILKS.—He was paid £1 a day living allowance when he was in Melbourne some time ago.

Sir WILLIAM LYNE.—He received that allowance only until the House decided that it should be discontinued, and he has not received any since. The Commonwealth are making a saving through employing Mr. Lewis.

Mr. WATSON.—I believe that we are losing thousands by employing him.

Sir WILLIAM LYNE.—I am sorry that the honorable member for Bland is displaying such inveterate hatred towards Mr. Lewis, because I know of no justification for any such feeling. It has been stated that Mr. Lewis is a decrepit old man, but he is only 57 years' of age, or two years younger than myself; and I do not consider I am decrepit. In justice to Mr. Lewis, I give the House and the country his record, which is a perfectly honorable one.

Mr. WATSON.—He is a very estimable person privately, I have no doubt; and I have nothing to say about him personally.

Sir WILLIAM LYNE.—I do not know how I should have got through this electoral business so well if it had not been for Mr. Lewis. After the explanation I have given, honorable members will see that if there has been any delay, it occurred between January and May, the period during which the electoral lists were in the hands of the police, and therefore the Department cannot be blamed for something over which it had no control. It must not be forgotten that we were for the first time compiling the rolls under exceptional conditions.

Mr. A. C. GROOM.—What about the discrepancies?

Sir WILLIAM LYNE.—There is no discrepancy in Queensland, and the discrepancy in Victoria is not very large—only about 35,000 to 38,000.

Sir MALCOLM McEACHARN.—A great many persons declined to have their names placed on the rolls.

Sir WILLIAM LYNE.—I do not think that would account for any considerable number.

Sir MALCOLM MCEACHARN. — Yes, it would ; for a considerable number.

Sir WILLIAM LYNE.—The opinion has been expressed that a discrepancy of between 20,000 and 25,000 might be expected in the first instance under normal conditions.

Mr. SYDNEY SMITH.—But what about the discrepancy of 80,000 ?

Sir WILLIAM LYNE.—I admit that I was startled when I saw there was such a large discrepancy, and I lost no time in adopting the most, speedy means of affording an opportunity for every person to have his or her name placed upon the rolls.

Mr. PAGE.—Why not do the same in Victoria ?

Sir WILLIAM LYNE.—Because the lists are not printed. I had it in my mind to do something of the kind, but when I asked what the cost of printing the rolls would be, the reply was £3,500. It would be a serious thing if we had to pay such a large sum of money for that purpose. The cost of issuing the rolls in New South Wales will not be more than as many hundreds.

Mr. FISHER.—Why should there be such a great difference ?

Mr. KENNEDY. — Because New South Wales had a roll already printed so far as male voters were concerned.

Sir WILLIAM LYNE.—Yes, that is so, and they sell the rolls to any one at a price not exceeding 10d. a copy.

Mr. KENNEDY.—That is the usual course here.

Sir WILLIAM LYNE.—I do not know anything about that. I know that New South Wales charges 10d. a copy for the rolls, and that the total cost to the Department will, I believe, be about £225.

Mr. KENNEDY.—They had a list of male voters already set up.

Sir WILLIAM LYNE.—Yes ; that partly accounts for the difference, but the female lists are being specially printed, and they are nearly finished.

Mr. PAGE.—What has been done in Queensland ?

Sir WILLIAM LYNE.—I communicated with the various States with a view to having the printing done, and in all cases except that of Queensland, the matter

has been settled. I was informed—and I communicated with the Premier of Queensland to ascertain if the statement was correct—that it was not intended to print the rolls in the Government Printing-office, but to farm them out. That was not the intention of the Federal Government. We could, ourselves, farm out the printing of the rolls, but our object was to have the work done in the Government Printing-office. The reply received by me does not appear satisfactory.

Mr. FISHER.—When was that ?

Sir WILLIAM LYNE.—About three weeks ago, I think. Yesterday the Prime Minister received communication upon the question, which I have not yet seen. However, if the Queensland Government undertake the printing of the rolls in the Government Printing-office, the whole thing can be entered upon at once, because the price is satisfactory. I have given a perfectly true and plain statement of facts. Regarding the male rolls in New South Wales, I certainly think that as they had just been completed when the Act was passed, the cheapest, most expeditious, and the most satisfactory way was to take them as they were. Supposing I had insisted upon collecting the names in October ? They had been collected to the end of June, and therefore there would have been a difference of only three months, which I do not think would have had so much effect upon the lists as would justify us in going to the extra expense. If honorable members supposed that I intended to appoint special officers in every State instead of employing the State officials, they were much mistaken. I think that I have made the arrangements as economically as possible. If I had incurred any very great expense, I should have had the press howling about my extravagance. In Western Australia there will be no difficulty, because the whole matter will be settled in a few days. I do not know whether it will be necessary to submit the reports of all the Electoral Commissioners to the House at once. So far as I can judge, the reports from Queensland, South Australia, Western Australia, and, perhaps, Tasmania, will not be much cavilled at, and will probably be accepted. In New South Wales and Victoria I know there have been expressions of serious dissatisfaction, and I shall have the divisions for those States brought forward first, if possible. I think

it will be wise to submit them at once, in order to see if the House will accept or return them. I believe that I shall have them ready for submission to the House in the first or second week of next month. I can assure honorable members that whatever course is taken, plenty of time will be given for a re-division if necessary, and for meeting every requirement of the law, including the holding of the Revision Courts, and making every preparation for the elections in December. I think that is all the House requires, and all that honorable members can reasonably expect. I have been accused of not attending to this matter, but although I have not always been in my official chair—and I do not regard it as necessary to be always there—I have given all the requisite instructions to my officers, and I am well pleased with the way in which they have carried them out.

Mr. WILKS (Dalley).—I had hoped that there would be no necessity for any further debate after the explanation given by the Minister. The honorable member for Macquarie has done good service in fixing the attention of the Minister upon certain lapses of his Department, and in directing the attention of the public to the fact that there is a discrepancy between the number of electors on the rolls and those who should be there. I did not hear any attack made upon Mr. Lewis personally, but the question is whether he has performed his work as an electoral officer with efficiency, or otherwise. I maintain that the delay that has taken place, and the incompleteness of the rolls, are due to faulty administration. The Minister admitted that he was startled at the discrepancy disclosed, but his officers should have been alive to the facts months before they appear to have recognised them. It was only when the Commissioner mapped out certain divisions upon erroneous data that a discrepancy of any considerable character was disclosed.

Sir WILLIAM LYNE. — While the matter was in the hands of the police we could do nothing.

Mr. WILKS.—Honorable members have not attacked the Minister, but merely the machinery of his Department. The electoral officers had charge of the compilation of the electoral rolls, and they knew of the census returns, and yet the discrepancy between the two was not discovered till a few weeks ago. If ever a Department deserved a rating, at the hands of a Minister, it is certainly that

which the Minister controls. Yet the honorable gentleman calmly informs the House that his Department is excellently managed.

Sir WILLIAM LYNE.—The moment the lists were received so that a comparison could be instituted, the discrepancy was discovered.

Mr. WILKS.—The Minister now assures us that the Federal rolls are being exhibited throughout the different districts. Surely that could have been done before the new electoral divisions were mapped out. I am in thorough accord with most of the remarks that have fallen from honorable members who have addressed the House upon this question, and there is no need for me to dwell upon the points which they have made. But I should like to point out that there is a discrepancy, not only between the census returns and the Federal roll, but also between the electoral rolls for 1900 and 1902. I find, for example, that comparing the present State roll with that upon which this Parliament was elected, there is a deficiency in the city and suburban area of 8,500 electors, whilst in the country the deficiency is only 6,500. That is the best answer which can be supplied to the contention of some honorable members that a proper quota has not been struck for Sydney and its suburbs, and that the country districts have been neglected. The very reverse is the case. There will always be a large floating population around any city which will account for a great discrepancy in the State rolls; but under the Federal system, electors can be so very easily enrolled, that there should be practically no such discrepancy. Too much reliance has been placed upon State officers and State machinery. That the city has gained an advantage over the country is not true, as an examination of the rolls for 1900 and 1902 will show. I believe that, to a large extent, the discrepancy which exists can be accounted for by the floating population. I trust that the Minister for Home Affairs will not regard the motion which has been submitted as partaking in any way of the nature of a party attack. I hold that it is the duty of Parliament to put its electoral machinery in the most healthy condition possible. That it is not in such a condition at present is evidenced by the fact that the names of 150,000 electors have been omitted from the Federal roll. That is a proof of the inefficiency of the Minister's Department.

Sir WILLIAM LYNE.—An extraordinary feature of the matter is that in every State except New South Wales and Victoria the names are very evenly collected.

Mr. WILKS.—I have no desire to blame the electoral officers too severely, because of the large districts which they have had to canvass. At the same time it is positively shameful that this discrepancy should have been discovered only after the quota has been decided upon and the districts have been mapped.

Mr. SKENE (Grampians).—I had no intention of taking part in this debate until the Minister for Home Affairs declared that he did not propose to make the same effort to discover the electors whose names do not appear on the Federal roll in Victoria that he intends to put forth in New South Wales. He bases his reason for making this distinction upon the expense which would be involved. It has been stated in the press that of the 35,000 electors who have not been enrolled in Victoria, 30,000 are resident in the country districts. It is very probable that that is a fact, because in the drought-stricken districts of this State, whatever may be the position in New South Wales, regarding the distribution of the electors who have not been enrolled—

Mr. WILKS.—I was quoting from the official returns.

Mr. SKENE.—I am perfectly satisfied, so far as Victoria is concerned, that the names of a large number of the dwellers in the northern areas do not appear on the rolls. At the time that the rolls were collected they were absent from their homes. The whole of the small holders in the mallee district were compelled by the drought to leave their homes and go south, taking their stock with them. This is a most important matter, because 30,000 electors in the country represent not merely a quota, but the maximum for an electorate.

Sir WILLIAM LYNE.—Their names would still be upon the roll.

Mr. SKENE.—One country electorate has been entirely cut out of the plan of the new districts, and if that has been done by reason of the residents being absent from their homes, and becoming enrolled elsewhere—

Mr. TUDOR.—They do not water their stock in the metropolitan areas, surely.

Mr. SKENE.—Probably the honorable member does not know as much about this

matter as I do. I am aware that the whole of the stock in the district which I have mentioned was removed to districts south of the Dividing Range. Assuming that these people were enrolled outside of their own district, the effect must still be the loss of the electorate from which they came. The Wimmera electorate was reduced by 5,000 votes. Seeing that the temporary absence of these electors from their homes would have that effect, I do not think that the Minister, because of the expense that would be involved, should stay his hand in endeavouring to find them. He says that such action will cost only £350 in New South Wales, whereas in Victoria it would cost £3,500. But, even if it did cost that sum—assuming that a country electorate has been wiped out of existence because of the abnormal conditions, prevailing when the roll was being compiled—it is surely worth the expenditure to have it restored. When the Electoral Bill was under discussion, the matter to which I am now directing attention was very strongly argued by the representatives of country constituencies, and was eventually settled in a fair spirit. I hold that, as far as possible, the country districts should be given reasonable representation—a larger representation than that to which they are numerically entitled as compared with the city electorates. That was conceded when Parliament fixed a margin of 20 per cent. either above or below the quota in connexion with the representation of rural districts in this Parliament. If the country is not diligently searched for these electors, and if an electorate has been struck out, the whole advantage which Parliament proposed to confer upon those districts has vanished. I hope, therefore, that the Minister will reconsider his attitude upon this matter. Certainly the expenditure of £3,500 is not a large one to insure fair play as between town and country districts, which fair play this House decided should be given under the Electoral Act.

Mr. O'MALLEY (Tasmania).—I am sorry that many honorable members have seen fit to attack Mr. Lewis so bitterly, and to condemn the Minister for retaining him in his position. My opinion is that Mr. Lewis is a real up-to-date, courteous, sympathetic business man, who endeavours in every possible way to facilitate the

work of his Department. I have frequently come into contact with him in prosecuting inquiries about electoral matters in Tasmania, and I have always found him able to put his hands upon the necessary papers at once. Is it to be suggested that we should retire officers simply because they have reached a certain age? We shall all grow old in a few years, and will it then be said that we are unfit to discharge our duties? If matters are not progressing satisfactorily, it is easy enough to remedy the evil at a later stage, but that is no reason why we should take advantage of a man who is not able to defend himself upon the floor of this House.

Mr. SYDNEY SMITH (Macquarie).—I was rather surprised at the manner in which the Minister for Home Affairs attempted to justify himself with regard to the collection of the Federal rolls in New South Wales. My contention is that the State roll was taken as the basis for the mapping out of the new Federal electorates, whilst in the matter of the female roll, a circular was sent out by the State Government of New South Wales directing it to be collected according to the law of New South Wales, and not according to the Commonwealth law. That roll has been collected, and has not been revised. If the Minister had only taken the trouble to look into this matter some months ago, he would have seen that, comparing the State roll for 1900 with the new Federal roll for 1902, there was a deficiency—when there ought to have been a large increase—of 15,000 electors in New South Wales. The deficiency is made greater when we take into account the increase there should be in the number of electors under the extended Federal franchise.

Sir WILLIAM LYNE.—I told the honorable member that the estimate was 8,800.

Mr. SYDNEY SMITH.—The persons in New South Wales with a residence of under one year are 11,400 males, and 5,920 females—a total of 17,000.

Sir WILLIAM LYNE.—But under the Commonwealth Electoral Act only six months residence in Australia is required.

Mr. SYDNEY SMITH.—If I happen to have resided the requisite length of time in Victoria, and change my residence to New South Wales, I have only to be in the latter State one month in order to have my name

put on the Federal roll, but one year is required under the State law. And in the figures I quote I make all allowance for such cases. We have to consider persons who are in receipt of State aid, and also the military, all of whom ought to be on the Federal roll, although they are not on the State roll.

Sir WILLIAM LYNE.—The military votes number 450.

Mr. SYDNEY SMITH.—And those in receipt of State aid are about 3,100. What I contend is that the Minister or the Department ought to have taken steps immediately after the Electoral Act was passed to have a proper roll compiled, a work which I do not suppose would in New South Wales have cost more than £1,000 if the police had been employed. I am referring now, of course, to the mere work of collecting the names. I understand that the police in the State of New South Wales last year collected the roll of female names at a cost of about £900. In my opinion, the names could have been collected, as in 1900, by the police, under the supervision of the State, the Government of which would have been only too glad to afford the necessary assistance. But the Minister has never obtained a Federal roll in New South Wales of either male or female voters, and the consequence is the large deficiency of 70,000 names. No instructions were given to collect the names under the Federal law, and they were collected under the State law. I felt it my duty, in the interests of the public, to submit the motion, not for any party purposes, but in order that the matter might be fully ventilated. I am afraid, however, that the explanation of the Minister in regard to New South Wales will not be regarded as satisfactory.

Question resolved in the negative.

PAPERS.

Sir JOHN FORREST laid upon the table the following paper:—

Gazette notice of alteration of regulations for the Victorian Military Forces.

The CLERK laid upon the table—

Return showing the number of private telephones in each municipal or police district in Tasmania (only excepting the cities of Hobart and Launceston) which have been relinquished since the regulations issued by the Postmaster-General came into force.

TELEPHONIC AND TELEGRAPHIC GUARANTEES.

Mr. G. B. EDWARDS (for Mr. JOSEPH COOK) asked the Minister representing the Postmaster-General, *upon notice*—

1. What is the amount of the losses on the telephonic guarantee lines in New South Wales?
2. How long was this amount accumulating?
3. What was the value and yearly average of the total telephonic business during the same period?
4. What was the average yearly amount of the bad debts?
5. What was the average yearly proportion of bad debts to total business?

Sir PHILIP FYSH.—The return asked for is not yet complete. It will be furnished as soon as possible.

Mr. PAGE asked the Minister representing the Postmaster-General, *upon notice*—

Whether, in view of the fact that the Telegraph Department has authorized the construction of a telegraph line to Tarcoola, in South Australia, without requiring any cash guarantee for construction and maintenance, the Postmaster-General will treat the State of Queensland similarly, and place an amount on the Estimates for the construction of a telegraph line from Jundah to Stonehenge (Queensland)?

Sir PHILIP FYSH.—The answer to the honorable member's question is as follows:—

If it can be shown that the same conditions exist in connexion with a telegraph line from Jundah to Stonehenge, in Queensland, as were shown in connexion with the telegraph line to Tarcoola, in South Australia, the Postmaster-General will consider whether the line to Stonehenge should not be constructed under similar conditions.

BONUS ON COFFEE.

Mr. BAMFORD asked the Minister for Trade and Customs, *upon notice*—

Whether it is his intention to take any steps in the direction of giving effect to the petition of the Cairns Coffee Growers' Association with reference to giving a bonus on coffee grown within the Commonwealth?

Mr. KINGSTON.—The answer to the honorable member's question is as follows:—

The Government do not propose to add to the list of bonuses to be proposed this session, but will consider the general question of bonuses later on.

INTER-STATE REMITTANCES.

Mr. MAHON asked the Treasurer, *upon notice*—

1. What are the total charges for 1901 and 1902 respectively made by banking institutions as exchange on inter-State remittances?

2. Has any exchange been paid during those years on remittances from or to Australia, and, if so, how much?

3. Has the Auditor-General submitted any scheme whereby in future this outlay may be saved to the Treasury?

4. If not, will the Treasurer, as intimated by him in Committee of Supply on 30th September last, formulate a proposal by which a saving may be effected?

Sir GEORGE TURNER.—This information is not within the knowledge of my Department. I should have to send to all the States Departments, and get the returns picked out from the various contingency votes.

Mr. MAHON.—I mean the money paid by the Commonwealth.

Sir GEORGE TURNER.—As I say, in order to get the information, I should have to send to the Departments in the various States.

Mr. MAHON.—Surely the Treasurer knows what he has paid?

Sir GEORGE TURNER.—No, because it has been the habit to pay exchanges out of the vote for contingencies—there is no specific vote. If the honorable member thinks the information he desires is absolutely necessary, and persists with his inquiry, I shall offer no opposition if he moves for a return. But if he would tell me exactly what he wants, I may be able to get the information in a simpler form. The answers to the honorable member's other questions are as follow:—

3. No.

4. With regard to Inter-State exchanges, a large number of transactions is now dealt with by the Treasury by means of the Inter-State Cash Adjustment Account. It is intended during the ensuing financial year to settle the money order transactions between the States by means of the same account, and the Money Order Account will be used in each State as much as possible, in order to reduce the amount of internal exchange. Whenever a large remittance is made to London, the Treasurer asks the different States Treasurers if they can conveniently provide the money there.

I can assure the honorable member that the Government do all they possibly can to save exchanges, but we have to deal with receipts and expenditure amounting to £24,000,000, and must pay a certain amount of exchange for the work. I do all that I can to keep the amount as low as possible.

DUTY ON RUBBER BOOTS.

Sir EDWARD BRADDON asked the Minister for Trade and Customs, *upon notice*—

Under what authority have the Customs officers of Tasmania this year levied a duty of 25 per cent. and 2½ per cent. prime upon rubber boots

made specially and used for mining, whereas these boots are exempted from duty under the Tariff in force, and were recently so regarded by the Customs authorities of Tasmania?

Mr. KINGSTON.—The answer to the honorable member's question is as follows :—

Because the boots are wading boots, viz., boots permitting dry wading above the knee, dutiable on the market value, with 10 per cent. added at 25 per cent. The duty was simply calculated the usual way.

SOUTH AUSTRALIAN INCREMENTS.

Mr. POYNTON asked the Treasurer, upon notice—

Why have the annual increments not been paid for the current year to South Australian Federal officers who are entitled to the same by virtue of section 60 of the Public Service Act?

Sir GEORGE TURNER.—This is a matter more within the purview of the Department for Home Affairs; but the answer to the honorable member's question is as follows :—

Mr. McLachlan explains that in certain cases the increments of South Australian officers have not been paid, pending a decision of the Attorney-General. In these cases, if the increments were granted, the effect would be to place the officer in a higher class, e.g.—Increments have been allowed in cases where the salary, plus the increment, would not exceed £184, £185 being the minimum of the fourth class.

It would not be wise to do anything until the classification takes place; it might have the effect of removing an officer from one class to another. If the honorable member has any particular cases in his mind, and will bring them under notice, they will be investigated.

PREFERENTIAL TRADE PROPOSALS.

Mr. McDONALD asked the Prime Minister, upon notice—

1. Is it a fact that the Attorney-General of the Commonwealth caused the following message relating to the subject of preferential trade to be cabled to England :—

“Federal and all State Governments approve Chamberlain's proposal. Only extreme section free-traders oppose. Immense majority assured when put before the country. Personally consider preferential Tariffs indispensable foundation of Empire unity?”

2. If so, on what grounds, or by what authority, did the Attorney-General express the approval of the Federal and State Governments of Mr. Chamberlain's proposals?

3. Is it a fact that at least one State Premier repudiates the right of the Attorney-General of the Commonwealth to pledge the Government of his State in terms of this cable message?

4. In view of the emphatic manner in which the Federal and State Governments are thus pledged to the approval of Mr. Chamberlain's proposals, is it the intention of the Prime Minister to give Parliament an early opportunity of considering those proposals?

Mr. DEAKIN.—In the temporary absence of the Prime Minister, I have to say that the answers to the honorable member's questions are as follow :—

1. Yes; in reply to a question telegraphed by the *British Australasian*, a newspaper published in London.

2. The Prime Minister had some days previously expressed to Reuter's Agency, who had telegraphed it to the London press, the approval of the Federal Government of a system of preferential trade. In Mr. Deakin's opinion, based on newspaper reports, and his own knowledge, the States Governments were favourable.

3 and 4. Such a statement appears in the press, but no attempt was made, or could be made, to “pledge” the Government of any State; nor could Mr. Deakin's telegram possibly be read as conveying anything more than his own view. If time permits during this session, Ministers will make proposals on the subject, but they do not anticipate obtaining an opportunity of doing so until after the general election.

JUDICIARY BILL.

In Committee (consideration resumed from 17th June, vide page 1063):

Clause 31—

In addition to the matters in respect whereof original jurisdiction is conferred on the High Court by the Constitution, the Court shall have original jurisdiction in respect of all matters—

- (a) arising under the Constitution, or involving its interpretation;
- (b) arising under any laws made by the Parliament;
- (c) relating to the same subject-matter claimed under the laws of different States.

Provided that, with respect to matters which are by the laws of the Commonwealth required to be instituted in courts of summary jurisdiction or other courts of inferior jurisdiction, the original jurisdiction of the High Court shall not be exercised except by way of removal of the matter from the court in which it is pending into the High Court and thereafter hearing and determining it in the High Court.

Mr. G. B. EDWARDS (South Sydney).—When the Committee had this proposal under consideration last night, I was endeavouring to point out what my position was in regard to the measure introduced last year. I had gone so far as to express my approval of the establishment of some sort of High Court as being necessary for the completion of the Constitution, and to safeguard both it and the rights of States and of citizens under it; and I was

proceeding to say that now we have come to the consideration of this clause, we have reached the parting of the ways. It seems to me that if we adopt all that the framers of the Bill propose, those of us who think it highly desirable that there shall be a High Court, will run the risk of seeing our end frustrated; because an attempt is being made to establish a High Court which will be greater than the Constitution requires, and more extensive than the people are prepared to accept. Honorable members discussed the clause last evening very much as if they were debating the second reading again, but I think there was no help for that, because the whole fate of the measure depends upon the decision which we come to in regard to the clause. If it is struck out the whole Bill will have to be re-cast. That being so, it is almost impossible for honorable members to confine their remarks within the limits of discussion allowed in Committee. The clause confers upon the High Court a wider original jurisdiction than is provided for in the Constitution, but I understand, from the speeches which I have heard, that as time goes on it will not be found much wider and that the cost of the court will therefore not be limited to the £23,000 mentioned by the Attorney-General, or even to £30,000, but will run into very much higher figures. For that reason I shall oppose this and the succeeding clauses. While I oppose it for one reason, other honorable members will oppose it for other reasons, but each must defend his own reasons, and therefore I desire to occupy the time of the Committee for a few minutes in explaining my position in regard to the clause, and generally towards the provisions of the Bill. It was my original opinion that it would probably be unnecessary to establish a High Court, but I was convinced of the necessity for its establishment after I heard the very able addresses of the Attorney-General, the Prime Minister, and the honorable and learned member for Indi. It seems to me that the splendid train of reasoning followed by those three speakers—who, I hope, will be the forerunners of a long line of statesmen who will protect the Constitution, and see its provisions carried into effect—should convince everyone that the establishment of a High Court is absolutely necessary, as the crown of the Constitution, and to protect it, and the rights of States and individuals under it. Personally,

I am fully convinced that a High Court of some kind must be established, and to my mind the fact that its establishment will cost money does not weaken the position of those who support it. If its establishment is necessary under the Constitution, we have not to consider the question of cost. The Commonwealth would have saved money if the framers of the Constitution had conferred upon the States Legislatures the right to nominate representatives to this and to the other Chamber, but I am convinced that no one contemplated the saving of the £50,000 or £60,000 which we shall have to spend upon the Federal elections every few years by the adoption of such an arrangement. For the same reason we cannot question on the score of cost the establishment of a High Court of some sort to perform the equally important, if not more important, work of interpreting the Constitution, and preserving the rights of States and individuals under it. There has been a great deal of clamour in regard to this measure outside, but when it is said that those of us who support the measure are indulging in extravagance, I, for one, reply that I am prepared to meet my constituents at any time to defend my action in supporting the proposal to establish this necessary body. Furthermore, I feel convinced that if the States had not federated, the time would shortly have come, and would probably have come as early as now, when they would have created a Court of Appeal for Australia. I recall several discussions upon that question, notably in the old Federal Council at Hobart; and I have been informed by the honorable and learned member for South Australia, Mr. Glynn, that a Bill was drafted in Victoria for the establishment of such an Appeal Court. Everything pointed to the fact that sooner or later some sort of Appeal Court for Australia would be established, and the cost of such a court would not have been less than the cost of the High Court which I am prepared to see established under the Constitution. I intend to vote for a Court of five Judges for reasons which I will give later on. I do not think that if an Appeal Court for the whole of Australia had been established prior to federation, fewer than five Judges would have been appointed. My idea, when the Bill was brought before Parliament last session, was that we might have in the first instance an interim arrangement, under which the Chief Justices of the Supreme

Courts of the States would perform the necessary duties for a time ; but, as I stated last night, that idea has been exploded, partly because of the period which has elapsed since the Bill was introduced—which makes it too late to think of anything but a permanent arrangement—but chiefly because of the precise and definite wording of the Constitution, which does not contemplate in any line of it that Parliament should have power to adopt any temporary expedient in this matter. The Constitution lays it down very definitely that Parliament shall create a High Court whose Judges shall be appointed for life, subject to their good behaviour. No provision is made for the creation of a temporary court. Therefore, whatever Judges are appointed will be appointed for life, and there will be no getting rid of them except on the vote of both Houses, on the ground of misbehaviour or failing abilities. But apart from the effect of the Constitution, it seems to me that there would be no more wisdom in selecting the Chief Justices of the six States to form a Bench, than in selecting the six tallest or six shortest Justices in the States Courts. It is notorious, though I am not speaking of the present state of affairs, that in the history of the Judicial Bench of Australia, as well as elsewhere, the best men have not always been the Chief Justices. Much depends in the creation of the High Court upon the personnel of the gentlemen who are first appointed to occupy positions upon the Federal Bench—its future success, the confidence of the nation, and the gradual development of a Judiciary which in course of time will gain full power to finally determine every legal question which may arise in Australia, will be greatly influenced by the character of the first appointments. I regret that the power which was asked for in the draft Constitution Bill, to confine appeals in certain cases to the High Court in its appellate jurisdiction, was not given in its entirety. I do not sympathize with the views of those who have spoken highly of the Privy Council. The Privy Council, like many other institutions, is a time-honoured body, but it no longer meets the exigencies of the Empire, and much less the needs and necessities of Australia. It is an accidental thing, and quite out of touch with our conditions. I believe that there are fifteen members of that court, and that its quorum is four, so that it may happen that four of its weakest men are called

Mr. G. B. Edwards.

upon to decide cases of the greatest weight and moment. Where questions of commercial and ordinary law are in dispute, I think they can be settled by the Privy Council as well as by an Australian Court, but in purely Australian cases, and especially in constitutional cases, the members of the Privy Council would be less fitted to deal with disputes than the best men we could select in Australia. If the Ministry appoint to the High Court as Judges men who are selected for the excellence of their intellect and abilities, five will not be too many, and we shall have a court which, as time goes on, will get more and more appeal work under the provision of the Constitution which gives this Parliament the right to limit appeals in certain cases to the Privy Council, and because it will command the increasing confidence of the nation. I cannot see any advantage in perpetuating the right of appeal to the Privy Council. Indeed, in constitutional cases, there is very grave danger in having to appeal to that body. Our Constitution should be interpreted by an Australian Court. In this way we shall get definite decisions upon several doubtful points, and probably, as has been the case in the United States, the decisions of the court will in effect amend the Constitution to meet the popular will in several particulars in regard to which it is not worth the trouble and expense of going through the forms of amendment provided for in the Constitution. If we did not create the High Court, but took our interpretation of the Constitution from the States Courts, with the right of appeal to the Privy Council, we should run the greatest danger. That body has in many instances interpreted the Canadian Constitution, but I think it is notorious amongst legal men that the judgments given were almost invariably those of the late Lord Watson, who for twenty years made the provisions of that Constitution his especial study. In giving these decisions he apparently had the approval of every member of the Privy Council, simply because he above all the others, had made the subject his special study. I do not think we could depend upon anybody to take a similar interest in our Constitution. Lord Watson probably performed very great service to Canada in devoting his time almost exclusively to the work of interpreting its Constitution. Owing to the fact that the Privy Council has now on its records many decisions

with regard to the Canadian Constitution, we should, in the event of our applying for an interpretation of our Constitution, run the risk of having certain decisions in Canadian cases read into our Constitution, which is not upon exactly the same lines as that of Canada. Our Constitution is *sui generis*. It does not follow Canadian lines, and differs from the United States and Swiss Constitutions. It is a Constitution of our own making, and consequently it ought to be interpreted by Judges of our own creation—by men who have grown up amongst us, and who are permeated with Australian ideas. I think we can find all the necessary Judges amongst ourselves. We do not require to restrict our choice to Judges of the States Courts, or to men of eminence in public life, but if we choose the best men available in the Commonwealth wherever they may be, we shall create a Court which will grow more and more into the confidence of the people, and which will be able to safely direct us upon all matters affecting the interpretation of our Constitution and our laws. That is the ideal which I desire to work up to. It has been very eloquently and lucidly set forth by the supporters of the Bill, and I shall do all I can to realize it. When we come to consider the Bill, we find that its framers, actuated by a desire to erect a strong Court of five Judges which would command respect, have gone further than is necessary in order to afford full reason for their appointment. I go the length of saying that if there were no work to be done by the Judges at present, we should still appoint them. A very old friend of mine used to pay £20 per annum to a doctor to attend upon his rather large family, but he did not require the services of the doctor from year's end to year's end. He did not complain, because he regarded the absence of sickness as an excellent state of affairs. Similarly, if we have five Judges and they have nothing to do, we ought to congratulate ourselves upon that fact. So long, however, as we have no High Court, and no means of settling our own disputes, we may expect an increase of litigation. If five Judges are appointed, with the limited duties to which I would confine them, they will not cost the Commonwealth more than about £20,000 per annum. Unfortunately, they will cost us that sum as soon as we create the Court, but I do not think that the outlay will be

any greater in twenty years hence, when they will have much more work to do, and will be much more necessary for the protection of our growing interests. I am satisfied that such a Court is required, and that we cannot do with less than five Judges. If we appoint only three Judges, we may save £5,000 or £6,000 per annum, but we shall have an emasculated Court that will not command the same respect as a Bench of five Judges. We should frequently be compelled to accept the decision of two Judges out of three, and we could not feel satisfied with such a Court having the final word upon important subjects. In the United States they started their Supreme Court with six Judges, and that Court had not the same extensive functions that we propose to confer upon our High Court. Their duties were confined to the interpretation of the Constitution and to cases arising under the Constitution or between States or parties in different States. When that Court was appointed the United States were not in as good a position as is Australia to-day. Their population in the last decade of the 18th century was about 1,000,000 less than ours at the present time. They had no large cities like Melbourne, Sydney, or Brisbane, because Philadelphia, the largest centre in those days, had a population of only 42,520, New York came next with a population of 33,131, and there was no other city in the Union at the time the Federation was started that had a population of more than 20,000. They had a number of small towns scattered throughout the Union. The famous Boston, their intellectual centre, had only 13,000; Charleston had a population of a little more, and Baltimore only 14,503. While the United States had far less population than we have, the extent of her trade and commerce was relatively still smaller than ours; because, as the world progresses, all communities have relatively more trade and commerce than was the case with similar populations in days gone by. The American Union, knowing full well the necessity for the Supreme Court, appointed six Judges, although, as I have stated, the functions of the Court were limited to the decision of Constitutional questions. I do not know why they appointed six Judges, because it seems to me that it is desirable to have an odd number, and therefore I favour the appointment of five Judges.

When I am asked what these Judges are to do, I do not think it is necessary to do more than point to the Constitution. Where is the necessity for creating work by granting extended original jurisdiction? Is it not plainly apparent that it has been feared by the framers of the Bill that there would not be sufficient work for five Judges, unless some extra jurisdiction were given to them? I think it is singularly unfortunate that this view was taken. All true lovers of the Constitution, with a patriotic desire to see the Federation progress, would have willingly supported the appointment of five Judges, if for no other purpose than that set forth under the Constitution, and I regret that the Bill has been hampered by other provisions which, to my mind, rather mar its effect. I intend to vote for the striking out of the clause now under discussion, but I shall support the appointment of five Judges. There is another reason why we should have five Judges. If only three Judges are appointed to constitute the High Court at the commencement of its career, the inevitable increase in the work of the Court in the near future will soon necessitate an increase in the number of its members. But in the meantime serious constitutional questions may have come before the Supreme Courts of the States for their decision, or may have been warmly discussed in the Federal Parliament and in the press of the Commonwealth, and the selection of the additional Judges for the High Court will inevitably be influenced by their known or suspected opinions on the questions under discussion in the political arena, or in the Supreme Courts of the States. An illustration of such an influence in the selection of additional Judges is found in the history of the United States of America, in connexion with the long controversy upon the question of the power of Congress to issue paper money. In consequence of the quarrel between Congress and President Johnson, an Act was passed by Congress to prevent the President filling up any vacancies that might occur on the Bench of the Supreme Court until the number of the Judges fell below seven. Towards the close of the President's term of office the number of the Judges of the Supreme Court had become reduced from ten to seven, and at the time at which the Court consisted of only seven Judges the question of the power of Congress to issue paper money came before the Court for

decision in the case of *Hepburn v. Griswold*. The Court, by a bare majority of four Judges against three, decided that the issue of paper money by Congress was illegal. Shortly afterwards General Grant was elected President, and the Act of Congress, which prohibited the appointment of additional Judges, was repealed. The new President immediately appointed two new Judges, who were known, or believed to be, of the opinion that Congress had the power to issue paper money. One of them, Mr. Justice Strong, had previously delivered a judgment in the Supreme Court of Pennsylvania in support of the legality of such money; and two years after the two new Judges were appointed, the same question came again before the Supreme Court of the United States in the cases known as "*The Legal Tender Cases*," and judgment was given in favour of the legality of the paper money issued by Congress, by a majority of five Judges out of the total number of nine which then constituted the Court. These historical events clearly demonstrate the desirability of appointing a sufficient number of Judges of the High Court of Australia at the commencement of its career, in order to prevent a prospective increase of work being converted into an excuse for increasing the number of Judges for political purposes at a subsequent time. If we start with five Judges we shall probably find them sufficient for a very long time. If the only argument against the appointment of that number is based upon the expense involved, I would rather face the consequences in that direction at once than risk the necessity of strengthening the Bench later on under conditions such as I have indicated. I feel that I must support the Bill, but as some of its provisions are unnecessarily wide, I shall endeavour to modify them. I am satisfied that if we agree to this clause we shall confer on the High Court a wider original jurisdiction than it is necessary to clothe it with, that five Judges will not be sufficient to transact its business, and that the estimated expenditure of £30,000 per annum will prove utterly inadequate. If we invest this tribunal with original jurisdiction, in connexion with matrimonial and bankruptcy matters, fifteen Judges would not be able to do the work. But if we confine the functions of the Court to appellate jurisdiction, the interpretation of the Constitution, and the primary

jurisdiction conferred under the Constitution, I think that the expense of its maintenance will be about £20,000 a year. Although I am sorry that it may cost that sum now, I would vote for it if it cost £40,000 per annum. At the same time I do not think it will cost more than £20,000 per annum, even after ten or twelve years have elapsed.

Mr. BROWN (Canobolas).—As this clause involves the defining of the functions of the High Court, it was calculated to call forth the opinion of the legal talent in this Chamber. In the course of the debate which has taken place upon this measure, some very able and instructive addresses have been delivered from both sides. The Attorney-General gave us a very able exposition of its principles, and his position was forcibly supported by the honorable and learned member for Indi and the honorable and learned member for Darling Downs. Equally able speeches were made against the Bill by the honorable and learned member for Bendigo, and the honorable and learned member for Corinella, whilst the honorable and learned member for Northern Melbourne has delivered addresses both for and against the Bill. But the speech which appealed to me most was that delivered by the honorable member for North Sydney. It contained a good deal of hard-headed, Scotch common sense. Before committing themselves to the proposals of the Government, honorable members would do well to carefully peruse that address. There is no doubt that provision is made in the Constitution for the establishment of a High Court, and other tribunals of a more or less judicial character. But Federation has been in existence for more than two years, and until now the Government have never betrayed undue anxiety to carry that provision into effect, and I fail to see that the Constitution has suffered irreparable damage in the absence of these legal machinery measures. Personally, I do not think there is any urgent need for the establishment of a High Court, and in my judgment it would be wise to defer its creation until such a tribunal becomes absolutely necessary. If we commit the Commonwealth to the establishment of a Court of this character, we cannot expect it to do anything like justice to the people, unless we are prepared to sanction the expenditure of a considerable sum of money. Matters have proceeded

satisfactorily enough in the absence of this tribunal, and the public have not exhibited any strong anxiety for its creation. In view of the wide difference of opinion which exists, both in this Chamber and outside of it, the Government would be acting wisely in withdrawing the measure and allowing honorable members to deal with more urgent legislation. When the need becomes apparent, I shall be quite prepared to sanction the establishment of a High Court, but I shall want to see such a tribunal erected as will reflect credit upon the Commonwealth. I cannot, however, go all the way with the Government in their desire to establish a Court that will practically run counter to the States Courts, and duplicate the work in that respect. I think that the honorable member for North Sydney stated the position accurately when he declared that we must not lose sight of the fact that in our Federal legislation we are dealing with the same people as are affected by State legislation. We are not providing for an entirely new order of affairs. I should like to see the High Court, when it is created, work as far as possible in harmony with the States Courts. Indeed, I think it should be supplementary to those courts, and form a court of appeal from their decisions. I do not hold with those who believe that there must necessarily be antagonism between the States and the Federal judicial systems, and that the Judges of the States Courts, in dealing with Federal matters, would regard them from a parochial stand-point. I believe that they are quite competent to deal with such matters. I am in favour of making the High Court so completely a part of the States Courts that I am averse to conferring upon that tribunal the original jurisdiction proposed under this Bill. I believe that the best talent upon the States Courts should be drawn on from the outset to constitute the High Court. In that way we should bring the Federal and the States Courts into harmony, and the greater the harmony that exists the better it will be for the people. We must not forget that the States have established and maintained at considerable cost the courts which are already in existence. The Federal Government, in my opinion, should use those courts in the way I have indicated. No injustice could result to the Commonwealth from the adoption of such a procedure. On the contrary, if we clothe the States Courts with Federal jurisdiction, to enable them to

deal with all Federal matters, we shall effect great savings. If afterwards our experience shows that there is sufficient work to warrant the creation of a High Court as a court of appeal, we can enact the necessary legislation, thus providing for our needs as they arise. We must always remember that the cost of the Federal, as well as the State administration, is borne by the one people. I have in my hand a return prepared by Senator Zeal which shows the amount of money that is annually expended by the various States upon their judiciaries. From this document I find that the salaries of the Judges throughout the Commonwealth total £66,900; the expenses in connexion with them, £35,989. The District Court Judges draw £22,000; the law officers, £118,431; the sheriffs, £51,062; the Masters in Equity, £16,342; the Stipendiary Magistrates, £63,920; whilst the petty sessions cost £128,024; miscellaneous expenditure is responsible for £68,638; making a total of £571,306. That amount does not include the cost of providing police protection, but simply covers the courts of justice and the paraphernalia immediately connected therewith. That total is distributed over the States as follows:—New South Wales, £255,994; Victoria, £135,701; Queensland, £75,906; South Australia, £27,840; Western Australia, £57,142; and Tasmania, £18,723. Senator Zeal compares this expenditure with that which takes place in the sister Commonwealth of Canada. He says that, compared with Canada, the extravagance of this Commonwealth is remarkable. In the Dominion the annual cost of the judiciary and police combined is £474,221, or £97,085 less than the cost of the judiciary of the Commonwealth.

Mr. CONROY.—The cost of our judiciary does not include the cost of the police.

Mr. BROWN.—That is so, whereas in Canada the maintenance of the police is included in the sum I have mentioned. I am informed that the judiciary of Canada amply supplies all wants; and, if that be so, we ought to be satisfied with more reasonable proposals than those submitted by the Government. The States have incurred great expense in establishing the present judiciary, and the machinery at our disposal ought to be utilized as far as possible; certainly we should not duplicate the tribunals in the way proposed by

the Bill. There are many other directions in which money can be usefully expended on good government for the benefit of the Commonwealth; and all that is necessary at present is to clothe the States Courts with the necessary Federal jurisdiction. If there is need for a High Court of Appeal let such a Court be established, but, in our present circumstances, there is no necessity for a duplication of jurisdiction. It has been urged that the proposal of the Government will cheapen law within the Commonwealth; but in my opinion the man who can solve the problem of how to lessen the cost of litigation in this community will be a genius. I am glad to say that I have had no personal experience of law courts; but from what I can see he is a wise man who keeps out of litigation. In nine cases out of ten the parties on both sides are the losers, the only persons who seem to reap a rich harvest being the legal gentlemen employed; and that experience will, I am afraid, be repeated in the Federal High Court. It must be remembered that a Federal tribunal sitting in Sydney, Melbourne, or Adelaide will only constitute a part of the High Court, and the probabilities are that in many cases the decisions will form the subject of appeal to what will be known as the Full Court. The honorable member for Tasmania, Mr. O'Malley, claims to have had special experience of the High Court in another Commonwealth, but the conditions there are very dissimilar to our own; at any rate, I do not think we shall see such a free use of the revolver as the honorable member seemed to indicate in the High Court of which he spoke. If it were possible under the Constitution to establish a purely Australian High Court, in the sense in which the word "Australian" is ordinarily used, there might be some reason for agreeing to a proposal in that direction; but the decisions of the proposed Court, with the exception of those relating to the interpretation of the Constitution, and cases originating in the States Courts with Federal jurisdiction, may be taken to the Privy Council. While our needs are not very pressing, I do not think we need fear following the example of Canada so far as questions affecting the interpretation of the Constitution are concerned; and I shall endeavour to give Federal jurisdiction to the States Courts, with the High Court as a court of appeal. I do not see any need for the original jurisdiction

proposed to be given to the High Court, nor am I of opinion that so large a number of Judges as proposed ought to be appointed. We ought to start with the lesser number, and when the need becomes evident appoint more Judges. I strongly protest against what appears to be the policy of the Government in establishing an ornamental judiciary, an Inter-State Commission, and other expensive bodies. If these bodies be established, and an appeal is made for legislation in other directions of more vital importance to the community, such as the establishment of Courts of Arbitration and Conciliation, the reply will be made that our resources have been exhausted; and, therefore, I shall support the amendment which I understand has been moved to eliminate from the Bill the clauses which give original jurisdiction to the High Court.

Mr. SYDNEY SMITH (Macquarie).—I have been very pleased to find, during the course of this debate, that we have in this Chamber a number of lawyers, who, although they would derive personal advantage from the setting up of the High Court proposed by the Government, are patriotic enough to remember the interests of the general public, and therefore hesitate about committing the country to the large expenditure which the proposal would entail. It is a very difficult thing for any of us to say what the cost of the proposed High Court would be, but in a matter of this kind we must rely greatly upon the opinions expressed by the legal members of the Committee, and after listening to the very able speeches delivered by members of the legal profession, I have come to the conclusion that the proposal should not be adopted. Of course, we are all of opinion that the public should be given the right to proceed, if they think fit, against the Federal Government. I know that difficulties have arisen in the past, and I was one of those who complained of the delay on the part of the Government in not providing for some court—not an expensive court such as is now proposed—which would be given jurisdiction to hear cases brought against the Federation. When, towards the close of last session, the Attorney-General submitted a short Bill to enable the public to bring suits against the Federation, an attempt was made to amend it so as to extend the jurisdiction, and I believe that if that amendment had been carried it would have been to the advantage of all

concerned, though it might have been inconvenient for the Government. But while, as I have said, difficulties have arisen, I think that they could be met for the present by extending the jurisdiction of the States Courts pending the establishment of a High Court. Those of us who voted against the Bill did so, not because we are opposed to the establishment of a High Court as a court of appeal, with the original jurisdiction provided for in the Constitution, but because we object to the expenditure which a High Court, established on the lines proposed, would entail.

Mr. SAWERS.—In voting against the Bill the honorable member voted against the principle contained in it. The question of expense is a matter to be dealt with in Committee.

Mr. SYDNEY SMITH.—There is a very great difference between a court such as many of us would like to see established and that proposed by the Government. My honorable friend will have an opportunity of justifying his vote before the country, but no one ever thought that the Government would propose to establish such a court as is provided for in the Bill. What does the proposal of the Government mean? They propose to go much further than the Constitution contemplates. The Constitution provides for an appeal to the High Court in certain cases, and for a certain limited original jurisdiction, but it does not take away the right of appeal to the Privy Council, which some people think would often be better than an appeal to the High Court, because the Privy Council is far removed from all local jealousies. That view is taken by many prominent lawyers. But the Government propose to go much further than is contemplated by the Constitution, and to place under the jurisdiction of the High Court many matters which are not specifically referred to it.

Mr. L. E. GROOM.—The Government can give to the High Court only the jurisdiction provided for by the Constitution.

Mr. SYDNEY SMITH.—I am aware that the Constitution allows this jurisdiction to be given to the High Court; but it does not require it to be given. The Government propose to go beyond what is contemplated by the Constitution, and they provide for the establishment of a Court with such a wide jurisdiction that it would practically be necessary to set up a number of Courts in each of the States, although a

much less expensive arrangement could be made to meet the needs of the public. I am very strongly opposed to the Government proposal, because of the expense which it will involve, and because I know how necessary it is that we should be careful not to increase the burdens of the people more than we can help. If the clause is not struck out, instead of five Judges being able to do the work which will be required of the Court, at least fifteen Judges will be necessary. I have risen to enter my protest against this attempt on the part of the Government to increase the expenditure of the Commonwealth. I feel sure that they are asking us to embark upon an undertaking which will involve us in an expense which they themselves do not anticipate, whereas a simple and inexpensive court might be created which would meet all the requirements of litigants, and would safeguard the interests of the Commonwealth, the States, and the people.

Mr. SPENCE (Darling).—I have listened with some interest to the discussion upon this important proposal. I did not intend to join in the debate, because to my mind the question is one upon which legal minds should best advise us, but, having listened to the speeches which have been delivered by the legal members of the Committee, I find them so contradictory—as lawyers often are—that I feel in great danger of being led astray altogether. I have, therefore, endeavoured to sift the arguments on both sides, and I find that, while some are afraid that the proposed High Court will have so much work that three times the number of Judges proposed will be unable to cope with it, others oppose the Bill, because they believe that the Court will not have any work to do. It will be a good thing for Australia when the Courts have no work. I believe that instead of our having to increase the number of Judges in the future, the work of the Courts will decrease, because the people will trouble the lawyers less and less as they become more intelligent. So far as I can understand, it is generally admitted by honorable members on both sides that the Constitution demands the establishment of the High Court, but they say that the present time is not opportune. Pursuing their line of argument still further, we find that the whole question resolves itself into one of saving a few pounds. It is hinted that public opinion generally is in accord with that opinion

which seems to be manufactured in the city of Melbourne. Some one has said that public opinion is opposed to an increase in the expenditure of the Commonwealth, and the poor unfortunate taxpayer has been dragged into the matter in much the same way that the poor widow used to be pathetically presented to us during the Tariff debate. Honorable members know perfectly well that the taxpayer will not benefit to the extent of one farthing if we refrain from establishing the High Court, and that, on the other hand, he will not pay one farthing more if we carry out the Government proposal. There are considerations of much more importance than those connected with expense. I have listened carefully in order to ascertain how long honorable and learned members consider it necessary for us to wait before establishing the High Court, and I gather that most of them hold the view that we should not be able to get along without it for any great length of time. I cannot help thinking that the mixing up of the time limit with the question of spending a few pounds and the so-called expressions of public opinion will lead to a confusion of ideas. The half-dozen men who have been expressing their views before public meetings in Melbourne, in such a way as to exhibit their utter ignorance, do not represent public opinion, nor do those irresponsible persons who write letters to the newspapers occupy any representative position. If these gentlemen who make so much of the cry for economy desire to represent the real trend of public opinion, why do they not quote the resolutions of the Political Labour Council or of the Trades and Labour Council—bodies which represent perhaps 60,000 or 70,000 electors? They should not quote the ideas of a few men who, like the three tailors of Tooley-street, think they can run the country. Even some of the opponents of the measure admit that only a year or two can elapse before we shall have to create the High Court, which, according to the Constitution, we should bring into existence without delay. I believe that the Government proposals are being opposed by an interested press, because the Federal Parliament has shown itself too democratic for some people who do not like the work which it has done, and who, therefore, would like to prevent it from passing further legislation. The opposition which

has come from this quarter has made me feel the more satisfied to cast my vote in favour of the measure. I do not regard a few men in Melbourne, or the editor of a newspaper, who writes articles to order, as representing public opinion. There are principles more important than money, and there are some things which money cannot buy, and I shall vote for the establishment of the High Court because I fear that something disastrous to the future of the Commonwealth may happen if we leave the interpretation of our Constitution to those who cannot know much about our aspirations, conditions, ideas, or sentiments. I am not prepared to run the risk of submitting the interpretation of our Constitution to the Privy Council, which may lay down a precedent binding upon us for all time. It appears very much as if some honorable members were willing to sacrifice the interests of the people of the Commonwealth for the sake of a few thousands of pounds. In considering a matter of this kind, those who object to give effect to the clearly expressed wish of the people, because of the small expense that may be involved, are taking the very lowest possible ground. The people of Victoria who are now clamouring against the carrying out of the provisions of the Constitution, were those who were the most anxious to have federation accomplished. Some of us in New South Wales voted against the Constitution, but now that it has been adopted we are prepared to throw our weight in with the majority in order to see that its provisions are faithfully fulfilled. If the people of Victoria voted in ignorance of the cost of federation, they will now learn a lesson which should prove of use to them in the future. Have those honorable members who are objecting to the establishment of the High Court on the ground of expense considered that if we throw the whole of the Federal work upon the States Courts we shall be expected to pay for it? Is there not a strong tendency on the part of the States Governments to require the Federal authorities to pay for services rendered by their officials to the Commonwealth? If they adopt a similar attitude with regard to the Courts, where will be the saving? We should not for the sake of a few pounds abstain from carrying out the expressed will of the people as embodied in the Constitution approved by them. We know very well

that there are a number of cases awaiting the decision of the High Court, and there is every prospect of many others of great importance arising in the near future. We shall be called upon to consider a proposal for the establishment of an Arbitration Court, and if that tribunal is created, we shall very probably have to call upon the High Court to define its jurisdiction. It may not suit the purposes of the Employers Federation to have the High Court and the Arbitration Court established, but it will suit the people who desire to see more peaceable methods adopted for settling trade disputes. Although we have had a great deal of assistance from the States, I do not think our experience enables us to say that we can get along very well without having our own departments under direct Federal control, and this applies with as much force to the Judiciary as to any other Department. I shall support the Government proposal for the appointment of the five Judges, and I am also in favour of conferring upon them original jurisdiction. I hope honorable members will very earnestly consider the serious effects that may follow any postponement of the appointment of the High Court. It is true that the Constitution adopted by the people provided for the abolition of appeals to the Privy Council, but because we have not been able to secure all we want there is no reason why we should not obtain all we can. I think we should establish a High Court, if only for the purpose of interpreting our Constitution.

Mr. A. PATERSON (Capricornia).—I do not intend to prolong the agony by indulging in a second reading speech under cover of this clause. Upon the motion for the second reading of the Bill, after a fair fight, we have been handsomely beaten, and we have taken our gruel like men. I strongly object, however, to taking another dose of gruel, and that is the position which I occupy at present. Oliver Wendell Holmes says it is a special virtue in a sporting man when he is in luck to crow gently, and when he is beaten to own up, pay up, and shut up. Fortunately, we have another chance upon the present occasion. The Government have successfully "bullocked" through the second reading of the Bill, and now find themselves in an "angel" of a fix to provide work for the Judges. What is the expedient which they propose to adopt in this connexion? It is nothing more or less than an attempt to

divert the legal business of the country from its natural channels to the High Court. They wish to dam back the current of litigation until it rises to the altitude of the High Court. I think that the honorable and learned member for Northern Melbourne showed very clearly the absurdity of passing the doors of the States Courts in order to take litigation to the higher Court. I am thoroughly of his opinion that it is a stupid thing to do. I cannot see any object in adopting that expedient, unless it be to provide new billets and new officials under the Government. If the Government intend to force litigants into the High Court, why do they not go a step further and issue coupons to all suitors before that tribunal entitling them to a pound of tea weekly, for the term of their natural lives. The proposal is utterly ridiculous. Merchants and business people do not usually adopt such practices, nor do large corporations. Can honorable members imagine the Harbor Trust saying to the people that they have found the straight cut to Port Philip which has been made at an enormous expense is of very little use to them and that they proposed to construct a new canal by way of Bacchus Marsh or Warrenheip to the Bay. Such a proposal would resemble the methods of the Government in connexion with this Bill. It is altogether beyond a joke. As the Government carried the second reading of the Bill simply upon the contention that the establishment of the High Court was mandatory under the Constitution—a contention with which I thoroughly agreed—I do not think that we ought to give them one ounce more than the Constitution directs. What does the Constitution say? Section 75 refers to five matters upon which the High Court is to have original jurisdiction. It says—

The High Court shall have original jurisdiction, &c.

That is mandatory. But in section 76 the words used are—

The Parliament may make laws, &c.

Those words are optional. The same remark is applicable to sections 77 and 78. All these provisions show that it was the intention of the framers of the Constitution to confer original jurisdiction upon the High Court in the five matters mentioned in section 75, but in no others. Surely it is absurd to talk of investing the High Court

with further power before it has even been constituted. Honorable members will recollect a scene in the "Merchant of Venice," in which Portia says—

Then take thy bond, take thou thy pound of flesh;

But, in the cutting it, if thou dost shed
One drop of Christian blood, thy lands and goods
Are, by the laws of Venice, confiscated
Unto the State of Venice.

That is exactly the position which I assume in regard to this matter. I would concede to the Government all that is mandatory under the Constitution, but not a penny-weight more.

MR. WILKS.—Does the honorable member mean to insinuate that the Government are Shylocks?

MR. A. PATERSON.—No; and I have the highest respect for Jews. I think they are the noblest race God ever made. Honorable members have recently heard a good deal about that mysterious modern disease which has troubled all the world, called appendicitis. It cannot be cured by medicine. It can be removed only by the knife—by cutting the appendix off. I regard this clause as the appendix of the Bill, and will not be satisfied until it is removed. Under this provision we have to find some work for the Judges. We cannot pay them high salaries for doing nothing, and as a way out of the difficulty I would recommend that we form the High Court into a Court of Arches. A Court of Arches is used for the purpose of debating spiritual causes. It may be said that we have no established church, and that no ecclesiastical disputes will arise, but I am sure that the Attorney-General and the Prime Minister are ingenious enough to find something to connect cases under, say, Customs administration with spiritual causes. Some mention has been made of the opposition to this clause having been prompted by party motives. I am quite sure that the Attorney-General will acquit me of being influenced in this matter by any such motives. My vote upon the measure will be cast in the direction which I conceive to be best in the public interest, and no blandishments will affect me. I simply desire to see justice done.

MR. SAWERS (New England).—As I was absent from the House during the second-reading debate upon this Bill, I desire to say that I am quite in sympathy

with those who are in opposition to the clause under discussion. At the same time, I cannot avoid expressing my amazement that the second reading of the measure should have been imperilled. If ever there was a question which I thought would receive the almost unanimous approval of Parliament it was the proposal to establish a High Court. The statement which was made by the honorable member for Macquarie, that honorable members were justified in opposing the second reading of the Bill, simply because they are in antagonism to some of its details, is one which I never expected to emanate from any one possessed of parliamentary experience. I have always understood that the vote upon the second reading of any measure simply determines whether its introduction is necessary. It is left to honorable members to arrange the details of Bills in Committee. I should have no sense of parliamentary duty if I had voted against the second reading of the Bill simply because I was opposed to this clause.

Mr. A. McLEAN.—The honorable member is very young in politics.

Mr. SAWERS.—I hope that I shall always remain young. Upon a question of this kind I was quite prepared to trust the legal members of this House. But I find that they are absolutely opposed to each other. For example, the Attorney-General is opposed to the honorable and learned member for South Australia, Mr. Glynn, and the honorable and learned member for Indi to the honorable and learned member for Bendigo. Similarly, the honorable and learned member for Northern Melbourne entertains one view and the honorable and learned member for Darling Downs another. When we find the legal members of the House so diametrically opposed to each other, the ordinary layman is forced to bring his own common sense to bear. I think that every one will admit that the establishment of a High Court is obligatory under the Constitution. The obligation to establish a High Court is even stronger than the obligation to establish a Federal capital; yet the honorable members for New South Wales will use very different arguments in regard to the latter matter. What will these honorable members say when they hear Victorian members observe—"Yes, we admit the obligation to establish a Federal capital, but there is no hurry." In the Constitution a

contract was entered into by the various States for the establishment of a High Court, and even if only one State asked that such a Court should be provided, and the other five States were against the proposal, the request would have to be granted. The citizens of Australia voted for the Constitution in which the promise of a High Court was embodied; and if such a Court is not established, they will feel that they have been falsely dealt with. The question before us now is that of the restriction of the jurisdiction of the High Court. I listened with great attention to the speech of the Attorney-General, and one argument of his struck me very forcibly. That argument was that there would be Federal Judges throughout Australia, and that a litigant in any part would have the choice of the Court to which he preferred to go—the State Court or a Federal Court. But if that should prove to be the case, it will not be a question of three or five Judges, but a question of eight or nine Judges, in order to deal with the enormous amount of work which will be provided throughout this great continent. I shrink, as other honorable members shrink, from adding unnecessary burdens on the people, and I give my full assent to such restriction of the powers of the Court as will be carried out by the rejection of this clause. It had been my intention to vote for sub-clause (a), and reject the other sub-clauses; but as the Attorney-General has already carried the rejection of sub-clause (c), I am debarred by the rules of the House from taking that step. I call the attention of the Attorney-General, however, to sub-clause (a), which refers to questions arising under the Constitution or involving its interpretation. I hope that the Attorney-General, if the Committee do reject this proposal, will be able to tell us that the Bill will not be passed without its being specified that the Federal Court alone shall have the power to interpret the Constitution.

Sir JOHN QUICK.—On appeal, certainly.

Mr. SAWERS.—I am not satisfied with that, because I would allow no State Court to interpret the Constitution.

Mr. DEAKIN.—Unless we pass sub-clause (a) the High Court will not be able to deal with such cases except on appeal. Sub-clause (a) must be passed to begin with, and then a further sub-clause added, if we wish to make the jurisdiction exclusive. All that sub-clause (a) does is to allow

the Judges of the High Court to deal with questions arising out of the Constitution or its interpretation.

Mr. SAWERS. — The Attorney-General has cut a plank from underneath his feet by securing the rejection of sub-clause (c). Had we allowed that sub-clause to remain until the end of the discussion, I should have been ready to move that sub-clauses (b) (c) and (d) be rejected, while retaining sub-clause (a). Of course, the Attorney-General may recommit the Bill before it is finally dealt with, and embody in it sub-clause (a). There will be appeals, no doubt, but, as I say, I should not give the States Courts the right to interpret the Constitution. I think the suggestion of the honorable and learned member for Northern Melbourne was an excellent one if, as it seems, the motive for objecting to this clause is to curtail the work of the Federal Judges, and to keep their number down to three at the start. It is quite manifest that the members of an Appeal Court of three Judges cannot travel all over Australia to hear all sorts of appeals. If a litigant goes before a single State Judge, and is not satisfied with the judgment, he ought to be permitted to appeal to the State Full Court, which will sit in the same building and decide the matter in a very short time, instead of keeping him waiting, perhaps, for months. We often seem to forget that we are not dealing with a single State, but with a vast continent, and that it is impossible for the people to go to this Appeal Court on minor cases from all parts of Australia. My object is to keep the number of Judges as low as possible, though at the same time I should be prepared to vote for any number which is deemed necessary. I can only hope, however, that the Government will see their way to be content with three Judges until it is proved that more are absolutely indispensable.

Mr. PAGE (Maranoa). — After several days of discussion not much more remains to be said, and I had not intended to speak but for the inquiry of the honorable member for Dalley as to what was the matter with the labour corner. So far as I am concerned, I am wholly and solely with the Government on this Bill, simply because everybody who is opposed to me in the political world is against it. I listened with great interest to the speech of the honorable and learned member for South

Australia, Mr. Glynn, on the irrigation question, and it would appear that there is a desire in Victoria to stop the water from flowing to South Australia. I mention this in order that I may illustrate my argument by saying that the political opponents to whom I refer are much in the same position as the people of Victoria; and when they want to "stop the water from running" I cannot help thinking that there is something "crooked" in the business. We have heard a great deal about economy, and the honorable member for Tasmania, Mr. O'Malley, has, in figurative language, shown why economy is preached here. That honorable member, in a story about an American telegraph master and a dog, put the position very neatly: ever since the tail of the economical dog has been squeezed in Collins-street, that animal has been barking in this House.

The CHAIRMAN. — Order! The honorable member must not apply an illustration of that kind.

Mr. PAGE. — I maintain that the people of Australia have not spoken against the Bill. The editor of the *Argus* and the editor of the *Age* are not the public of Australia, nor are the members of the Employers' Federation, or the Citizens' "deformed" League; they are the friends of only a section of the community. Yesterday morning I heard two gentlemen in the street talking about the High Court Bill, and one of them said — "The Bill is cooked: Meudell has spoken." I do not know who Meudell is; but, from all I hear, his figures are in a terrible muddle. What did the honorable members who are opposing this Bill on the score of economy do when it was proposed to give a salary of £10,000 per annum to the Governor-General? They voted for the proposal "as solid as a brick wall."

Mr. WILKS. — Not all of them.

Mr. PAGE. — Only four or five honorable members stood out against the proposal. That money had to come out of exactly the same pockets as the money for the High Court, and I can tell the New South Wales members that the little crowd on the Government cross benches will treat the capital site proposals in the same way that they are treating this Bill.

Mr. CONROY. — Surely the honorable member does not propose that we should sell our ideas.

Mr. PAGE.—Your ideas? Where are they? They are like the four cardinal points of heaven—"all over the shop." I have heard talk about an "unholy alliance" with the labour party, but what about the "unholy alliance" between the Opposition and the Government "rats"?

The CHAIRMAN.—I must ask the honorable member not to apply such a term to any honorable members.

Mr. PAGE.—I am not talking about any individual member, but about honorable members politically. The same arguments now being used against the Bill were used against federation; but I read in one of the speeches of the honorable and learned member for Bendigo—a speech which I read with greater interest than I have felt in the utterance of any other public man—that we were to have purity, not only in politics, but in a Federal High Court. Every one who voted for the Federal Constitution knew that a High Court formed a part of it, and it is no use their now saying that they "did not know it was loaded." It was for the people to accept or reject the Constitution, and I for one took the advice then given by the honorable and learned member for Bendigo, and voted for federation. If we are to have the Constitution interpreted, let it be interpreted by our own High Court; and whether that High Court be large or small, depends on the will of the Committee. To talk about the necessity of saving £30,000 is to draw a red herring across the trail, because when the Estimates come before us honorable members will be ready to vote away millions of pounds in a night. The fact is that a large number of people outside are beginning to howl, and I am sorry that the majority of the howlers are free-traders. Since they cannot prod the House on the Tariff question, they are beginning to use something else.

An HONORABLE MEMBER.—What about the *Age*?

Mr. PAGE.—We have the *Age* and the *Argus* together. That is another unholy alliance. It has been said that the price which the labour party are to receive for their support of this measure is the Arbitration Bill. But had the labour party anything to do with the framing of the Constitution, which makes the establishment of a High Court necessary? I think it is a very lucky thing from the point of view of many that there were no labour members in the Convention.

But we are bound to carry out the provisions of the Constitution, and I shall always be ready to support the Government in any action of which I have expressed my approval before my constituents. I should be a cur if I refused to give a helping hand to the erection of the machinery which is to give my constituents what they want. Undoubtedly an Arbitration Court will be established soon. That is as certain as it is that the sun melts snow. If there is to be an appeal from the decisions of that Court, who is to decide the question? I think that such an appeal should lie only to the High Court, and for these reasons, and for many others which I have not stated, I intend to help the Government over the ditch on this occasion.

Mr. CONROY (Werriwa).—I do not think the honorable member for Maranoa quite understands the question which we are debating. What the Committee are considering is whether we should give to the High Court the original jurisdiction provided for by this clause. One reason for not doing so is that which has been stated by many honorable members, that five Judges would not be enough for the work of a court with such an extensive jurisdiction. At the very least, from fifteen to twenty would be required, and to make the Court accessible to the great mass of the people, we should need nearly 100. I can understand honorable members taking the view that it is better to have five than to have three Judges on the Bench of an Appellate Court; that is a question on which there might easily be a difference of opinion, though I consider that three Justices would be sufficient. But we, who oppose the clause, do so because it confers such a wide jurisdiction upon the High Court, that five Judges would not be enough for the work to be done. That view is taken by a great many other legal members of the Committee besides myself. Furthermore, we know that to bring justice in the matters referred to the Court within the reach of the masses of the people, we should have to appoint many more inferior Judges, because it is of no use to establish a court, unless it is accessible to the poorer classes of the community. If the expense of appealing to a Court is so great that many persons cannot afford to appeal to it, justice is absolutely denied to them. But where is the expense to the Commonwealth to end? Surely we are entitled to ask that question.

Mr. SPENCE.—If the work nas to be done, it must be paid for.

Mr. CONROY.—Yes; but it can continue to be done by the States Courts. But if jurisdiction in Federal matters is not given to the inferior States Courts, we shall have to appoint inferior Federal Courts to bring justice within reach of the people. One of the reasons for Judges going on circuit, is to make the Courts accessible to the people, although the arrangement is a very expensive one. The honorable and learned member for Bendigo has shown that in Victoria it costs £11,000 a year for one Judge alone. But if the Court sat only in Melbourne, the expense of bringing witnesses here from other parts of the State would be so great that litigants could not afford to bring their cases before it. What we object to is this: The Ministry, seeing that the work of a Federal Appeal Court could not be much, have given to that Court a wide original jurisdiction, and to satisfactorily exercise that jurisdiction a great many more Judges would be required than the number provided for. Of course, if the Constitution is mandatory on the point, we must obey it; but I say that it is not. Section 71 provides that the judicial powers of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, but if the framers of the Constitution—many of whom were lawyers—had wished to make the provision mandatory, they would have said “A Federal Supreme Court, to be called the High Court of Australia, shall be created, and the judicial power shall be vested in it.” All that the Constitution says is that when the Federal Court is created the judicial power of the Commonwealth shall be vested in it. If we create only an appellate court, we shall avoid the necessity of doubling our legal machinery, and thus of creating unnecessary expense. If the clause stands, no one can say where the expense will end. We propose to strictly limit the jurisdiction of the High Court in the first instance. Then after two or three years, Parliament can, if it thinks the experience which has been gained warrants it in doing so, extend the jurisdiction of the Court, and appoint additional Judges. I hope that the clause will be omitted.

Mr. DEAKIN (Ballarat—Attorney-General).—I shall not detain the Committee very long, but it is my duty to point

out for the benefit of those who have not been present during the whole of the discussion, that the intention of the clause is not to confer upon the High Court exclusively, as some believe, the extra original jurisdiction with which it deals; it simply permits the High Court to deal, both as a court of original jurisdiction and as a court of appeal, with the particular classes of subjects mentioned in it. That is the whole substance of the clause.

Mr. GLYNN.—What about clause 40?

Mr. DEAKIN.—We are not now dealing with clause 40. We must consider that clause on its merits.

Mr. GLYNN.—The two must be taken as a whole.

Mr. DEAKIN.—Yes; but clause 40 has no relation to this clause, although this clause, if it is passed, will have relation to clause 40. Obviously the Committee is against me in this matter, and the honorable member for New England was correct in stating that, by moving the omission of paragraph (c), I have prevented the consideration of the most important paragraph in the clause, though not that under which the greatest amount of business would arise. If the High Court is entitled to exercise original jurisdiction of any kind, it is entitled to deal as a court of first instance with cases arising under the Constitution or involving its interpretation. A strong argument can be presented in favour of the retention of each of these paragraphs, and undoubtedly the strongest argument can be advanced in favour of the retention of that to which I refer, and I think that a number of those who are opposed to the clause will, on further consideration, see reasons for reinstating it.

Mr. G. B. EDWARDS.—Will the Attorney-General cite a case which would come under it?

Mr. DEAKIN.—Cases cannot be enumerated by any other classification than that in the clause. A question affecting the Constitution may arise in any class of civil cases. All that the clause does is, not to coerce, but merely to throw the door of the High Court open to litigants who desire to enter it as a court of first instance before going to it, if they go to it again, as a court of appeal.

Mr. GLYNN.—Would it not weaken the High Court as a court of appeal, to allow one of its Judges to decide a matter, sitting as a court of first instance?

Mr. DEAKIN.—I do not think so. If one Judge sat as a court of first instance, we should still have two to sit as a court of appeal, supposing three Judges are appointed, or four, supposing five judges are appointed. But as I realize that the Committee is against me, I propose to allow the clause to be struck out on the voices, and later on to re-introduce paragraph (a), when I earnestly trust that favorable consideration will be given to the proposal to vest in the High Court an original jurisdiction in regard to cases arising under the Constitution, or involving its interpretation.

Clause negatived.

Clauses 32 and 33 agreed to.

Clause 34 (Mandamus — Prohibition—Ouster of office).

Amendment (by Mr. DEAKIN) proposed—

That the following new paragraph be added—“(c) Of *habeas corpus*.”

Mr. GLYNN (South Australia).—I think that some of the paragraphs require explanation. I should like to know why it is necessary to insert paragraph (b), which enables the High Court to make orders, or direct the issue of writs requiring any court, not being the Supreme Court of a State, to abstain from the exercise of any pretended or asserted Federal jurisdiction. The “asserted” jurisdiction may belong to the Courts, and the word “pretended” is an extraordinary one to use in regard to jurisdiction. Why not use the words “any jurisdiction with which it is not invested,” or “any jurisdiction which it does not possess?”

Mr. DEAKIN.—We have followed the terms used in the American Act, but I will consider the phraseology.

Mr. GLYNN.—I understand this clause gives power to the Court to issue a mandamus to an officer of the Commonwealth. Is that the reason why the honorable the Attorney-General, in the amendment in another clause of which he has given notice, does not include such a provision?

Mr. DEAKIN.—Yes.

Sir JOHN QUICK (Bendigo).—I should like the Attorney-General to say to whom the writs of *habeas corpus* are to be directed. The paragraphs at present in the clause indicate very clearly to whom the other writs are to be directed. Is it to be inferred that the High Court will be able to interfere with the jurisdiction of States Courts under State laws, or will their power be restricted to

cases in which a man is arrested under the Federal law?

Mr. DEAKIN.—The writs will relate only to matters of Federal jurisdiction, because the High Court cannot interfere in matters of States jurisdiction.

Mr. CONROY (Werriwa).—It is very confusing for honorable members to be called upon to consider these clauses, in view of the elimination of clause 31. We cannot know how far it will be necessary, under the altered circumstances, to limit or extend the powers now provided for in the Bill, and it would be well for the Attorney-General to withdraw the Bill for the present, and have it re-drafted.

Mr. DEAKIN.—I shall, if necessary, re-commit any provisions which may not be in accordance with amendments made in other parts of the Bill.

Mr. GLYNN (South Australia).—In regard to paragraph (b), I believe that the Supreme Court of the United States has power to issue a prohibition directed against a State Court. In the United States, however, the States Courts have no Federal jurisdiction, and there is no appeal from their decision, so that, if the Supreme Court could not intervene by way of prohibition, there would be no means of correcting the wrongful exercise of jurisdiction. We, however, have the Privy Council to which we can appeal from the decisions of all the States Courts, and I believe the Privy Council has always refused to issue a prohibition directed against a Colonial Court on the ground that the remedy lies by way of appeal. Therefore, I think, that paragraph (b) has been wrongly inserted.

Mr. DEAKIN.—The provision was inserted for greater security.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 35 agreed to.

Clause 36—

The appellate jurisdiction of the High Court with respect to judgments of the Supreme Court of a State, or of any other court of a State from which at the establishment of the Commonwealth an appeal lay to the King in Council, shall extend to the following judgments and to no others, namely:

(a) Every judgment, whether final or interlocutory, which—

1. is given or pronounced for or in respect of any sum or matter at issue amounting to or of the value of £300; or

2. involves directly or indirectly any claim, demand, or question, to or respecting any property or any civil right amounting to or of the value of £300; or

3. affects the status of any person under the laws relating to aliens, marriage, divorce, bankruptcy, or insolvency;

but so that an appeal shall not be brought in the case of an interlocutory judgment except by leave of the High Court:

(b) Any judgment, whether final or interlocutory, and whether in a civil or criminal matter, with respect to which the High Court thinks fit to give special leave to appeal:

including any such judgment which has been given or made before the commencement of this Act, and as to which:—

1. leave to appeal to the King in Council might at the commencement of this Act be granted by the Court appealed from; or

2. leave to appeal to the King in Council has before the commencement of this Act been granted by the Court appealed from, and up to the commencement of this Act the conditions of appeal have been complied with within the periods limited; or

3. a petition for special leave to appeal to the King in Council has been lodged and is pending at the commencement of this Act.

Mr. GLYNN (South Australia).—This is a comprehensive clause, regarding which the Attorney-General might give us some explanation. I understand that even existing appeals are affected.

Mr. DEAKIN.—Existing appeals will be affected if they have not been actually set down for hearing by the Privy Council. This is the chief of the clauses which confer appellate jurisdiction, and honorable members will find in paragraphs (a) and (b) two matters well worthy of their consideration. Whereas the appealable amount in every State except Tasmania is £500, we have lowered the required sum to £300. In sub-paragraph 3 of paragraph (a) we have introduced the power of appeal even when £300 is not involved, provided that the status of a person is in question, under the laws which this Parliament has the power to make relating to aliens, marriage, divorce, bankruptcy, or insolvency. Then in the latter part of the clause, honorable members will find a provision which will enable appeals that are now pending to the King in Council, and which have not yet been listed, to be taken to the High Court. This would not deprive the parties of the right of appeal to the Privy Council, but might enable us

in some cases, in which the Commonwealth is a party, to take them before the High Court if necessary. It would also give the other parties a similar option.

Mr. McCAY.—Does the latter portion of the clause apply to paragraphs (a) and (b)?

Mr. DEAKIN.—Yes; although I believe it applies nominally only to paragraph (a).

Mr. McCAY.—As a matter of grammar it might be interpreted as applying to (b) only.

Mr. DEAKIN.—I will look into the matter.

Mr. GLYNN (South Australia).—I am not quite sure that this clause does not contain a provision that is *ultra vires* of our powers. In section 73 of the Constitution there is a provision that the High Court shall have jurisdiction, “with such exceptions, and subject to such regulations as the Parliament prescribes, to hear appeals.” It also provides—

But no exception or regulation prescribed by the Parliament shall prevent the High Court from hearing and determining any appeal from the Supreme Court of a State in any matter in which at the establishment of the Commonwealth an appeal lies from such Supreme Court to the Queen in Council.

In other words, while the Parliament may prescribe regulations and exceptions regarding any appellate jurisdiction that it confers upon the High Court, it has no power in relation to appeals which, at the establishment of the Commonwealth, lay from the Supreme Courts to the Privy Council. The honorable gentleman proposes to insert a provision which declares that there shall be no appeal where the amount involved is not more than £300.

Mr. L. E. GROOM.—Is not a limitation of £500 imposed by the various States in regard to appeals to the Privy Council?

Mr. GLYNN.—I cannot recall the conditions which obtain in all the States, but I know that they are not similar. My point, however, is that we cannot prescribe any limitation. It is for the States to do that. In effect this clause declares that there shall be no appeal to the High Court in cases in which the amount involved is less than £300.

Mr. L. E. GROOM.—It is fixed by an Order in Council.

Mr. GLYNN.—Yes; and with an Order in Council we have nothing to do. If there is a prescription in an Order in Council which is applicable to a particular

State, that is the State law, with which we cannot interfere.

Mr. DEAKIN.—Why not?

Mr. GLYNN.—Because we have no power to do so. We are asked to insert a provision which amounts to a limitation, although it is affirmatively expressed. Does not the affirmation of any proposition include the negation of its opposite? We have no right to insert any such limitation in this clause.

Mr. DEAKIN.—The point raised by the honorable and learned member for South Australia is one of interest. As the author of this particular clause, I am impressed with any reading which he may have to offer, but to me its words seem to impose only one restriction upon this Parliament—a restriction against the insertion of any restriction. We do not impose any restriction, but we find that one has been imposed under an Order in Council. That restriction is that the amount involved must not be less than £500. We do not propose to increase that restriction but to decrease it. As I understand the Constitution, we cannot increase the restriction imposed so as to make it more difficult to appeal from the Supreme Court of a State to the High Court than it was, at the time of the passing of this Bill, to appeal from the Supreme Court of a State to the Queen in Council. As long as we remove restrictions, instead of imposing them, it seems to me that we are acting within the powers conferred by section 73 of the Constitution.

Mr. HIGGINS (Northern Melbourne).—I understand that clause 35 which has been passed relates merely to appeals from Justices of the High Court, and from the Supreme Courts as courts of first instance. But I apprehend that the clause under discussion is meant to apply to appeals in matters of Federal jurisdiction or otherwise?

Mr. DEAKIN.—Yes.

Mr. HIGGINS.—Then the object of this clause is to define the limitations of the power of appeal—whether in Federal matters or not—from the decision of the Supreme Court of a State. May I therefore ask the Attorney-General if he has considered whether this provision confers upon the High Court—as it ought—a clear right to hear appeals from the Full Court of a State? It declares—

The appellate jurisdiction of the High Court with respect to judgments of the Supreme Court

of a State, or of any other court of a State, from which, at the establishment of the Commonwealth, an appeal lay to the Queen in Council, shall extend, &c.

It was certainly the intention of the framers of the Constitution to give the High Court the right to hear ordinary appeals from the Full Court. In our ordinary practice a Judge of the Supreme Court first decides any case which comes before him. Then if a litigant is dissatisfied he appeals to the Full Court. If defeated there, he can, at present, appeal to the Privy Council. The intention of the framers of the Constitution was to give the High Court the right to deal with those cases which would otherwise have gone to the Privy Council. I apprehend that the Attorney-General has no idea of robbing the Full Court of its right to deal with appeals in the first instance; and I merely wish him to consider whether under this clause he has secured to the High Court a right to deal with appeals from the Full Courts. The Supreme Court of a State has been taken to mean only one Judge.

Mr. DEAKIN.—It may mean one or more.

Mr. HIGGINS.—In framing section 73 of the Constitution the Judiciary Committee intended to cover, by the general words which are there used, an appeal not merely from a Judge in the first instance, but from the Full Court. I agree that technically the Supreme Court is the Full Court.

Mr. ISAACS (Indi).—I think that the point which has been raised by the honorable and learned member for Northern Melbourne is a very important one, but it is not within our power to take away from the Supreme Courts, however they may be constituted, the right of appeal to the High Court. Amongst the appellate powers conferred upon the High Court by sub-section (2) of section 73 of the Constitution is the power to hear appeals from the Supreme Court of any State. It does not matter whether the Court is composed of one Judge only, or two or three Judges: it is the judgment of the Supreme Court. There may be internal arrangements, according to the State laws, as to how the Supreme Court jurisdiction shall be exercised. If a litigant obtains a judgment from the Supreme Court of a State irrespective of whether that tribunal consists of one Judge or six Judges, it seems to me that such judgment clearly comes within the scope of section 73 of the

Constitution. Nothing we can do can derogate from that.

Mr. HIGGINS.—But for the sake of clearness, I think that when we speak of appeals from the Supreme Court we ought to say “Full Court.”

Mr. ISAACS.—Clause 36 does not purport to give any appellate jurisdiction. It assumes that appellate jurisdiction is conferred by the Constitution. It then proceeds to exercise restrictive powers, and to say that the appellate jurisdiction of the High Court with respect to the judgments of the Supreme Courts—plainly referring, it seems to me, to the jurisdiction already existing under the Constitution—shall extend to certain judgments and to no other. That is an exercise, not of enabling powers, but of the restrictive powers conferred by the Constitution. Therefore, it seems to me that the words “Supreme Court of a State” must be interpreted to mean what they undoubtedly mean in section 73 of the Constitution.

Mr. CONROY (Werriwa).—I would ask the Attorney-General if this provision does not infringe the provisions of section 73 of the Constitution?

Mr. DEAKIN.—It merely enlarges the power of appeal from the Supreme Courts of the States to the High Court.

Mr. ISAACS (Indi).—There is one point to which I should like to call the attention of the Attorney-General. It is contained in sub-clause (a), and it may require considering from the aspect indicated by the honorable and learned member for South Australia, Mr. Glynn. The concluding lines of sub-clause (a) are—

... but so that an appeal shall not be brought in the case of an interlocutory judgment except by leave of the High Court.

That may mean that, even although the Supreme Court of a State granted leave to appeal upon an interlocutory judgment, it would not lie. There is a provision in the Order in Council, which existed at the time of the establishment of the Commonwealth, by which the Supreme Court may grant leave to appeal from an interlocutory judgment, and I am afraid that these words might be read as taking that power away.

Mr. DEAKIN.—I am inclined to think, in the light of the illustration just given, that we may possibly have transgressed here, and I shall reconsider the matter.

Clause agreed to.

Clauses 37 and 38 agreed to.

Clause 39—

The judicial power of the Commonwealth shall be exercised by Federal Courts, or by Courts of the States which are by the law of the Commonwealth invested with Federal jurisdiction.

Mr. GLYNN (South Australia).—Unless this clause is modified, I think it will absolutely confer original jurisdiction on the High Court.

Mr. DEAKIN.—No. It is only a general declaration to bring the whole judicial power of the Commonwealth conferred by the Constitution into effect in this measure.

Mr. GLYNN.—Quite so; and that is why I say that the clause ought to be modified. The principle of the drafting of this Bill may be very good, but it is very puzzling, because we confer powers, and then proceed to limit and cross-limit them. We must watch a clause like this, because it is very general, and unless one understands the subsequent limitation, we are puzzled to know to what extent powers are conferred. This clause confers all the powers, original and appellate, on all the Federal Courts; but there is only one court under the Bill, namely, the High Court, though others may be created subsequently.

Mr. ISAACS.—This clause is only declaratory of the Constitution.

Mr. DEAKIN.—That is all.

Mr. GLYNN.—Then why is the clause put in, seeing there is only one Court in the Bill, the High Court?

Mr. DEAKIN.—But hereafter other courts may be created by Act of Parliament.

Mr. GLYNN.—What the Constitution declares is that judicial power shall be vested in the Federal Supreme Court.

Mr. DEAKIN.—And in such other Federal Courts as may be created.

Mr. GLYNN.—But there are no other Federal Courts, so the High Court must be meant. Does the clause include original as well as appellate jurisdiction? I merely draw attention to this matter so that by this clause we may not be giving that original jurisdiction which, by a previous decision, we have taken away.

Mr. DEAKIN.—The clause does not confer any further powers.

Sir JOHN QUICK (Bendigo).—I desire to call attention to the words “shall be exercised by Federal Courts.” I do not know what other courts are referred to, because at the present time there is only the High Court created by the Constitution, and no others are proposed in the Bill. The

word "which" may refer to the Federal Courts as well as to the Courts of the States; and I see no meaning in the clause, nor necessity for it.

Mr. DEAKIN.—The honorable and learned member should look at section 71 of the Constitution.

Sir JOHN QUICK.—But we are not creating other courts, and so far as the judicial power vested in the High Court is concerned, it is vested by the Constitution, and this Bill adds nothing to it.

Mr. DEAKIN.—The clause is simply declaratory.

Sir JOHN QUICK.—Then what is the use of dragging in the expression "Federal Courts," when there are no other courts in existence? The clause is confusing and unnecessary.

Mr. McCAY (Corinella).—It seems to me that a High Court, when constituted, can exercise original jurisdiction without any declaration in this Bill. If this Bill, as an Act, comes before a court, especially before the High Court, for interpretation, the Judge, in the absence of the words "be it declared," or any sign of its being declaratory, will ask what is the meaning of the words. Judges, as we know, try to give a meaning to everything in an Act, but even they fail sometimes. Clause 31 is at present out of the Bill, and if the Bill be finally passed without it, the Judge may say—"Here is a clause not vesting jurisdiction, but declaring that the Court should exercise the judicial power of the Commonwealth, which includes the optional original jurisdiction under section 76." This clause would have been in entire harmony with clause 31.

Mr. HIGGINS.—There is no occasion for the words in the clause.

Mr. McCAY.—And I am afraid that the words may be interpreted as having the meaning of clause 31.

Mr. DEAKIN.—That is not possible.

Mr. McCAY.—Section 71, leaving out irrelevant words, provides that the judicial power of the Commonwealth shall be vested in the High Court and in such other courts as are invested with Federal jurisdiction. Section 75 of the Constitution provides that in certain matters the High Court shall have original jurisdiction, while section 76 says that Parliament may make laws conferring original jurisdiction on the High Court. It is even possible to interpret clause 39 as a declaration that Parliament

is conferring original jurisdiction which must be exercised by some body, namely, the Federal Court, created in pursuance of the Constitution. I do not say that we, who know what is intended, would interpret the clause in that way, but there is no knowing how it may be interpreted by those whom the Attorney-General knows from frequent experience take no notice of what is said in debates when they are construing an Act. At the best, the clause is a purely declaratory statement which has no validity, and at the worst, it is an enacting clause which may produce results we little anticipate at the present moment. As prudent men, it is not desirable for us to leave dubious words in the Bill under such circumstances.

Mr. CONROY (Werriwa).—I thoroughly agree with the arguments advanced by the honorable and learned member for Corinella. Section 71 of the Constitution is clear, and if it is merely wished to give the powers therein contemplated, we should use the words of the section. But there is no necessity to do so, because the provision is already in the Constitution, and will be observed. There is no doubt that this clause might raise very serious debate as to whether the powers conferred on the courts in sections 75 and 76, not only as to original jurisdiction, but as to additional original jurisdiction, would not be vested in the Court. If the clause is merely in conformity with section 71 of the Constitution, there is no necessity for it; on the other hand, it may open up a wide door of doubt—so wide that, considering we have already secured the exclusion of clause 31, it should not be allowed to remain. If the clause be removed, no dispute can arise, and if it includes what is contemplated in sections 75 and 76 of the Constitution, or there is any likelihood of its doing so, it ought not to remain.

Mr. HIGGINS (Northern Melbourne).—I do not think we ought to strike out the clause until the Attorney-General has had time to consider it with reference to the striking out of clause 31. It may be that there are reasons which we do not know at present for the retention of this clause. I agree with the honorable and learned member for Werriwa that the clause is either unnecessary or dangerous, but at the same time I suggest that if the Attorney-General will undertake to recommit it, the purpose will be answered.

Mr. DEAKIN.—I am much obliged to honorable and learned members for the assistance they are giving me in this connexion. I only too readily welcome any suggestions, because it is impossible in a measure so vast and intricate as this to avoid some risks, which are certainly greatly diminished by the assistance which honorable and learned members can lend. It does not appear to be possible that the danger apprehended by the honorable and learned member for Corinella can arise, because in section 76 of the Constitution the optional jurisdiction we have the power to confer is named and defined. The only optional jurisdiction we can confer is that in the four sub-sections, and I do not think it can be contended that either any one or all of them together can be taken to be conferred on the High Court simply by a general declaratory clause of this kind.

Mr. McCAY.—Why not ?

Mr. DEAKIN.—The object with which the clause was inserted was simply to make it clear that the Bill went as far as the Constitution—that whatever the Constitution conferred would be conferred by this measure. The High Court is created on the one side, and the Federal jurisdiction of the States Courts on the other. The clause meant to imply that, so far as they are concerned, it conveys the whole judicial power of the Commonwealth.

Mr. HIGGINS.—Would it not be better to use the words, “until other Federal Courts are established”?

Mr. DEAKIN.—I will consider that point.

Mr. McCAY.—The matters referred to in section 76 of the Constitution are within the judicial power of the Commonwealth.

Mr. DEAKIN.—Yes, when they are specially conferred, but not until then.

Mr. McCAY.—Could it not be provided that those general words are to be limited by the subject-matter to which they relate—the powers the Constitution gives them?

Mr. DEAKIN.—I recognise the assistance I have received, and will postpone the clause in order to reconsider it.

Mr. L. E. GROOM (Darling Downs).—Is it intended by the clause to also confer criminal jurisdiction?

Mr. DEAKIN.—Not directly; only by association with other Acts.

Mr. ISAACS.—Clause 39 does not confer any jurisdiction.

Mr. DEAKIN.—No; it confers judicial power, but not jurisdiction.

Mr. L. E. GROOM.—The remaining clauses dealing with criminal matters deal mostly with questions of criminal procedure, and I want to know if the Attorney-General would at a later stage give his opinion as to whether the Constitution confers criminal jurisdiction, or whether it will be necessary to invest the courts with that power only as each Act is passed.

Clause postponed.

Clause 40—

The jurisdiction of Federal Courts shall be exclusive of the jurisdiction of the several Courts of the States in the following matters:—

- (a) Matters arising under any treaty;
- (b) Matters affecting consuls, or other representatives of other countries, in respect of any act done by them in their capacity as such consuls or representatives;
- (c) Suits between States, or between persons suing or being sued on behalf of different States, or between a State and a person suing or being sued on behalf of another State;
- (d) Suits by the Commonwealth, or any person suing on behalf of the Commonwealth, against a State, or any person being sued on behalf of a State;
- (e) Suits against the Commonwealth;
- (f) Matters in which an order or writ is sought to be obtained against an officer of the Commonwealth in respect of some act done or omitted to be done by him in the execution of his duty.

Mr. HIGGINS (Northern Melbourne).—I have tabled an amendment on this clause, to which I should like to direct the attention of the Committee. Of course I tabled it on the assumption that clause 31 was to be carried as it stood in the Bill, and I shall bear in mind that it has been dropped. The object of clause 40, as it stands, is to prevent the States Supreme Courts from dealing with matters which, by the Constitution, pertain to the original jurisdiction of the High Court.

Mr. DEAKIN.—Nearly all; not quite all.

Mr. HIGGINS.—With some modifications perhaps. The clause practically excludes the Supreme Courts of the States from dealing, for instance, with matters arising under any treaty, or a matter in which the Commonwealth is a party. Suppose an ordinary action against the Commonwealth by a public servant. There would, if this clause be passed, be no right for a Supreme Court to entertain it even if it were only an action to recover arrears of salary.

I wish to give the Supreme Courts of the States original jurisdiction not only in those matters which are referred to in the exempted clause 31—matters “arising under the Constitution or involving its interpretation,” or “arising under any laws made by the Parliament,” or “relating to the same subject-matter claimed under the laws of different States”—but also as to those matters as to which original jurisdiction is conferred on the High Court by the Constitution. Technically, I think there is no objection to there being, as to the matters referred to in section 75 of the Constitution, concurrent jurisdiction in the States Supreme Courts and the High Court. It is a mere question of expediency. I intend my amendment to have the effect of allowing litigants to have access by way of original jurisdiction to the court that is nearest to them in point of place or in point of time—whichever they think will give them the speediest redress. I had some experience four or five years ago as chairman of a Royal Commission for the reform of legal procedure.

Mr. McCAY.—Which has not been reformed.

Mr. HIGGINS.—It has in some respects. If I did not succeed in other matters, I succeeded in learning a lot; and one thing I learned was that there is nothing more important than to secure to people who are aggrieved quick remedies near at hand. It is with that view that I suggest that original jurisdiction should be given to the States Supreme Courts, even though ultimately perhaps the case would have to come before the High Court in one form or another if there be an appeal. Suppose, for instance, a case arising under the bankruptcy laws which we are to make, or a commercial case concerning an ordinary bill of exchange, or a case as to the custody of an infant where there is nothing more than family relations involved.

Mr. MAHON.—Why not give the County Courts jurisdiction?

Mr. HIGGINS.—I rather think that I should go as far as that; but I want if I can to prevent mixing up two issues at the same time. The present Bill reserves to the High Court jurisdiction in matters affected by section 75 of the Constitution. The High Court will consist of five Judges at most. The States Supreme Courts have 27 Judges. The States Judges, being more numerous, will be more accessible to people than the

High Court will be for original purposes. There will be more of them to do the work; they are confined to a limited area; and therefore they will be able to deal more readily with applications that are made. It is in that view that I ask the Attorney-General to consider whether it is not well to confer as wide jurisdiction as possible upon the Supreme Courts of the States.

Mr. DEAKIN.—In cases such as the honorable and learned member mentions—bankruptcy cases, and so on—there is nothing to prevent those being considered by the States Courts.

Mr. HIGGINS.—I admit that the Bill provides in clause 41, with great limitations, power for the States Courts to consider those matters which I have mentioned—such matters as bankruptcy cases and bills of exchange cases. But in order to make the scheme dovetail, I have to refer to the whole subject covered by the amendment. I shall, of course, afterwards ask the Attorney-General to consider matters under clause 41. I think he might simplify clauses 40 and 41, which are hard to follow, by giving the States Supreme Courts original jurisdiction in the matters which now appear in clause 31, and also in those matters which are referred to as exclusive in clause 40.

Mr. DEAKIN.—The whole of them?

Mr. HIGGINS.—I think so. I do not see any objection. For instance, why on earth should not suits against the Commonwealth be tried in the States Supreme Courts? It must be remembered that if at any time the States Supreme Courts should fail in dignity and strength, there is full power in this Bill to withdraw jurisdiction. The matter is not irremediable. Looking at the present condition of things throughout Australia, the courts being fairly well administered, I cannot see any harm in allowing the Supreme Courts of the States to entertain a suit against the Commonwealth or by the Commonwealth.

Mr. DEAKIN.—No Australian State permits itself to be sued except in its own courts, and the Commonwealth is asked to submit to courts which are not its own.

Mr. HIGGINS.—But is not that objection rather technical? The Government of England would not allow itself to be sued in France; but we are speaking of Australia.

Mr. DEAKIN.—The New South Wales Government would not allow itself to be sued in a Victorian Court.

Mr. HIGGINS. — We are speaking now of a federated Australia, and I do not see that any harm can be done. There is really no practical difficulty in the matter. If the Attorney-General is so wedded to a theory that he is to close his eyes to the existence of the States, and the State Attorney-General is to close his eyes to the existence of the Federation, I have nothing to say. I am quite sure that he simply desires to get a practical Bill—a Bill which will meet the needs of the people as nearly as he can, which will involve no extra expense, and which will leave to the High Court the original jurisdiction which has been given by the Constitution. The Committee has deprived the High Court of original jurisdiction as to the most numerous class of matters which may arise under Federal laws. But as it has not been given to the High Court it must be given to the Supreme Courts of the States. I consider that clause 41 is too restricted. I think that, having regard to what has been done to-night in regard to clause 31 we must extend clause 41. I would suggest that in place of clauses 40 and 41, we should have one clause. With that object in view, I move—

That all the words down to paragraph (a) be omitted, with a view to insert in lieu thereof the following words:—"The Supreme Court, in each of the States, shall have original jurisdiction in the following matters:—"

That is to say, in the matters which are mentioned in paragraphs (a) to (f) of clause 40.

Mr. ISAACS.—Subject to an appeal to the High Court.

Mr. HIGGINS.—That will appear in another clause.

Mr. ISAACS.—It ought to be very distinctly stated in that clause.

Mr. HIGGINS.—If my honorable and learned friend will look at clause 41, he will see that it is provided for. With regard to appeals to the High Court we could have a separate clause.

Mr. MCCAY.—Has the honorable and learned member considered whether paragraph (c) would confer upon Victoria the right to sue New South Wales in the Victorian Supreme Court?

Mr. HIGGINS.—I see no objection.

Mr. MCCAY.—That is the one case where I do see a doubt.

Mr. HIGGINS.—I admit there may be a doubt. But I would treat the State as any

defendant is treated. You would have to find out where he is, and sue him *prima facie* where he is. The ordinary rule as between jurisdictions is that you follow your defendant. We might fairly say that if a State Court is to entertain a suit against a State Government it must be in the State in which that State Government has jurisdiction. That is the only matter as to which I feel any doubt. At the end of the clause I propose to add the following words:—

- "(g) arising under the Constitution, or involving its interpretation;
- (h) arising under any laws made by Parliament;
- (i) of admiralty and maritime jurisdiction;
- (j) relating to the same subject-matter claimed under the laws of different States."

There will be no objection to striking out admiralty and maritime jurisdiction if it is thought that it is already conferred, but I included the paragraph in order to exhaust the matter. It will be seen that I am not proposing to deprive the High Court of any jurisdiction which it has; to shear it of its dignity, importance, or value, such as it has. I should like to see the courts accessible to the people. I should like to see that a man injured in Adelaide is able to bring his action in Adelaide right off, without having to wait until the High Court shall come there, or without having to go to Bombala. The expense of dragging lawyers and witnesses about is a tremendous one. In our Commission report we went so far, even within the narrow limits of Victoria, as to recommend the diminution of the number of assize towns in order to avoid the expense of dragging witnesses and Judges about here and there. I think it is a good principle to follow. If you have a court with sufficient weight, by all means utilize it for the purpose of all the jurisdiction for which it can possibly be utilized. I should suggest, therefore, that as clause 31 has been omitted, there are still stronger reasons for adopting my proposal.

Mr. MAHON (Coolgardie).—It may be regarded as presumption, if not profanation, for a layman to intervene in this discussion. But when the honorable and learned member for Northern Melbourne spoke of the desirability of giving the Supreme Courts of the States concurrent jurisdiction with the High Court, it occurred to me that, as there is no one here to put in a word for the junior Bar I should do so. If the Supreme

Court of a State is to have concurrent jurisdiction, I do not see why the county courts should not also have concurrent jurisdiction in the smaller matters mentioned by the honorable and learned member? Why should not the average police court lawyer also have a chance under the Bill; why should not the police courts have concurrent jurisdiction in small matters? Supposing that a man wishes to recover 40 shillings from the Commonwealth, why should he be required to go to the Supreme Court of the State to do so? Is there any reason why he should not be entitled to go to any petty debts court and sue for the debt there? I regret my inability to follow the intricate reasoning of the honorable and learned member for Northern Melbourne. But I heard him state, in a very emphatic way, that if the second reading of the Bill were carried, he would do his best to make the High Court the strongest Court in Australia. Will it make the High Court the strongest Court in Australia to give the other courts the same jurisdiction, and to lessen the business with which in the ordinary course it would deal? This new attitude does not seem to be quite consistent with the assurance of his second-reading speech.

Mr. HIGGINS.—It will not in the least weaken the High Court; it will simply bring convenience to the public.

Mr. MAHON.—In that case, why does not the honorable and learned member propose in his amendment to give jurisdiction to the county courts, small debts courts, and police courts?

Mr. HIGGINS.—I desire to deal with one question at a time. I admit that there is a great deal of force in saying that we ought in small matters to give jurisdiction to the police courts.

Mr. ISAACS.—The honorable member will see that that is partly provided for in clause 41.

Mr. MAHON.—I am glad to hear that it is, because I feel that if we are to give the fullest facilities to the public, we ought to give concurrent jurisdiction to the courts all round. I should like, as a layman, to feel that I thoroughly understood the tortuous arguments of the legal members of the House.

Mr. ISAACS.—Do not say that.

Mr. MAHON.—Well, their reasoning is highly technical at any rate, and partakes of the atmosphere of courts, which I suppose

agrees as slightly with other honorable members as with me. Except when absolutely necessary I have avoided courts of law, and am therefore not so familiar with legal forms as is desirable in those who have the privilege of making the laws which these courts interpret. And, speaking frankly, much as I appreciate the great talents and high character of the honorable and learned member for Northern Melbourne, I cannot wholly appreciate his attitude towards this measure. He belongs to a party, if I may be permitted to say so without offence, that desires to exclude every English commodity from this country; but apparently there is one thing that he is unwilling to exclude from it. We are to have everything Australian, with the solitary exception of Australian law. We are to have a branch stream of the great river of British justice coursing through the plains of Australia. That was the honorable and learned member's contention. In some respects the honorable and learned member recalls a famous countryman of his who advised his fellows to burn everything that came from England except its coals. He seems to me a trifle less consistent than Dean Swift, because, although he rejects everything else, he is still willing that Australia should go to Britain for finality in law. That may be a very good principle. I do not say that it is not; but it seems to me that if we can obtain good law from England we should be able to secure other good things from the same country.

Mr. MCCAY.—Preferential trade, for example.

Mr. MAHON.—Doubtless when that matter comes up for consideration the honorable and learned member for Corinella will take the stand usually adopted, and see that the interests of Castlemaine are not overlooked.

Mr. MCCAY.—Is that a fair taunt? Is it not rather small?

Mr. MAHON.—Possibly it is; I will not dispute that the honorable and learned member is an authority. I have not risen to throw any light upon this problem from a legal point of view; but I shall not vote for the amendment in default of evidence that it would be a benefit to the people, or unless the honorable and learned member is prepared to extend it so as to give jurisdiction to the smaller courts. If that were done, people in poor circumstances who desired to obtain

redress might secure it at the least possible expense.

Sir JOHN QUICK (Bendigo).—I desire to point out to the honorable member for Coolgardie that there are certain matters which, under the Constitution, are inseparably vested in the High Court, but in regard to which the honorable and learned member for Northern Melbourne contends the High Court should not have exclusive jurisdiction. He urged that in the ordinary course of legal business they might also be dealt with by the States Courts.

Mr. HIGGINS. — I must confess that I limited my proposal to the Supreme Courts of the States, but I have no objection to extending it to the other Courts.

Sir JOHN QUICK.—The honorable and learned member suggests that the States Courts generally should exercise this concurrent jurisdiction. There are certain matters now proposed to be vested exclusively in the High Court, which I think might fairly be left to the various Courts of the States having jurisdiction.

Mr. DEAKIN.—To what matter does the honorable and learned member refer?

Sir JOHN QUICK.—To the suits against the Commonwealth mentioned in paragraph (e); cases against the Commonwealth.

Mr. DEAKIN.—Perhaps that might be done.

Sir JOHN QUICK.—An action against the Commonwealth might be dealt with either in the Supreme Court or the County Court.

Mr. ISAACS.—Would the honorable and learned member include the suits named in paragraph (d)?

Sir JOHN QUICK.—I think that paragraph refers to suits brought by the Commonwealth against a State.

Mr. DEAKIN.—Yes; surely the honorable and learned member would not include them in his proposal.

Sir JOHN QUICK.—I think that those cases should be dealt with exclusively by the High Court, and that the matters referred to in paragraph (f) might also be exclusively vested in the High Court.

Mr. L. E. GROOM.—Would the honorable and learned member allow treaty matters to be dealt with as proposed?

Sir JOHN QUICK.—I do not think so. We are not under any obligation to provide that they shall be dealt with exclusively by the High Court. They do not arise under

the Federal laws or under the Constitution. Hitherto, if any cases of the kind have occurred, they have been dealt with by the Supreme Courts of the States. They would not arise perhaps once in 100 years.

Mr. DEAKIN.—I do not know that there have been any, but if a case of the kind arose it would affect Federal interests and obligations.

Mr. L. E. GROOM.—What about extradition treaties?

Sir JOHN QUICK.—They are expressly provided for. There is no occasion for vesting matters affecting consuls exclusively in the High Court.

Mr. DEAKIN.—Only in their representative capacity.

Sir JOHN QUICK.—I find that according to *Curtis*, page 9, States Courts in the United States of America are now at liberty to undertake suits to which consuls are parties.

Mr. L. E. GROOM.—Does that power refer to actions against them in their private, or in their representative capacity?

Sir JOHN QUICK.—It refers to any suits affecting consuls.

Mr. DEAKIN.—The power was first extended to cover all suits against consuls. In order to meet that we have limited the power to cases affecting them in their representative character.

Sir JOHN QUICK.—It was first thought, in the United States, that the power to hear any matter affecting a consul in his official capacity should be confined to a Federal Court. That provision, however, has been reversed of late years, and consuls can now be sued in the States Courts. I think that in all the matters dealt with in paragraphs (a), (b), and (e) there ought to be concurrent, and not exclusive, jurisdiction.

Mr. CONROY (Werriwa).—The question which has been raised as to the amendment proposed by the honorable and learned member for Northern Melbourne, and to which reference has been made by the honorable member for Coolgardie, shows how difficult and how dangerous it is for the Committee to proceed with this measure, in view of the fact that clause 31 has been eliminated. We really do not know where we shall land ourselves. If we are to have only an appellate court, it is perfectly clear that we must have something of the kind proposed by the honorable and learned member for Northern Melbourne. If we omitted paragraph (1) of clause 41, and

the first three words in paragraph (2), as suggested by the honorable and learned member for South Australia, Mr. Glynn, we should confer sufficient power on the smaller Courts. I think the amendment should be carried; but we should not strike out paragraph (c) of clause 40, as suggested by the honorable and learned member for Northern Melbourne.

Mr. DEAKIN.—The suggestion made by the honorable and learned member for Bendigo is that we should retain some exclusive jurisdiction. The question raised by the honorable and learned member for Northern Melbourne is whether there shall be any exclusive jurisdiction in the High Court.

Mr. CONROY.—The honorable and learned member's contention is practically that there should be no exclusive jurisdiction in the High Court. Where we have power to give original jurisdiction, we are, in effect, vesting it in the Supreme Courts of the States and are making the High Court practically only an Appeal Court.

Mr. DEAKIN.—The honorable and learned member is going beyond that.

Mr. CONROY.—We are in this position: that, having struck out clause 31, we must give this jurisdiction to the Supreme Courts. Otherwise it will not be vested in any court, because we have decided that it shall not be vested in the High Court. I submit that, as the Government agreed to the omission of clause 31, they should withdraw the measure, and have it re-drafted in accordance with the opinion of the Committee. This is a very big matter, and I think that before going further we should determine how many Judges are to form the High Court. Why did we decide to refuse to give this original jurisdiction if we did not intend to vest it in the Supreme Courts? It must be vested either in the Federal Court or in the States Courts. We determined that it should not be given to the High Court, because it would create more work than a court of five Judges could perform. But I am willing to go even further than the proposal of the honorable and learned member for Northern Melbourne, and to confer a certain amount of Federal jurisdiction upon the inferior courts.

Mr. McCAY.—Within the limit of their present jurisdiction. The honorable and learned member would not allow a justice of the peace to decide a suit between States?

Mr. CONROY.—Of course, within limits similar to those which confine their present jurisdiction. I think that suits between States might be left wholly to the High Court, but if Federal jurisdiction is not given in some degree to the inferior courts, injustice will be done to a good many people. At the present time, the Postmaster-General can be sued for negligence only under the Claims against the Commonwealth Act, which ceases to have effect directly this Bill becomes law. But supposing the Bill was law, and a man wished to bring an action against the Postmaster-General. Take the case of a line repairer, who thought that he had been unjustly deprived of a couple of weeks' earnings—an amount representing £4 or £5. Why should such a suitor be compelled to bring his case before a Supreme Court, where the writ would cost almost as much? It would be absurd to ask him to do so. I trust, therefore, that provision will be made under which the inferior States Courts can entertain such cases.

Mr. ISAACS (Indi).—I think that the honorable and learned member for Werriwa has slightly confused two different matters. The amendment has no relation to clause 31, which contained the proposal of the Government to confer additional original jurisdiction upon the High Court. Clause 40 does not relate to additional jurisdiction at all. It deals only with the compulsory jurisdiction provided for by the Constitution, and only with a portion of that jurisdiction. Therefore, there is nothing in common between the clauses, and the amendment has nothing to do with clause 31. What the Committee refused to do, in striking out clause 31, was to give the High Court more than the compulsory original jurisdiction of the Constitution. Clause 40 provides that part of that compulsory jurisdiction shall be confined to the High Court.

Mr. CONROY.—But when we decided to omit clause 31 we practically dealt also with clause 3, and were limiting the work to be done by the High Court with the intention of limiting the number of the Judges to be appointed to that court.

Mr. ISAACS.—I do not quite follow the honorable and learned member. I should like now to point out what I think should be done with clause 40. I agree very largely with what has been said by the honorable and learned member for Bendigo,

and I am therefore compelled to vote against the amendment of the honorable and learned member for Northern Melbourne, because I think that some matters at all events should be exclusive in the High Court, and if there is only one matter exclusive in the High Court we must vote against that amendment. The proposal which I understand the honorable and learned member for Bendigo to make is that the clause in effect should provide that the Federal High Court should have exclusive jurisdiction of suits dealt with in paragraphs (c), (d), and (f). I think there is great reason for each of these, and I should feel disposed to support that proposal. It would be anomalous, I think, to allow a State Court to summon to its bar another State. I think it would interfere with what we may fairly call the relative independence of the States. Then, in suits of the Commonwealth against the States the same principle applies.

Mr. McCAY.—Surely, as regards paragraph (d), the Commonwealth has its choice as plaintiff, and it cannot hurt the Commonwealth to give jurisdiction to a State Court?

Mr. ISAACS.—I think it would be wrong to make a distinction in that case, and allow the Commonwealth to summon before the bar of any one State any other State, because the honorable and learned member will see that there is no distinction here. Why should the Commonwealth sue the State of South Australia before a Victorian State Court?

Mr. McCAY.—I agree with the honorable and learned member there. I was thinking of matters brought before the courts of the State concerned.

Mr. ISAACS.—There must be exclusive jurisdiction to some extent. I do not think it is easy to clearly draw the line of distinction. Besides, I do not think there would be much use in giving the optional power, because the Commonwealth would always go to its own court.

Mr. HIGGINS.—Would its own Court be partial?

Mr. ISAACS.—I think not; I think it would be perfectly independent and impartial, but I see nothing to be gained by drawing the distinction even if we could overcome the difficulty. With regard to paragraph (f), dealing with mandatory orders to officers of the Commonwealth to do something in the execution of their duty,

it seems to me more appropriate that the Commonwealth Court should be the tribunal to command the execution of a duty by a Commonwealth officer under a Commonwealth law. I can see, of course, that there could be an order by a State Court, but I think there is a very great deal to be said for reserving matters dealt with in that paragraph to the Commonwealth Court. However, I do not feel so strongly upon that paragraph as upon paragraphs (c) and (d).

Mr. HIGGINS.—I think those are most important.

Mr. ISAACS.—I think the other ought to be dealt with in the same way.

Mr. HIGGINS.—There is no occasion to fight about the matters dealt with in paragraph (d). If we leave exclusive jurisdiction in matters dealt with in paragraph (c) it will be quite enough.

Mr. ISAACS.—I think there should be exclusive jurisdiction with respect to paragraphs (c) and (d), and also paragraph (f), though I do not feel so strongly about paragraph (f).

Mr. McCAY (Corinella).—When the honorable and learned member for Northern Melbourne was speaking upon this clause, I interjected to ask him how he regarded paragraph (c). I understand that the honorable and learned member is now sufficiently persuaded that there should be exclusive jurisdiction in respect to matters dealt with in paragraph (c).

Mr. HIGGINS.—I thought that at the time I admitted that was the only case.

Mr. McCAY.—I think that as regards paragraph (c) those matters ought to be reserved for the Commonwealth Courts. There would be endless difficulties arising if two States had a suit, and it could be heard in a State Court of either. It would be still more extraordinary if it could be heard in the court of a third State. As regards paragraph (d), I really see no reason for giving exclusive jurisdiction to the High Court. In the cases dealt with in that paragraph, the Commonwealth is plaintiff, and the Commonwealth may be just as anxious to get a speedy decision as a State would be in the converse case, and it may be just as unable to proceed in the High Court, under the limitations of time and space, as it would be in the alternative proceedings. There can be no harm done if the Commonwealth is permitted to proceed in a State Court.

Mr. ISAACS.—I understood the honorable and learned member to say that there should be some limitation with respect to paragraph (d)?

Mr. McCAY.—That is so. I would limit paragraph (d) to the extent that if the Commonwealth proceeds in a State Court against a State, it must proceed in the court of that State against which it is proceeding. I would not, for instance, allow the Commonwealth to sue Queensland in a State Court of New South Wales.

Mr. CONROY.—That can be settled by the procedure clauses.

Mr. McCAY.—Under paragraph (e) a suit against the Commonwealth by a State, I think, would have to be brought in the Supreme Court of the State.

Mr. L. E. GROOM.—Under paragraph (e) a suit against the Commonwealth by a State would have to be brought either in the High Court, or in a court of the State concerned, and not in the court of some other State.

Mr. McCAY.—If we allow concurrent jurisdiction to the Supreme Courts, under paragraph (e), I do not see any reason why we should not allow concurrent jurisdiction under paragraph (f). I see substantial reasons why jurisdiction under paragraph (f) should be prompt and speedy. There are many cases in which it will be much more desirable to get a mandamus if you are entitled to it, at once, than it would be to be able to bring a suit for damages for the recovery of money in another way. There is a case *sub judice* across the Murray at the present time, in which the one ground of complaint has been that of excessive delay, and similar delays might arise if the High Court alone had jurisdiction under this paragraph. I think we can safely trust the Supreme Courts of the States not to give a mandamus against a Commonwealth officer merely because it is a Commonwealth officer who has been proceeded against for the order. Therefore, I think that first of all matters under paragraph (e) should be exclusive—

Mr. CONROY.—And under paragraph (a)?

Mr. McCAY.—Matters under paragraphs (a) and (b) will, I think, be somewhat like black swans used to be before Australia supplied so large a stock of them.

Mr. HIGGINS.—Suppose an offender was wanted, and his extradition was sought for under the Extradition Act, would not that come under paragraph (a)?

Mr. McCAY.—I am not prepared to say whether it would or not at the present moment.

Mr. DEAKIN.—I do not think it would I think it would be under the Act.

Mr. McCAY.—Even if it is, I do not think that any harm would be done by making the jurisdiction in this case concurrent.

Mr. DEAKIN.—There would be, if the matter came under a treaty, and not under an Act. We should be brought into relations with foreign powers.

Mr. McCAY.—Surely we can trust the Supreme Courts in all the States to deal with such matters.

Mr. DEAKIN.—It is not a question of trusting them; it is a Federal responsibility outside of the States or their courts.

Mr. McCAY.—If that argument be carried to its conclusion it would be against any Federal matters being dealt with by States Courts, which is going very much further even than the Attorney-General's Bill goes. I should personally be prepared to vote to give concurrent jurisdiction except in respect to paragraph (c), and limiting (d) (e) and (f), so that a suit shall be brought in the State concerned. That of course could be dealt with in the procedure clauses. The Attorney-General has been very obliging for some little time past, and perhaps he can see his way to accept these proposals.

Mr. L. E. GROOM (Darling Downs).—I suggest to the Attorney-General that he should abandon paragraphs (e) and (f) also. In view of the apparent intention to cut down the number of Judges, it will be necessary for us to afford some opportunities to private individuals for bringing such suits before the States Supreme Courts. With regard to paragraph (e), a good many of the suits will relate to matters of negligence, and will be brought by private individuals against the Commonwealth. In cases of very great importance the Commonwealth might be able to insist upon their removal to the High Court under clause 45. I should like to see the jurisdiction of the States Courts extended to the matters referred to in paragraph (f), because by striking out clause 31 we have prevented actions arising under the laws made by the Commonwealth from being brought in the High Court as a court of first instance. As

the Bill stands, officers acting under the statutes we pass regulating trade or commerce may do, or refuse to do, certain acts, and thus give rise to actions for damages, which must be brought in the States Courts. If, however, it is desired to compel an officer to do an act which he has abstained from doing, it will be necessary to bring the matter before the High Court if paragraph (f) stands. The peculiar position is this—that if a suitor wanted to secure damages he would have to go before the State Court, whereas if a mandamus were required, an application would have to be made to the High Court. It would be absolutely impossible for a suitor to bring alternative claims for damages, or a mandamus in a State Supreme Court. I can only conceive of matters arising under treaties in connexion with extradition cases, which are regulated by the various State and Imperial Acts. If we wish to regulate extradition matters, we shall have to pass a Federal Act, and as we have declined to give the High Court original jurisdiction in matters arising under laws made by this Parliament, we shall have to rely upon the States Courts. However, these matters are not likely to prove of any great importance.

Mr. HIGGINS (Northern Melbourne).—I always recognise that there is force in the view that the High Court alone should deal with matters arising between State and State. Speaking for myself, I should be quite prepared to trust the States Supreme Courts in such cases. For instance, I should be content to leave the Supreme Court of New South Wales to decide a matter in which Victoria and New South Wales were in conflict, because I do not think there would be any practical danger. But if we have a High Court it will be as well to restrict these matters, if anything, to its jurisdiction. I should not, therefore, object to alter my amendment by retaining the words at the opening of clause 40 and paragraph (c). I do not think that anything would be gained by allowing the rest of the clause to stand. Paragraph (d) relates to suits by the Commonwealth against a State, or any person being sued on behalf of the State, and as the Commonwealth has its own choice it can bring the matter before the High Court if it deems it expedient. There are cases, however, in which it might be convenient for the Commonwealth to have the matter determined by the Supreme Court of a State,

and I do not think we should be injured by the excision of the provision. If the words which I suggest are retained in the clause, I propose to add later on the words indicated in the amendment, of which I have given notice. In the meantime, I desire leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr. GLYNN (South Australia).—I suggest to the honorable and learned member for Northern Melbourne that it would be better to test the whole question of vesting the States Courts with jurisdiction under clause 41, because this clause really deals only with exclusive jurisdiction. If the honorable and learned member will consent to do that, perhaps the Attorney-General will consider another point. It seems to be assumed that clause 41 itself confers original jurisdiction, but I do not think it does. It only follows clause 39, which provides that the judicial power of the Commonwealth shall be exercised by Federal Courts or by the courts of the States, which are by the law of the Commonwealth invested with Federal jurisdiction. That is to say, by laws which are to be subsequently passed. Clause 41 then provides that the investment of jurisdiction is to be subject to certain limits as to locality, subject-matter, or otherwise; therefore it appears to me that clause 41 confers no jurisdiction. I think that under this clause we should prescribe the limits of exclusive jurisdiction, and then, by an addition to clause 41, invest with general jurisdiction the several courts of the States. It is almost impossible to define the courts that are not Supreme Courts, and I suggest that between this and the next discussion of the Bill, the matter of defining the subordinate courts may be considered.

Mr. MAHON (Coolgardie).—I understand that some remarks which I previously made have been taken by the honorable and learned member for Corinella as casting some reflection on him. I had no intention of doing anything of the kind, and I desire to withdraw any remarks to which the honorable and learned member may take exception.

Mr. DEAKIN.—I shall have pleasure in considering the suggestions made by the honorable and learned member for South Australia, Mr. Glynn, as to the possibility of distinguishing between the various courts of the States. I am gratified that

the honorable and learned member for Northern Melbourne has seen his way to withdraw his amendment, which would have deprived the High Court of all exclusive jurisdiction. But there are still other portions of the clause which ought to be preserved. Provision might be made, for instance, for the High Court to hear suits against the Commonwealth, if brought by a State. Such an amendment might prove acceptable to the honorable and learned member, the generally admitted desire being that suits between State and State should be tried in the High Court. It would be a proper thing if suits by the Commonwealth against the State also were tried in the High Court, and thus comprise a class of cases for which that court is peculiarly suitable. I shall also have one or two considerations to offer—although the cases are much less numerous and important—as to the wisdom of retaining sub-clauses (a) and (b). The latter relates only to consuls in their representative capacity, and the former, if necessary, could be so amended as to clearly relate to cases under treaty, and not arising from any Acts passed in consequence of a treaty.

Mr. HIGGINS.—Have we power to make treaties?

Mr. DEAKIN.—No; but a treaty made by the mother country is binding on this Federation, either by adoption, as is the case occasionally with commercial treaties, or by the simple will of the Imperial Government, and if, under the circumstances, a case should arise directly under a treaty, surely as the Federal Government is the only Government responsible and answerable to the mother country, and through the mother country to any foreign power, such a case would be a proper one for the High Court.

Mr. HIGGINS.—Surely the Federal Judiciary must be absolutely independent of the Federal Government.

Mr. DEAKIN.—Certainly.

Mr. HIGGINS.—That does not make it of importance which court decides the case.

Mr. DEAKIN.—The same argument might apply to the Federal Parliament or to its Executive, when contrasted with those of the States; and yet, as a matter of fact, special duties in regard to external affairs are cast on this Parliament, and through Parliament on the Executive. That is only logical; but, however that may be, the

honorable and learned member will confess that this is more a point of theory than of practice. I wish to have an opportunity of carefully considering the suggestions made, and also of looking a little ahead into the next clause, which, now that clause 31 has been omitted, raises a great number of difficult problems. The alterations proposed will require to be supplemented or replaced by others, and, under the circumstances, I propose to agree to a request just made, not to proceed further this evening.

Sir EDWARD BRADDON.—When does the Attorney-General propose to again deal with the Bill?

Mr. DEAKIN.—I propose to deal with it next Tuesday.

Progress reported.

CANADIAN-AUSTRALIAN MAIL CONTRACT.

Mr. SPEAKER reported the receipt of the following message:—

Message No. 4.

Mr. SPEAKER,

The Senate has this day agreed to the following resolutions:—

(1) That the Senate approves of an extension, for a period of two years, of the arrangements entered into on the 5th day of June, 1899, and the 10th day of August, 1899, by the Governments of New South Wales and Queensland respectively, for the carriage of mails between Australia, Fiji, and Canada by the steamers of the Canadian-Australian Royal Mail Line, upon the following terms:—

(a) That the amount of subsidy payable by the Commonwealth be increased by a sum of £6,363 12s. 9d., being the Commonwealth proportion of a total increase of £16,000.

(b) That provision be made for the efficiency of the vessels employed in such service.

(2) That this resolution be communicated by message to the House of Representatives.

R. C. BAKER,
President.

The Senate,
Melbourne, 18th June, 1903.

GOVERNOR GENERAL'S SPEECH: ADDRESS IN REPLY.

Mr. SPEAKER.—I have to inform honorable members that, at ten minutes past three o'clock to-morrow, His Excellency the Governor-General will receive the address in reply to his opening speech passed by this House.

House adjourned at 10.35 p.m.

House of Representatives.

Friday, 19 June, 1903.

Mr. SPEAKER took the chair at 10.30 a.m., and read prayers.

NEW TARIFF GUIDE.

Mr. A. PATERSON.—Is it the intention of the Government to issue copies of the new Tariff guide to Members of Parliament?

Mr. KINGSTON.—It is intended to send one copy to each member who desires it. We have not thought it necessary to send copies round to every one without application.

DUTY ON WORKS OF ART.

Sir LANGDON BONYTHON.—I wish to know from the Minister for Trade and Customs whether any decision has yet been arrived at with reference to the charging of duty upon the statue of the late Sir Thomas Elder, which was recently imported into South Australia?

Mr. KINGSTON.—Yes; it has been decided that the statue is a work of art, and, as such, it must under the Tariff be admitted free of duty.

UNIFORM WHARFAGE RATES.

Mr. HARTNOLL asked the Minister of Trade and Customs, *upon notice*—

Whether it is his intention to compel Marine Boards and Harbor Trusts to levy within their jurisdiction uniform wharfage rates, so that free-trade between the States of the Commonwealth may become a reality?

Mr. KINGSTON.—The answer to the honorable member's question is as follows:—

Wharfage rates devised to interfere with Inter-State free-trade are unconstitutional and cannot be permitted. At the same time, wharfage rates which are not so devised, but are simply fair charges for the services rendered, are not open to objection. The value of wharfage services differs at various ports. Special attention will be given to any particular case which is brought under the notice of the Government. The passing of the Inter-State Commission Bill will facilitate dealing with matters of this sort, as the commission is charged by the Constitution with the duty of executing the provisions of the Constitution relating to trade and commerce.

TELEGRAPHIC DELAYS.

Mr. KIRWAN asked the Minister representing the Postmaster-General, *upon notice*—

1. Whether his attention has been called to a statement in the Melbourne *Argus* of Thursday last, that a telegraphic press message took twenty hours in transit between Perth and Melbourne; and if he is aware that these interruptions are of frequent occurrence, and cause considerable inconvenience to the commercial classes and press of Western Australia and the other States?

2. Whether, as the additional line now in course of erection is on the same poles as the existing line, any benefit will accrue, in view of the fact that in the opinion of experts the interruptions are due to the proximity of the present line to the sea?

3. What are the charges to the public proposed to be made by the Eastern Extension Company for sending messages by cable between Western Australia and Adelaide?

4. Whether the Government will not make without delay the land telegraphic connexion as near perfection as possible, so as to prevent the public having to pay high cable rates?

Sir EDMUND BARTON.—The answers to the honorable member's questions are as follow:—

1. The attention of the Postmaster-General has been called to the statement in the Melbourne *Argus* referred to. He is not aware how the delay was caused, but a full inquiry is being made in all the States through which the telegram was transmitted. With respect to the frequency of interruptions, the Deputy Postmaster-General of Western Australia has reported as follows:—“Twenty-one days during the year the old coast line worked badly, and business was subject to delay, due principally to leakage caused by bad weather, and distributed over various sections: two total interruptions occurred between Esperance and Israelite—one caused by gale blowing down poles, and the other by bush fires. Inland line, *via* Coolgardie, working badly—once between Balladonia and Eucla, and twice between Eucla and Eyre, caused by storms; once between Coolgardie and Norseman, caused by pole falling; and once through cross with local line.”

2. In the opinion of the Deputy Postmaster-General of South Australia, who is an admitted expert, the additional line to Yardea on existing poles will be a distinct benefit as it will enable the Department to cope with the business.

3. The charges proposed by the company for the use of its cable are—for ordinary telegrams, 3d. per word; for Government telegrams, 1½d. per word; and for press telegrams, 1d. per word.

4. The Government proposes to provide a sum of £20,000 for the erection of an additional wire on the line from Perth to Eucla *via* Coolgardie, and this will be proceeded with as soon as the money is available. It is fully anticipated that this, together with the additional line *via* Yardea, will provide for the additional business which has accrued from the great reduction of the telegraph rate between Western Australia and the other States of the Commonwealth.

WESTERN AUSTRALIAN TRANSCONTINENTAL RAILWAY.

Mr. KIRWAN (for Mr. MAHON) asked the Minister for Home Affairs, *upon notice*—

1. When the final report may be expected from the engineers who are inquiring into the construction of the Port Augusta-Kalgoorlie railway?

2. Will the Minister urge the engineers to expedite their final report, so that it may be received in time to permit the question as to the construction of this railway being considered by this House during the present session?

Sir EDMUND BARTON.—I have not received an answer to the question which the honorable member has just asked. I may state, however, that the Minister for Home Affairs informed me that the report in question may be expected very shortly, and that he is doing all that is in reason to have it expedited.

COMMONWEALTH COINAGE.

Debate resumed from 12th June (*vide* page 908), on motion by Mr. G. B. EDWARDS—

That the report of the Select Committee on Commonwealth Coinage brought up, and ordered by this House to be printed, on 4th April, 1902, be now adopted;

upon which Sir GEORGE TURNER had moved, by way of amendment—

That all the words after “that,” line 1, be omitted, with a view to insert in lieu thereof the words—“in the opinion of this House any change to decimal coinage by Australia should, in order to confer in any great measure the benefits expected from it, be preceded by its adoption in the United Kingdom, and if possible be accompanied by the metric system of weights and measures. That in view of the fact that the time has not, in the judgment of the Government of the United Kingdom, arrived for the substitution of the decimal system for the existing coinage, it would not at present be advisable to initiate the system in the Commonwealth.”

Mr. THOMSON (North Sydney).—In resuming this debate, I cannot let pass the opportunity of complimenting the Chairman of the Coinage Committee on the very full, able, and effective speech which he delivered last Friday in support of the recommendations of the committee. In some parts of it he rose even to eloquence, and a man who can be eloquent upon the subject of decimals could, I think, extract a poem from the differential calculus. I shall not do him the injustice of endeavouring to amplify the historical and practical treatment which he gave to the subject. The chief object of my remarks is to reply to the objections raised to the

report by the Treasurer. The right honorable gentleman stated that he was afraid that the committee came to their finding, not so much on the evidence submitted to them, as under the influence of enthusiasm imparted by the chairman. Although there are differences of opinion in the evidence, and it is not as extensive as the efforts of the committee to obtain expressions of opinion from witnesses justified, the great majority of those examined testified to the value of a decimal system as compared with the present system. The differences of opinion were more as to the kind of decimal system which should be adopted, and the time when it should be brought into operation. But the evidence published with the report by no means covers the whole of the information which we had before us. We were able to refer to the valuable reports based upon inquiries by committees of the House of Commons and commissions appointed by the British Government, and were able to read evidence given on the subject by men of the highest position in the commercial and financial world at home. We were guided in our recommendations by that evidence as well as by the evidence given before the committee, and concluded, as all but one of those committees and commissions did, that, not only would the decimal system of coinage be superior to our present system, but that it is desirable that it shall be brought into operation at the earliest convenient moment. The enthusiasm of the chairman could have had no effect upon the opinions of the members of the English boards of inquiry, and yet we find one of them declaring that—

In conclusion, your committee, having well weighed the comparative merits of the existing system of coinage and the decimal system, and the obstacles which must necessarily be met with in passing from one system to another—

And in Great Britain these obstacles are of the greatest magnitude as compared with those which we have to face here—

desire to repeat their decided opinion of the superior advantages of the decimal system, and to record their conviction that the obstacles referred to are not of such a nature as to create any doubt of the expediency of introducing that system, so soon as the requisite appropriation shall have been made for the purpose, by means of cautious but decisive action on the part of the Government.

Subsequently to that recommendation being made, a resolution was carried in the House of Commons to the effect that the issue of two-shilling pieces had proved eminently

successful and satisfactory. That was the first step towards decimalization, but a second resolution was carried without opposition, affirming that a further extension of the system would be of public advantage. It is quite true that the latest British Committee, while acknowledging the value of the decimal system as compared with the present system, did not, on the ground of expediency, advocate its being brought into operation. The Treasurer will find, as I have already stated, that in the evidence brought before the Commonwealth Committee, most of the differences of opinion expressed are not as to the value of the decimal system, but as to the kind of decimal system which should be adopted, and as to the time when it should be brought into operation. It was the committee's business, seeing that there were those differences of opinion, to come to a conclusion, upon the evidence given before them, and upon the other sources of information available to them, both as to which would be the best decimal system to adopt, and as to when would be a desirable time to bring it into operation. That they have done. The quotations which the Treasurer made from the evidence of various witnesses, giving opinions differing from the recommendations of the committee, express chiefly differences of opinion upon matters of detail coming under those two heads. But it must be remembered that we in Australia are in an infinitely better position than are the people of Great Britain to introduce a system of this kind. Our population is small as compared with that of Great Britain, and our trading relations are infinitely less. I am perfectly certain, from the reports which I have read, that the people of Great Britain regard it as a great pity that advantage was not taken of the opportunity to introduce the decimal system at an earlier stage in the history of the nation, when their population was nearer the level of our own, when their trade was smaller, and when the consequent disturbance of business would have been less. But we cannot, by postponing this alteration, put the question altogether aside, and we must remember that the difficulties in the way of any alteration will not decrease. As our population grows, and our interchange of commodities with other countries increases, the difficulties will increase. I am therefore satisfied that it would be the truest wisdom not to postpone matters, but to face the question

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at once. I can quite understand that the Treasurer, in looking through the report, was seeking the line of least resistance, and he must have chuckled when he discovered the opportunity which was given to him by the evidence of several of the witnesses in favour of the postponement of any action on our part until something is done in respect to the matter by Great Britain. The committee were of opinion that if there was any likelihood of Great Britain taking action in the near future, it would be wise to defer moving in the matter here; but inquiries made from the Secretary of State for the Colonies elicited the reply that the difficulties in England were too great to allow of the proposed reform being considered at present. The committee then had to consider whether, in view of this, we should postpone the improvement of our system until a uniform change could be made throughout the Empire. We had every indication of the direction in which Great Britain would go when she did decide to decimalize her coinage, and we felt that we could proceed on these lines, and that a change could be effected now with far less disturbance than in the future. The Treasurer raised a number of objections to the decimalization of our coinage. First of all he said that the people had not asked for it, and that therefore it was not the duty of the Government to undertake it. I think that the right honorable gentleman forgot one of the functions of government. Have not Governments very properly introduced many measures for which the people have not asked? Have they not frequently taken action which has been repugnant, for a time at least, to the great majority of the people? Did the people ever ask for the change that was made in the Calendar? Did they not object to the change, and clamour for the days which they supposed they had lost? Did the people of Australia ever ask that the standard time should be made uniform in certain of the States? That reform was never asked for, but it was effected because it was thought that it would be of advantage to the people. Did the people ever ask for a great deal of our sanitary legislation? Did they not sometimes offer to it a passive, if not an active, resistance? Was vaccination ever approved of by the bulk of the people before it was adopted? No. It was urged by a few who had studied the question that it was a desirable thing, and the Government thought the matter so

important that they determined to introduce it for the good of the people, even in the face of strong objection. The Government has something more to do than merely to carry out the expressed will of the people. I can understand a Government not wishing to do more than that, because so long as it is content with that it may rest assured of a majority, and as long as it has a majority it can live. But it is required of Government that it should introduce any change which it considers to be for the general advantage, even though a large number of the people may not appreciate it. The Treasurer objected to the decimalization of coinage because of the practical difficulties which he said no nation had ever faced, except in order to replace a mixed and debased currency. But some nations with no more mixed or debased standards than our own have undertaken to effect changes. The French Government faced the decimalization of its weights and measures when their system was no more diverse and no more objectionable than is ours. Further than that, if the mixed and debased character of the coinage compelled some nations to effect a reform, it has to be remembered that the intrusion of foreign money which led to the mixing and debasing of the coinage increased the difficulty attendant upon the adoption of a new system. When the people still had access to the coinage which had previously debased their system, it could not be expected that the decimalization of the national coinage would take effect quickly and thoroughly. It might be fully relied upon that for years afterwards the mixed coinage would continue in use, and that the difficulties of effecting the change would be increased thereby. Yet in spite of this knowledge the French Government faced the task, and accomplished a very desirable reform. Australia is so situated that she is not tempted to use coinage other than her own. She is an Island State, cut off from other parts of the world, and so long as we can get a good coinage for ourselves we are not tempted to use outside money. This very fact should operate in favour of simplicity in making the change here. The reform could be brought about promptly and effectively, and we should not have to wait for years in order to completely shut out intruding coins. We should remember that, as compared with older countries, the superior education of

our people, and their aptitude and alertness, offers security for their ability to adapt themselves to a system of decimal coinage with very little disturbance. They have been able to carry on their affairs with some of the most debased standards that were ever adopted by any nation. In the early days of New South Wales rum was the standard of currency, and under that extraordinary system the people managed to live and conduct their business. You will find so many gallons of rum mentioned in the title deeds of property in Sydney, as the consideration which passed upon their transfer. The chaplain and other officers of a British regiment in New South Wales actually received their salaries in the form of certificates for rum. I do not mean to say that they actually consumed the rum, but the certificates for rum were the money standard of the time, and the values of other articles were reckoned upon them. It was the medium of exchange. At another period, Mexican, Spanish, or Eastern dollars were the standard of currency, and for convenience the dollars were cut into chunks to represent smaller coins. Even under this system the people managed to appreciate values and conduct their interchanges. Then we know that in some parts of Australia, hides, sheep, or bushels of corn, have at different times been the standard of exchange amongst the people. Now we have the British coinage, which is undoubtedly a good example of the mixed duodecimal system. Just as the people managed under the rough and ready methods I have described to conduct their affairs with satisfaction to themselves, so have they been able to adapt themselves to our present coinage, and to be satisfied with it. That, however, does not establish the fact that there is no better system than the British. I am supported by the strongest evidence when I declare that the decimal system is superior to our own. It is in this direction that the countries of the world are moving to-day, and it is also in this direction that Great Britain will in the future, more or less remote, have to move. The Treasurer considered that it would be necessary to run two systems concurrently, owing to the inability of the people to adapt themselves to the decimal system. He thinks that the old would stand side by side with the new. I have already referred to the readiness of our people to adapt themselves to new circumstances,

and I am confident that there would be no necessity for running concurrent systems. Many of our people move into countries where the decimal system of coinage is established, such as the United States and Canada, and within one week are quite as well able to conduct their affairs in decimal coinage as under the English system to which they have been previously accustomed. The decimal system is more simple than our own, and the relative values of the coins can soon be understood and appreciated by even the least educated of men. The Treasurer has stated that he has nothing to say against the excellencies of the decimal system, to which he is himself favorably disposed, but he has discounted that statement by saying that, after all, it has evident disadvantages. He quoted some remarks of witnesses to the effect that suitability for calculation did not necessarily mean suitability for payment. I quite admit that; but the Treasurer did not go on to prove the unsuitability of the decimal system for payment. I propose to show him by figures that, upon this point, the system proposed by the committee is, if anything, superior to that now in existence. For instance, if, under the present system, you take the number of coins necessary to make up every sum from one farthing to sixpence—that is, one farthing, one halfpenny, three-farthings, one penny, and so so—you will find that you can make 24 different amounts, and that you will require 61 coins to do so. Now, under the proposed system, between 1 cent and 25 cents—25 cents being equal to our sixpence—you can make, not 24, but 25 separate payments, and you can make them with 60 coins, or one coin less. If you take from 6½d. to 1s. under the present system there would be 24 separate sums, and it would take 84 coins to make them up, whereas under the proposed system there would be 25 separate sums, and to make them up would require 85 coins, or one coin more. Under the present system, between 1s. 0½d. and 2s., which is equivalent to 100 cents, 48 sums can be made up, and to make them up 192 coins would be required, whereas under the proposed system there would be 50 separate sums, to make up which 194 coins would be required, or two coins more. What is the total of these? If you take from ¼d. to 2s.—which latter is the unit of the proposed system—under the present system 96 separate sums could be

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made up, and it would take 337 coins to do that, whilst under the proposed system you could make up 100 separate sums, and to do so would require 339 coins, or two coins more.

Mr. McCAY.—Has the honorable member worked out any calculation based upon the substitution of the halfpenny for the farthing, because a farthing is rather an academic basis to adopt?

Mr. THOMSON.—I will allude to that matter presently, and show the effect of dropping the cent as we now drop the farthing. Had my calculation been made in that way, it would have told more against the present system. The figures which I have given show that you can make up four more sums under the new system than under the present system of currency, and that you require only two additional coins to do it, so that you get a greater subdivision with practically the same number of coins. The report of the committee states that if it is deemed desirable to do so, the 1-cent piece can be omitted. It follows then that we should have to coin a 3-cent piece to allow of the making up of certain sums. That would be a desirable addition to the coinage if we omitted the 1-cent piece. By omitting the farthing, as we do at present, from our issue, we could not make up odd farthings or three farthings; and we should reduce the sums that we could make up by almost a half. But under the proposed system by dropping the cent, and substituting a 3-cent piece—

Mr. McCAY.—If you have a 3-cent piece you ought also to calculate upon a 3-farthing piece.

Mr. THOMSON.—I am quite content to go to any length that the honorable and learned member may wish, so satisfied am I of the superiority of the decimal system. But if you have the 3-cent piece you can make up all the 100 separate sums between that coin and 2s. except one. I admit that if you issue a 3-farthing piece, you could do likewise as regards the 96 possible sums. But even in that case there is no superiority in our present system. Not merely therefore as a method of calculation are the decimals infinitely superior, but as a means of exchange or of purchase they provide fully all the facilities provided by our present system.

Mr. McCAY.—Has the honorable member considered the question in its relation to

our present system of weights and measures?

Mr. THOMSON.—That is rather a separate subject, but I admit at once that the decimalization of weights and measures—if that is what the honorable and learned member means—would provide even very much greater facilities for interchange than the decimal system of coinage. The coinage is only one item in the decimalization of weights, measures, and values, and although our system of weights and measures is duodecimal and mixed—just as our coinage is duodecimal and mixed—that does not give us any facilities for calculating, whilst decimal money can be used as a means of calculation with the present mixed and chaotic system of weights and measures far more effectively than with our present system of coinage.

Mr. McCAY.—I was referring to the disadvantage of adopting the decimal coinage system without the decimalization of the metric system.

Mr. THOMSON.—I will allude to that matter later on. The Treasurer got hold of a piece of evidence by some witness who said that pounds, shillings, and pence are easily added up. It is true that they are just as easily added as are decimals, but you must effect a division at every column besides doing the addition. Even if the single columns are as easily added as are the decimals, does the Treasurer say that you can divide and multiply with anything like the ease that you can under the decimal system? There is no comparison between the two methods. You have to perform divisions even in the addition of pounds, shillings, and pence. In attempting to multiply pounds, shillings, pence, and farthings, there is an enormous risk of inaccuracy occurring under the present system, as compared with the simplicity of similar operations under the decimal system. Then the Treasurer stated that you cannot express one-seventh in decimals except in recurring fractions, which go on through all eternity. I should not like to provide as an occupation for the Treasurer's eternity in the working out of recurring decimals. As a matter of fact, there is no practical occasion to carry out recurrent decimals to any length. Under our present system of coinage, you cannot express one-seventh of a shilling, and whilst it is true that under the decimal system you cannot express one-seventh in figures without using the recurring decimal,

in ordinary calculations there is no need to carry out those decimals to more than two places. In minute calculation the recurrence of the decimal enables you to carry it on till you get practical accuracy, no matter how fine the calculation may be.

Mr. McCAY.—We can get absolute accuracy with a vulgar fraction.

Mr. THOMSON.—Yes, because in practice we use less subdivision, but if we want to get absolute fineness we must favour the use of the decimal. Even the authorities at the Mint stated that they work out all their calculations by decimals, and subsequently convert those decimals into the present currency.

Mr. G. B. EDWARDS.—Insurance offices do the same thing.

Mr. THOMSON.—Yes, and banks also; they have discovered the superiority of the system.

Mr. McCAY.—Its superior simplicity, but not its superior accuracy.

Mr. THOMSON.—The honorable and learned member is right and wrong in that statement. One can go to the length of a ten-millionth part under the decimal system if he chooses to do so. Surely that is accurate enough for most things. It is true that he can make use of a vulgar fraction by putting the figure 1 above 10,000,000, but by so doing he is really making use of the decimal notation. In simple fractions, we jump from $\frac{1}{2}$ to $\frac{1}{3}$. Let honorable members look at the range between these two sums. In a simple fraction these sums are nearest to each other, because 2 follows 3 in our notation. Between these two ranges we can express in decimals sixteen or seventeen different subdivisions. Of course, we could get much nearer than that if we compounded the fractions. We could have 4-9ths for example, and so on. But what does that mean? That we have then to multiply and divide. We have to enter into two calculations and that is a complication we would avoid under the decimal system, whilst under that system we can get a finer subdivision more easily than can be obtained by the use of vulgar fractions.

Mr. McCAY.—The honorable member is referring to calculations only, and not to payments.

Mr. THOMSON.—I have given instances as to payments. I have shown that in all the payments which can be made up to 2s., we require under the present system—by

the use of which we can make up only 96 separate sums—337 coins, whereas under the decimal system—by the use of which we can make up 100 separate sums, or four extra sums—we require only 339 coins, or two coins more. Then the Treasurer objected that the adoption of the decimal system by Australia before its adoption by Great Britain would cause great difficulty in transforming British money into our money. I do not know how the Treasurer arrives at that conclusion. I am not by any means a lightning calculator, but I would undertake to transform without pen or pencil any sum of English money into the new decimal coinage.

Sir GEORGE TURNER.—But the honorable member, unlike the ordinary man in the street, has the experience and education necessary to enable him to do what he says, but the great mass of the people are not in that position. I have been practising myself, and it took me some time to effect the transformation. I like the old style better.

Mr. THOMSON.—The objection is only imaginary, as is shown by the fact that the Treasurer admits that there is no difficulty about the calculation.

Sir GEORGE TURNER.—I do not say there is no difficulty. My trouble is that I generally get the decimal point in the wrong place.

Mr. THOMSON.—A little practice would soon cause that difficulty to disappear. At any rate, the system of transforming the coinage is so simple that the Treasurer, or any other honorable member, can apply it without pen or pencil. It merely means that ten has to be added to the number of pounds, and the shillings divided by two, in order to get the number of florins; then there is something less than two shillings remaining, which, when reduced to farthings, gives you the 24th. In that way the transformation is effected easily and instantly. As to the "man in the street," surely our educational system is accomplishing something. I guarantee that some of the boys in our public schools could do the calculation much more rapidly and effectively than the Treasurer or myself. The point, however, is that the "ordinary man in the street" is not called upon to transform the coinage; it is only those who have to deal with exchanges who have to do it, and it can be done with the utmost simplicity. All the "ordinary man in the street" has to do is

to make himself acquainted with the new coins, the whole of which are the same as the old coins excepting those below sixpence. The coins below sixpence, excepting the two and two-fifths coin are so close, being within 4 per cent. of the penny, halfpenny, or farthing, that "the man in the street" will not find any practical difficulty. Even as to systems which vary more from our own system, because they do not contain the coins above sixpence—such as the system of the United States or the Canadian system—there is no difficulty to an Australian in arriving at a full appreciation of the relative value of the coins within a week after landing in the countries where they prevail.

Mr. O'MALLEY.—Within an hour.

Mr. THOMSON.—The evidence which the committee had from witnesses who had been brought up under the British system and had latterly lived under the decimal system, was the strongest in favour of the latter, each witness declaring that he would not dream of desiring to return to our mixed coinage. Another objection raised by the Treasurer was that the threepenny bit would disappear—that this measure of our religion and our charity would not be available, to the injury, possibly, of religion and charity. It might be desirable, from that point of view, to have no silver coin under sixpence; but I point out to the Treasurer that the threepenny bit, if it is of such importance and value, need not disappear. It could be minted as a coin of convenience, in the same way as is proposed in regard to many of the other coins under the decimal system. We might coin a 12½ cent. piece, or, if the Treasurer wishes to abolish the half, a 12 cent. piece, which would practically take the place of the threepenny piece. I do not think there is much in the objection raised on this score by the Treasurer, but, if there were, I have indicated a means of getting over the difficulty. The Treasurer seemed to favour the American dollar and the retention of our penny, though I do not know whether he has given much attention to the point.

Sir GEORGE TURNER.—I did not say I was in favour of that course being followed, but suggested that it would prove the simpler, seeing that we cannot get rid of our sovereign.

Mr. THOMSON.—The Treasurer did not say absolutely that he was in favour of

the American dollar and the retention of our penny, but he seemed inclined to regard such a step with approval. The Select Committee went very closely into this matter. Amongst some of the members of the committee there was a predilection in favour of the American dollar, but it was found that the British sovereign is too closely interwoven with the affairs of the United Kingdom—that it is the coin of our records and our statistics—and that, even in countries beyond the British Isles, it has become an important standard of value. That being so, the committee arrived at the conclusion that, unless there was the strongest possible reasons, it would be unwise to depart from the sovereign as a standard, especially when we may anticipate that the direction which a decimalization of the coinage would take in Great Britain would probably be that indicated very emphatically by the reports of all the select committees which have considered the question there, and also by the coinage of the two-shilling piece, avowedly as a first move towards a reform such as is now submitted for the approval of the House. These facts became so evident, and the disturbance of the coinage would be so much less when the 1s., which has a very strong position, and the 6d. are retained, as also are the 10s. piece and the £1, that the select committee were first forced to the conclusion that the better course was to adopt the British sovereign as a basis. I believe that if the American coinage had to be constructed to-day, there would be a smaller unit than the dollar, which, as a coin of convenience, is too large to be suitable. In Canada, where the dollar is adopted nominally, that coin is actually never minted, but only the half-dollar, which is about equivalent to the two-shilling piece. It is most desirable that a unit of coinage should be one that will go into circulation. Then there is a great probability that some other countries adopting the decimal system will recognise the supremacy of the British sovereign, and make it the standard of value. We have been told by the honorable member for South Sydney that in Peru and Ecuador, of which the select committee knew nothing at the time their report was issued, the British sovereign has been adopted as the standard and re-organized as currency. That is evidence of the trend of future decimalization, and of the strength of the position that the British

sovereign has acquired, partly by its size, weight, and suitability as a coin, but, more than all, by its containing a full 20s. worth of gold without any deduction for minting charges.

Mr. O'MALLEY.—The sovereign is still used in Canada.

Mr. THOMSON.—That is so. Canada was really compelled to adopt the American system, because there not being, as here, a sea-border, the intrusion of the American coinage could not be prevented. Had Canada not adopted the American system, there would for all time have been a mixed coinage in the Dominion, because it would have been impossible to prevent an influx of coins from over her border. That was the adoption of a coinage system by compulsion of circumstances. We have to face the further fact that there have been attempts to establish an international coinage, which would be of immense advantage to the peoples of the world. Coinage reform, such as I have indicated, would reduce the dead-weight which is felt by producers and consumers in the interchange and handling of products, although people in their ordinary daily avocations may not know of the disadvantages which they at present suffer. A reformed coinage would, as regards account, reduce the labour in the handling of products and the distribution of supplies, and therefore decimalization and unification of the world's coinage is not merely a sentimental but a practical proposal, which, if accomplished, would, or ought to, do much for the peoples of the world, whether producers or consumers. The trend of a world's coinage will, the committee think, be towards the adoption of a unit between the American dollar, with its clumsiness and difficulty in handling and circulation, and the smaller units of Europe, such as the franc and mark. The circumstances and conditions of the European peoples are gradually becoming more uniform. At one time only the very small coins were used by a great number of people on the continent; but as wages rise, these very small coins are being displaced. Under the circumstances the select committee consider that the two-shilling piece would form a compromise between the two great systems of the world at the present time, and that a movement for a world's coinage would probably be in that direction. Then there is the question of Great Britain

being allowed to act first, and of decimalization of the weights and measures ever preceding, or taking place concurrently with the adoption of the decimal system. The difficulties in the way of Great Britain acting are much greater than those we have to face here, and whilst I believe that circumstances will force Great Britain not perhaps into the adoption of a decimal coinage, but into the adoption of a decimal system of weights and measures, and that it must then accompany the adoption of that system with a decimalization of the coinage, I see no reason why, with the uncertainty as to the time when it will act, we should not move in the direction in which it is sure to move, and on the lines which, so far as we can possibly see, it is likely to adopt.

Mr. WATSON.—Is it worth our while to make a disturbance in regard to the coinage without the compensations which come from the adoption of the metric system of weights and measures?

Mr. THOMSON.—I agree with the honorable member this far: that the most important thing is the decimalization of the weights and measures; but we cannot move in that direction very well without Great Britain, for the reason that it does not merely affect the weights of our potatoes, corn, and so on, as those we can ourselves decimalize to some extent. If we adopt a decimal system of coinage without Great Britain we ought to adopt the cental instead of the bushel.

Mr. WATSON.—We have done that in the Customs Tariff Act.

Mr. THOMSON.—Yes. If we did that it would be a great assistance when we had the decimal system of coinage. The two would interwork, and much of the calculation would be simply done by shifting a dot backwards and forwards. We can do that much, and we ought to do it; it is of such importance that the sooner it is done the better. But the metric system of measurements will extend far beyond such questions as that. Great Britain to-day is, in my opinion, losing millions per year, and her workpeople are losing a great amount of work, owing to the non-adoption of the metric system. Her gauges, templates, moulds, patterns, screws, machines, are all different from those of the nations that have the metric system. The number of the peoples who have adopted the metric system is increasing from year to year.

Mr. WATSON.—And a large proportion of the consumers of Great Britain's products use the metric system.

Mr. THOMSON.—Yes. Once a country that Great Britain supplies, or has been supplying largely, introduces machinery founded on metric measurements or screws, or a variety of articles in the making of which you require very exact measurements, the chance of Great Britain competing for those things in that market is gone. They become the standards, as they have a right to do, because they are more suitable and more easily worked. For instance, take the erection of a milling plant for any purpose. The speeds and powers are calculated with the greatest ease when all the parts have been gauged to a decimal system of measurement. All that calculation, which is a very difficult thing with our system, is simplified so much that any one having the parts of a machine on that system once, will not have British parts. Those parts cannot be replaced or repaired, except by parts based on a similar measurement. Therefore the users have to go to the producers who work under the metric system. It will be asked, Why does not Great Britain adopt both systems? It is because of the enormous expense of the machinery. It would cost England millions upon millions to change her system of weights and measures, because of the expense of altering the immense machines they have turning out certain gauges to machines that would turn out other gauges.

Mr. G. B. EDWARDS.—It will cost her more if she does not.

Mr. THOMSON.—Yes; it is costing her more now if you take the loss per annum. That fact must begin to impress itself upon the people of Great Britain. Of course British people are conservative. Very often they have an admiration for old things because they are old, and they do not like facing, as the Americans are prepared to face, a destruction of valuable and very effective plants for other plants, in order to clear out their great works and put in other machinery to produce articles under a new system. That feeling, I believe, will go. The only question is, when will it go? When it does go, I believe there will be a decimalization of British weights, measures, and money, and from the reports of the British committees and the evidence afforded by the adoption of the florin and

the position of the sovereign I have not the slightest doubt that the decimal system which we propose now must ultimately be accepted by Great Britain.

Mr. G. B. EDWARDS.—Every Chamber of Commerce in Great Britain has declared in favour of the system.

Mr. THOMSON.—Yes; the declarations of British Chambers of Commerce have been in favour of its adoption. In that connexion I desire to point out a fact to the Treasurer. We took every step to get evidence that was possible. We sent out a schedule of very embracing questions to the Chambers of Commerce, and to many other institutions, such as the stock exchanges and trades-halls in the different States.

Mr. BAMFORD.—That is where you would get reliable information.

Mr. THOMSON.—We did not get much reliable information, because we did not get any practically from trades-halls. We sent out a schedule to parties who might be expected to regard this subject from different points of view. We got very little information in return, and the great strength of our report lies in the evidence which we had available in the statements made before British commissions and committees by some of the most able men on such questions in the Empire. A great many of those to whom we applied are quite well acquainted with the decimal system and conduct a large part of their operations under it, and is it not clear that there is no opposition or objection to its introduction, otherwise there would have been a very active effort to bring opposing evidence before the committee? Most persons seemed to entertain this feeling—"Well, we can work along as we are. We are accustomed to the present system; we have our staffs and so on. We admit that there would be some saving with the new system, and whilst we shall not oppose its adoption, we shall not bother ourselves about working in that direction." That is pretty well the situation as evidenced by the results of our very wide-spread efforts to obtain witnesses. Another objection which the Treasurer had to this proposal was the abandonment of the penny and half-penny. We do not propose to abandon those coins. We only propose to vary their value to the extent of 4 per cent. The same coins would do as tokens; they are not intrinsically worth anything like a penny or a half-penny. We were faced with this difficulty, that if we adopted the

2s. unit we had to make the penny token either a coin worth 1½d., or a coin worth 4 per cent. less than 1d. We did not consider, that in the interests of the public, it was right to give the penny token the value of 1½d. Of course, in the matter of wages, it could make no difference, because they could be calculated to an exactitude under the decimal system by cents. But in services or articles purchased for a penny or half-penny there must be one of two things done. In a great many cases the quantity of the article, or the extent of the service, could be varied to suit, if need be, that difference of 4 per cent.

Mr. MAUGER.—How would the newspapers manage? They would knock off a column.

Mr. THOMSON.—My honorable friend as a member of the committee knows that we discussed that question.

Sir GEORGE TURNER.—One witness suggested that they should take one column off.

Mr. THOMSON.—They could do it in that way if they wished, but I do not think that they would be so wanting in enterprise as to do that. There are a few cases such as postage stamps, newspapers, and so on, where the quantity of the article or character of the service practically could not be varied.

Mr. WATSON.—Probably the newspapers would charge five cents.

Mr. G. B. EDWARDS.—No; the whole history of newspapers and postage stamps is in the direction of cheapening the price.

Mr. THOMSON.—What the newspapers would do—because some of them would be enterprising enough to do it, if all did not wish to do so—would be to charge the coin which would be equivalent to the present penny, and put up with the loss of 4 per cent. I do not think that eventually it would be a loss even to them.

Mr. MAUGER.—They would not do it without a struggle.

Mr. HUME COOK.—They do not make their profits out of the sale of the paper.

Mr. THOMSON.—They reduced the price of the paper, first from 3d. to 2d., and then from 2d. to 1d. I am certain that there is not going to be a retrograde increase of prices. Then we come to the question of stamps. This system provides a fuller subdivision than the old system does. We can issue a 4-cent stamp, a 5-cent stamp, and a 6-cent stamp. It might be that by issuing a

stamp at 96-100d., or 4 per cent. less than a penny, there would be a loss of 4 per cent., but the people individually would benefit to the same extent that the revenue loses. But with the increase of the postal business, any loss so occasioned would soon disappear. With reference to the Customs Tariff, the question has been raised as to the effect of the proposed change upon penny and half-penny duties. They could be adjusted so that the returns from the Tariff would be exactly the same as they are now. Some duties could be reduced to four cents, or three cents, others increased to five cents, and so on. There would be in the total no loss whatever. There would simply be an adjustment. I think I have answered the objections of the Treasurer as well as I am able, and I will now briefly refer to the findings of the committee so far as I have not touched them. They are practically these: We recommend the adoption of a decimal coinage, and suggest a certain system. Then we recommend that the adoption should be an early one, and should precede action by Great Britain or with respect to the metric system of weights and measures.

Sir GEORGE TURNER.—The honorable member would not allow the old and the new systems to run together, surely?

Mr. THOMSON.—If we adopted the decimal system, we should remove the existing coins as early as possible. We could not do it in a day, but within a reasonable period those coins should be withdrawn. The Treasurer agrees with the proposals of the committee with regard to coining silver and copper, as he finds that there would be an advantage from adopting them. Of course, there would have to be a mint mark upon our coins to distinguish them. It would be desirable in that case to, as early as possible, have the present British minted coins withdrawn.

Mr. BAMFORD.—Except the sovereign.

Mr. THOMSON.—I am only alluding to silver and copper coins. The committee also recommend that we should not coin our own gold so long as we use the British sovereign. There is really no profit attaching to the coinage of gold. The British Government are very particular, even though they lose by the coinage of sovereigns, in requiring that they shall be able to guarantee their soundness and value by conducting the coinage under their own officers. There would be some profit by having one mint instead of three—that is

to say, there would be a profit by removing our mints to the Federal capital; but, on the other hand, the facilities afforded to the miners for the disposal of their gold would be diminished. They would have to pay the cost of carriage, and if the mint were in the Federal capital, a considerable amount of gold produced in Australia would be sent to England instead of being coined here.

Mr. WATSON.—The miners would be at the mercy of the gold buyers.

Mr. THOMSON.—We should seek to give the gold buyers additional advantages. I do not think it would be wise to remove the existing mints. As to the coinage of our own silver and copper, the Treasurer, as he has told us, was, previous to the appointment of the committee, and is now, in strong agreement with our finding, that to establish a mint for this purpose would be undesirable. The amount of silver and copper coinage we require would not pay for the expenditure. We can get our silver and copper coinage from the Imperial mint, as Canada does, paying a slight percentage for the actual oversight. That percentage would not be anything like so great as our expenditure would be if we attempted to coin our own silver and copper. I need not dwell upon that point, except to say that the Treasurer practically agrees with the committee with regard to it.

Mr. BAMFORD.—Would not the coining of our own silver apply in the same way to the silver miner as the coining of our gold does to the gold miner?

Mr. THOMSON.—It would apply to a much smaller extent, because the quantity of silver which we produce in Australia is large as compared with the very small quantity we require as coinage. We coin sovereigns not only for our own needs—but even principally for our own needs—but much more largely for the needs of other portions of the world. A very large quantity of the gold which is coined here goes out of Australia, and is afterwards simply melted down into metal. The small quantity of silver we should require to coin for our own needs would have no influence whatever upon the value received by the mining companies for the silver they produce.

Mr. WATSON.—There is more gold than silver secured by individual miners in Australia.

Mr. THOMSON.—Oh, yes; silver mining is principally conducted by large companies which can make their own arrangements in other parts of the world, and there are not the intermediate parties between the silver producer and the coining that there are in the case of gold production. I think it unnecessary to state further reasons than I have done for the superiority of the decimal system recommended by the committee. The difference can be shown in a word. If honorable members were to attempt to find out how many twelfths of a foot there were in the table of this House, and had to do it with a rule which was measured to tenths of an inch, they would have a parallel to the difficulties which prevail under our present system. Under our system you are trying, by a notation which is in tenths, to calculate in a system of coinage which is in twentieths and twelfths and other relations. The proper course is to adopt a system of monetary notation the principle of which is progression by tenths. The advantage of so doing is manifest. As to the saving in our schools, I do not think, personally, that there would be a large saving simply by the adoption of decimal coinage; but the saving would be enormous by the adoption of decimal weights and measures as well as decimal coinage. It would be an enormous saving of labour to the children. They would get that grasp of arithmetic which at present, even after they have gone through our schools, and have earned high positions in their arithmetical classes, they lack. They do not understand what is the foundation of the system, or the notation of the system, and they cannot see a co-relation between the arithmetical notation and our existing notations of coinage and weights and measures. Indeed, there is no co-relation. If the children had the opportunity of learning a system of weights and measures and of values founded upon the same basis as the notation of arithmetic, they would at once see the whole principle, and would be saved the labour of having to learn all the relations of weights and measures and values that they do now, some of which are so complicated to their minds that it is a hard task to get them afterwards to make calculations correctly, even on Customs entries. We should have a simple system so interknit that we should save an enormous sum if only in the cost of handling

and distributing the produce of the world. As to the recommendations of the committee respecting the particular form of the currency, I need not say more than has been said. With respect to the adoption of the system being determined upon as early as possible, I may say that, in my opinion, we cannot have a better time than the present for the purpose. I quite admit that the Treasurer as a member of a Ministry that has inaugurated several enormous changes that have had the effect of disturbing the people in different directions—sometimes, I am afraid, to their disadvantage—is not very ready to disturb them again, even to their advantage.

Sir GEORGE TURNER.—We find the British Chancellor of the Exchequer always taking up the same position.

Mr. THOMSON.—The difficulty is infinitely greater in Great Britain than it is here. If we had to consider ourselves alone, we could introduce the proposed system, and in three months the people would be perfectly settled down to the change, and would in no way find difficulties occurring under it. But in England it is quite a different matter. People there are not so educated as they are here. They have not had to adapt themselves to new and changed circumstances so constantly as we have had to do. They have not had within the life-time of one man, as we have had, a rum currency, and a dollar currency, and a bushel of corn currency. They have not had all these varying circumstances to adjust themselves to; and they have not the alertness of mind—I am not wishing in any way to derogate from their powers of mind—which people in a new country, who live under constantly changing conditions, have. If England had adopted the decimal system before her commerce had grown so great, she would to-day bless the fact of having done so. But she has now grown so large, her commerce is so great, her people have been so long accustomed to the old system, that it is very difficult for them to change. I believe it is an excusable thing for the Chancellor of the Exchequer, under the conditions prevailing in England, to hesitate—even although I believe he would be doing the best for the country by the adoption of the metric system of coinage and of weights and measures. But what is difficult in an old country is comparatively simple in a new one; and whilst I quite admit that the advice to wait is an

argument for Great Britain, still it is merely the argument of delay that is always advanced in these matters. I believe that in this, as in other things, Australia could do much to expedite the consideration and adoption of the proposed system by Great Britain. If we can do anything to push forward what will be of value to the British people, that should prove an additional reason for our adoption of the system. As to wedding the metric system of weights and measures to the metric system of coinage before adopting the latter, I see no reason why what is part of the process of decimalization should not take place—seeing that it is an advantage—before we accomplish the whole scheme. Owing to the relation of our weights and measures, our machinery gauges, our textile widths and lengths, and so on, to those of Great Britain, we can only decimalize in that direction when she does so. But I see no reason why the decimalization of our coinage, which I admit is a lesser reform, should await the larger reform which we hope will follow, and which the success of this would assist. I, for one, see none of those great difficulties that the Treasurer sees in the adoption of a decimal system of coinage. After some consideration, and after some tendency to favour delay, I came to the same conclusion—not influenced by the enthusiasm of the chairman of the committee, as the Treasurer has said—that hard-headed men have come to in Great Britain. The members of several English committees, in spite of the difficulties there, and in spite of the greater importance of the change in its effects upon the people, came to the conclusion that the proposed system ought to be adopted by the British people. I have come to the same conclusion as did the House of Commons, which unanimously passed a resolution to the effect that the introduction of the florin had been a success, and that it should be followed up by a further decimalization of the British coinage. One of the British committees which found that, in spite of the difficulties which might surround the introduction of the decimal system in Great Britain, it was a matter which should be undertaken at the earliest possible moment was not a small one, nor was it unrepresentative or unintelligent. It comprised some of the hardest-headed business men in the British Empire, men of thought, education, learning, and position. The original

Mr. Thomson.

members were Mr. William Brown, Mr. Cardwell, Mr. John Ball, Mr. Tufnell, Mr. Alderman Thompson, Mr. Dunlop, Mr. Matthew Forster, Lord Stanley—afterwards the Earl of Derby, who was by no means an enthusiast—Mr. Moody, Mr. Hamilton, Mr. John Benjamin Smith, Sir William Clay, the Marquis of Chandos, Sir William Jolliffe, and Mr. Kinnaid. They found as our committee, and prior British committees appointed to deal with the subject, found. As a matter of fact, only one British Commission has reported against the reform. Even that commission admitted the advantages which would attend the change, but reported against its introduction at the time, solely on the ground of expediency. In common with these various bodies, the committee appointed by this House holds that this matter ought to be faced at once, and we have far greater reasons for arriving at that conclusion than had the committees in Great Britain. If our committee has erred at all, it has erred in good company. I have much pleasure in supporting the report of the committee, and the able arguments—which I have refrained, as far as possible, from repeating—put forward last Friday by the chairman, the honorable member for South Sydney.

Mr. BAMFORD (Herbert).—After the very able and exhaustive speeches that have been delivered by the honorable member for South Sydney, and the honorable member for North Sydney, I think it would be futile for me to attempt to traverse any of the ground over which they have gone. I have no intention of taking part in this debate. My only desire is to put a question to the Treasurer. It has been said that if the Commonwealth undertook the coinage of its own silver it would secure a profit, or seigniorage, amounting to at least £30,000 or £40,000 per annum. At the present time, when the desire for economy is so strong, and the “Kya-Brummagem” sentiment is so much in evidence, so great a saving would be of much value, and I would ask the Treasurer if he proposes to take any definite steps to secure it?

Sir GEORGE TURNER.—I have been endeavouring for years past to secure that saving. My negotiations on behalf of the Commonwealth commenced on the 1st of May, 1901.

Mr. BAMFORD.—May I take that as an answer to my question?

Sir GEORGE TURNER.—Certainly I shall do what I can in the matter.

Mr. BAMFORD.—To see that the coinage of our silver is taken over by the Commonwealth?

Sir GEORGE TURNER.—Not to have it coined here, but to have the minting done for us at cost price.

Mr. BAMFORD.—That would secure the profit for the Commonwealth.

Mr. WATSON (Bland).—I have to acknowledge the good services which the committee appointed, at the instance of the honorable member for South Sydney, has done in gathering together such a mass of evidence from representative people throughout the Commonwealth, and in preparing the very able report upon the subject which they have placed before us. I confess, however, that I am somewhat in a quandary as to the position which one should take up at the present time. While I thoroughly agree with the members of the committee, and with the very able speeches made by the honorable member for South Sydney, and the honorable member for North Sydney, in support of the decimal coinage system, I find myself confronted by a difficulty. That difficulty is that even the comparatively small change proposed by the committee—and I am glad to see that they have decided in favour of the adoption of the sovereign as a basis—would involve a considerable commercial disturbance. I fully recognise the force of the argument put forward by the chairman of the committee and others, that the change would involve the minimum disturbance possible under any alteration to a decimal system of coinage. That some disturbance would necessarily be involved must go without saying; but I cannot see that we should gain anything like a corresponding advantage by making this change in the absence of any attempt to introduce at the same time the metric system of weights and measures.

Mr. G. B. EDWARDS.—One thing at a time.

Mr. WATSON.—One at a time is generally regarded as very good fishing. But I do not consider that it would be wise to have two distinct disturbances of trade in effecting what after all is only the one object. It seems to me that the convenience which would result to the people by the arrangement of our coinage upon a decimal basis would be comparatively small as compared with the great convenience,

not to say the absolute necessity, of a reform in regard to our system of weights and measures. That is the most important aspect of this question, and therefore I do not feel disposed to say that the proposed change in our coinage system should be made immediately. So far as the decimal system generally as applied to weights and measures is concerned, there appears to be year by year an increasing body of public opinion in England in favour of its adoption. Comparatively speaking, it was only a short time ago that the present Prime Minister of England, while holding office in another capacity, declared that the existing system was an arbitrary, perverse, and utterly absurd one. He gave every evidence of his sympathy with the proposal that England should adopt the metric system of weights and measures. The request then preferred was supported by representatives of almost every class in the community; by representatives of those associated with commerce, with labour organizations, with the teaching institutions of Great Britain, and every other class from whom an expression of opinion would be of value. There seems to be, therefore, a growing feeling in favour of this change being made at a comparatively early date. That being so, instead of adopting the amendment moved by the Treasurer, which would appear to prevent an expression of opinion on the part of this House, we should give some expression of our own desire. We should rather take a course which would clearly define what are the desires of this House. The sooner the change is made the better it will be, not only for British commerce and industry, but also for Australian trade. I believe that a change to the metric system of weights and measures, accompanied by the adoption of the decimal system of coinage, would materially affect Great Britain eventually, if not immediately, and that with that development of Australian manufactures, which honorable members on all sides of the House agree is reasonably possible within the near future, the change would also affect us very largely in our trade relations with the outside world. This House should give expression to any feeling which it may entertain in favour of the general adoption of the decimal system, and I am prepared at once to go to that extent, in order if possible to encourage the British Government to take the matter in hand without delay.

Mr. G. B. EDWARDS.—The next motion on the notice-paper deals with the metric system.

Mr. WATSON.—Quite so; but the position taken up by those who advocate the adoption of the report is that they are prepared to accept a system of decimal coinage for the Commonwealth whether we have the metric system of weights and measures or not. I do not think it would be wise to make one change without the other. If we did so, we should only create additional disturbance. The convenience which would result from any new system of coinage would not in itself be commensurate with the degree of disturbance which it would necessarily involve; but we should be justified in accepting the risk of any disturbance to secure the application of the metric system to coinage and weights and measures. For these reasons, my inclination is to give a vote which will express an opinion in favour of the immediate adoption of the decimal system throughout the Empire.

Sir GEORGE TURNER.—I said that I had no objection to the addition of words to my amendment so as to urge upon the British Government the advisableness of taking the matter in hand.

Mr. WATSON.—That is what I desire shall be done. If the Treasurer will agree to alter his amendment so that it will give an expression of opinion in favour of the change being made, while intimating at the same time that we await the decision of the British Government before taking action, I shall be satisfied. I do not know whether the right honorable gentleman has thought of any alteration that would meet that position, or whether he holds that there should be an amendment of the amendment.

Sir GEORGE TURNER.—There should be an amendment of the amendment.

Mr. G. B. EDWARDS.—What does the honorable member think of the suggestion that we should immediately secure the seigniorage on our silver?

Mr. WATSON.—I believe we are all agreed as to the justice and desirableness of obtaining for the Commonwealth whatever profit arises from the coinage of our silver and silver tokens.

Mr. G. B. EDWARDS.—In order to secure that seigniorage it would be necessary to issue different coins.

Mr. WATSON.—Possibly so, but even if we issued different coins the same values could continue to attach to them. In my

opinion, that would be a matter of easy arrangement. I propose to move—

That the amendment be amended by the omission of the word "any," line 3, with a view to insert in lieu thereof the word "a."

I shall put that forward only as a preliminary amendment. If it is agreed to, I shall move for a further amendment of the amendment so that it will read something like this—

In the opinion of this House a change to decimal coinage is desirable in Australia, but should be preceded by its adoption in the United Kingdom.

Mr. SPEAKER.—The honorable member will find, if he looks at Standing Order 139, that it provides—

When it is proposed to leave out words in the main question, in order to insert or add others, no amendment to the words proposed to be inserted or added can be entertained until the question—that the words proposed to be left out stand part of the main question—has been determined.

So that, while the honorable member can now intimate that he proposes to move in a certain direction, the statement of his amendment and the opportunity of voting upon it must await the decision upon the question whether the words proposed to be omitted stand part of the question.

Mr. WATSON.—I shall have an opportunity of moving the amendment later?

Mr. SPEAKER.—The honorable member may formally state his amendment now, and he will have an opportunity of moving it at the proper time.

Mr. G. B. EDWARDS (South Sydney).—I do not think that it is necessary to say very much in reply to the debate, which, although it has been short, has, I think, exhibited the fact that we have a general consensus of opinion of this House in favour of the adoption of a decimal system. The only objection which appears to lie against the adoption of the report of the committee has been forcibly expressed by the Treasurer, but I am inclined to think with the honorable member for North Sydney that that objection is largely accounted for, in the right honorable gentleman's case, by his well-known mental attitude of proceeding along the line of least resistance. I think that we are not looking at this question sufficiently from the Australian point of view. I can see no reason whatever against our taking this action, even though England does not take similar action. All the arguments used in

support of the view of the question that we should delay until England has taken action seem to me to be perfectly groundless. There can be no disturbance of trade and commerce between Australia and Great Britain by reason only of our adoption of a currency slightly different to that used in England. As I pointed out originally, that difference exists in a very much greater degree at present in the relations between Canada and Great Britain, and yet nobody in Great Britain, and certainly nobody in Canada, has felt that difference to be any obstacle to trading operations between the two countries. There will be very little difficulty in expressing a value in the two moneys. The Commonwealth money, should the recommendations of this report be carried out, and the present currency of Great Britain, can be transferred at sight by any one, however well or ill educated he may be, with the exception of small sums at the right of the statement, that is, sums from 5½d. down to a farthing; and, in the most ordinary transactions of life, the difference that could exist between those sums in either currency would be so slight as to be hardly worth considering. I think we have exhibited in the Commonwealth in the first two years of our history too great a subserviency to use and wont. We will follow old systems, we will await the action of other countries, and we will look for precedents in all that we do. I know that it was one of the most striking features of early American history that, in all her people did, they had the courage to grasp their own problems, and to resolve them in their own way, to meet their own circumstances. But as soon as we propose anything in Australia in the direction of reform, we are met at once with the argument that it is not desirable that we should effect the reform, but that we should rather await the action of the mother country in that direction. When we look into this reform and its past history in the mother country, we find that although, in common with other reforms proposed, it has been supported by the ablest men and the most powerful representative bodies in the community, and although there is actually a majority of the members of the House of Commons in its favour, it cannot find expression in the legislative enactments of the country. Why? It is because there is always some other question which, in the political eye, assumes vaster proportions

than this great reform, which I think is of more importance to the social and economic well-being of the people than many other reforms which might be mentioned. I adhere to my original statement that, if this reform were carried out in its entirety, it would mean over £1,000,000 per annum to the people of the Commonwealth—I mean if we secured the decimalization of the coinage, and followed that up by the decimalization of weights and measures. Against a reform of that magnitude I find that the strongest, and in fact the only objection offered, is that we should wait the action of England. I do not wish to labour the question; I feel little personal interest in it; but I do think that it is the first reform brought before us which can effect a large saving, and, having regard to the simplicity of its working in its various operations, it is one which should be more favorably entertained than I fear it is going to be by this House. The committee did not come to their conclusions solely upon the evidence accompanying the report, and to which the Treasurer has referred. Although I contend still that that evidence analyzed by the most perfectly judicial mind should give sufficient weight of support to carry this proposal into effect, I say that we were not bound by that. The committee have had one witness, as I have said, in the Library, and that witness was used to the fullest extent. I recollect that in the early days of the proceedings of the committee, my old friend, the late Mr. Piesse—and that gentleman and the late Mr. Groom, the only two members of this House whom, I am sorry to say, we have lost by death, were members of the committee—occupied morning after morning in the Library, and I occupied many days in the Public Library, hunting up all possible information upon this question. The honorable member for North Sydney also hunted up all the political reports and records of this movement, and it was those records, those works and opinions of the great master minds of the age upon the subject, which influenced the committee as much as, and probably more than, the evidence of the merchants of the Commonwealth, or the representatives of the many institutions from whom we sought information. I think the committee did all they possibly could to get to the bottom of the question, and they came to a unanimous conclusion. There was no dissentient voice upon the report, and it is, at any rate,

entitled to the favorable consideration of this House. Of course, honorable members cannot always see these things from the same point of view; but I do believe that there is nothing whatever in the argument that we should await the action of England. We can take the action recommended by the committee without embarrassing England. If we do take it, we shall help England to carry out this reform. It is admitted that it is a great reform, and I repeat that in adopting it here we shall assist in the carrying out of the reform in England. Apart from that, there is no reason whatever why we should accompany this reform by a similar reform with respect to weights and measures, except that the decimalization of weights and measures is also a great and a desirable reform. It is possibly a more desirable reform than is the one proposed by the committee, but there is no reason why either the one or the other should not be undertaken by itself. The reform here proposed is the simpler of the two, can be more easily carried into effect, and its adoption will help the other reform. For that reason alone, if for no other, I think this House would do well to agree to the motion.

Question—That the words proposed to be omitted stand part of the motion—put. The House divided.

Ayes	...	...	19
Noes	...	...	18
Majority	...	...	1

AYES.

Bamford, F. W.	Paterson, A.
Braddon, Sir E.	Smith, S.
Clarke, F.	Spence, W. G.
Conroy, A. H.	Thomson, D.
Edwards, G. B.	Tudor, F.
Glynn, P. McM.	Wilks, W. H.
Hughes, W. M.	
Kirwan, J. W.	
Mahon, H.	
Mauger, S.	
O'Malley, K.	

Tellers.

Cook, J. H.
Fisher, A.

NOES.

Barton, Sir E.	McEacharn, Sir M.
Bonython, Sir J. L.	McLean, A.
Chanter, J. M.	Page, J.
Cruickshank, G. A.	Turner, Sir G.
Deakin, A.	Watson, J. C.
Forrest, Sir J.	Wilkinson, J.
Fysh, Sir P. O.	
Kennedy, T.	
Kingston, C. C.	
Lyne, Sir W. J.	

Tellers.

Chapman, A.
Groom, L. E.

Question so resolved in the affirmative.

Amendment negatived.

Mr. G. B. Edwards.

Original question—put. The House divided.

Ayes	...	...	21
Noes	...	...	18
Majority	...	...	3

AYES.

Bamford, F. W.	Paterson, A.
Braddon, Sir E.	Poynton, A.
Clarke, F.	Smith, S.
Conroy, A. H.	Spence, W. G.
Crouch, R. A.	Thomson, D.
Edwards, G. B.	Tudor, F.
Glynn, P. McM.	Wilks, W. H.
Hughes, W. M.	
Kirwan, J. W.	
Mahon, H.	
Mauger, S.	
O'Malley, K.	

Tellers.

Cook, J. H.
Fisher, A.

NOES.

Barton, Sir E.	McEacharn, Sir M.
Bonython, Sir J. L.	McLean, A.
Chanter, J. M.	Page, J.
Cruickshank, G. A.	Turner, Sir G.
Deakin, A.	Watson, J. C.
Forrest, Sir J.	Wilkinson, J.
Fysh, Sir P. O.	
Kennedy, T.	
Kingston, C. C.	
Lyne, Sir W. J.	

Tellers.

Chapman, A.
Groom, L. E.

Question so resolved in the affirmative.

METRIC SYSTEM.

Mr. G. B. EDWARDS (South Sydney)

—I move—

1. That the Parliament of the Commonwealth of Australia is of opinion that the adoption of the decimal system of weights and measures, now in use in France and other countries of Europe, and commonly known as the *metric system*, is a most desirable national reform: that it would economize time and money in professional, trading, and mechanical operations; secure a far higher degree of national education without increased cost; and would avoid the impending danger of serious loss in the Empire's trade through the differences existing between our standards and those of a majority of the civilized nations of the world.

2. That an Address be presented to His Excellency the Governor-General, praying that His Excellency will cause the foregoing resolution to be forwarded to the Right Honorable the Secretary of State for the Colonies for the information of the Parliament of the United Kingdom.

3. That the foregoing resolutions be forwarded to the Senate, with a request for its concurrence therein.

I did not think that this motion would be so fortunately situated on the notice-paper as I now find it after the adoption of the report of the committee upon a Commonwealth coinage. It deals with the other, and the greater part of the reform which

the committee recommend. Had they been empowered to inquire into the advisability of adopting the metric system, I feel sure they would have reported as strongly in favour of its adoption as they did in favour of the adoption of a system of decimal coinage. But, although the subject was not referred to them, it necessarily had to be considered by them to some extent, and they took upon themselves to recommend that Parliament should take the earliest opportunity of supporting any movement for the adoption of the metric system throughout the Empire. Consequently I felt justified in following up my motion for the adoption of the committee's report with the motion which I have just moved. It sums up, in the most condensed form in which I can put them, the great advantages of the metric system of weights and measures. Necessarily, in debating the motion which has just been disposed of, many references had to be made to those advantages, and as I do not wish to go over the ground already covered, I propose to confine my remarks now to the broad outlines of the case for the adoption of the system. I know that the subject received attention during the Premiers' Conference which was recently held in England, and that the conference came to the determination that it was desirable that action should be taken throughout the Empire to secure this reform. I understand further that the Prime Minister is desirous of obtaining resolutions from this Parliament which will assist to carry out the wishes of the members of the conference, and if what he proposes will coincide with my own views on the question, as I have every reason to believe it will, I shall have great pleasure in allowing, with the permission of the House, the substitution of his motion for that of which I have given notice, because I think it is right that in a matter of this sort he should act for the Commonwealth. But I do not think that a motion of this importance should be brought before the House without something being said in its favour. I do not wish to belabour the subject, but, although a great deal is glibly said about the advantages of the metric system, and, on the other hand, a great deal is spoken with equal glibness about the trouble and inconvenience which a change of system would occasion, I should like briefly, by placing some extracts before the House, to outline the great advantages of

the system, its present position amongst the nations of the world, and the disadvantages, owing to the non-adoption of the system which it is imposing upon Great Britain in respect to her trade and commerce with other countries. The metric system is now in use by some 480,000,000 people, who comprise all the more highly civilized nations of the world, with the exception of England, America, and Russia. But Russia is almost on the eve of adopting the system, a change to it being now under consideration in that country, and the United States of America and Canada have been agitating for its adoption for some time past. Indeed, in the United States, they have gone so far as to compel its use for chemical and scientific records, and in connexion with the records and statistical information collected under their Customs administration, the weights are estimated, and the records are checked under that system. The adoption of the metric system has also been advocated in Great Britain for a considerable time past, as I showed honorable members when I spoke in favour of the adoption of a Commonwealth decimal coinage, and it has received the support of the most influential bodies in the Kingdom. It has the support of quite half the members of the British Parliament; it has been favorably referred to by one British Minister after another, and it is safe to affirm that the consensus of competent opinion throughout Great Britain is in favour of its adoption. Moreover, there is a common fear amongst the thoughtful people of that country that, if they do not adopt the metric system now, notwithstanding the friction and the expense which its adoption will cause, the expense and trouble of the change will become greater as time goes on, and, in the meanwhile, the retention of the present system will so affect British manufacture and trade that her people will lose countless millions of money. I should like to refer briefly to the outlines of the system. Although the metric system is attributed to the French, its adoption was first advocated by our own countryman, James Watt, the celebrated engineer. Prior to its advocacy in 1879 in France, James Watt published to the world his opinion that it was very desirable to adopt a metric system of weights and measures. He proposed to take the foot and decimalize it, to square it for the square measure, and to cube it for the liquid measure. In

the latter case, he took the weight of a certain quantity of water in a given cube, at a certain temperature, weighing it with scientific exactitude, and adopting the result as the unit of weight. This idea of James Watt was exactly the same as that subsequently adopted by the reformers in France, the only difference being, that instead of adopting as a fixed standard some measure then existing in France or some other country, they had a Quixotic notion that it would be better to derive a standard from some great natural feature or great fact connected with the world's outline. They chose a quadrant of the earth's surface, scientifically measured it, and then adopted one ten-millionth part of that as their standard. Many opponents of the metric system have referred with considerable glee to the fact that, after measuring the earth's quadrant and adopting a unit based upon it as their standard, the French authorities subsequently found out that their measurements were not quite correct. As a matter of fact, it did not matter whether they took the earth's quadrant, or the orbit of Venus, or a bee's cell, or a second's swing of the pendulum. The metre was only the x in the problem, and everything else in the system must fall in with it. The metre is very little different from our own yard measure, and if a foot had been taken as a standard it would not have made any difference. If a foot had been the standard and had been followed out upon the metric system, the results would have been precisely the same. The system based upon the French standard has been adopted, as I previously stated, by 480,000,000 of people, and therefore it would be very desirable for the British nation to fall in with it. In our own system of weights and measures there are singular coincidences which assist calculations of certain kinds. But in the metric system you do not find a few isolated cases of this sort, but the whole system is a series of coincidences. Coincidence is the very basis of its origin; it is a train and tissue of coincidences from one end to the other. Some of these give remarkable assistance to scientific men in working out their calculations. Take water for instance, the standard of weight, a centimetre, the system being properly understood, gives the quantity and weight at the same time. It is not necessary to go through a series of calculations in order to solve the

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problem. Similarly, when the bulk of a particular liquid is ascertained, and is multiplied by its specific gravity, the weight can be at once determined. The whole system is full of coincidences from one end to the other. It has stood the test of time and experience, and provides every facility that is required. Statesman after statesman, merchant after merchant, and philosopher after philosopher, have expressed the opinion that our weights and measures system is a disgrace to our civilization. Everywhere it has been condemned as the haphazard growth of centuries, which, though perhaps primarily framed according to some connected system, has wandered away from original principles until there is no connexion between its various parts from one end to the other. Although the system has been condemned from time to time by able statesmen, who have had it in their power to bring about a reform, no alteration has ever been made. One of the rising statesmen of England, Mr. Arnold-Forster, who is now Secretary to the Navy, foresees that this reform must come about, and in a little book, from which I intend to quote, called the *Coming of the Kilo-gram*, he illustrates in a most lucid manner, for the information of the whole of the English people, what it will mean to their trade and commerce, how much can be said in its favour, and even against it, and why it is not adopted. Among the reasons which he gives why the system is not adopted is one which, I think, accounts for the whole difficulty. He says—

No Government ever does anything because it is right, or wise, or logical, or scientifically correct. Changes are made, not because they are wise, but because they are unavoidable. The pressure of public opinion, and the fact that it is more difficult and tiresome to refuse a reform than to grant it are now, in 99 cases out of 100, the prevailing motives which influence an over-worked and half-informed administration. What is true in regard to many other matters, is true in regard to the metric system. Till public opinion has been formed and expressed in a way which cannot be mistaken, no change will be made by British Ministers. Our system of government has advantages, but it is not conspicuous for its readiness to accept scientific opinion, or to take the lead in any intellectual or scientific movement. In such matters British Governments generally follow a very long way behind, as any one who is acquainted with the technical and scientific equipment of continental countries is perfectly well aware.

A few years ago a series of articles was published regarding, and a great deal of

consideration was given to, what was called the "Made in Germany" question. We shall have to give greater and greater consideration to this question if we are determined not to follow the more scientific methods that have been adopted in France, Germany, and many other continental countries. Amongst these highly scientific systems, that of decimal weights and measures is probably one of the very highest. The ramifications of this system extend through every province of life, and every operation by which man earns his living, creates wealth, discovers scientific facts, or forms a philosophic thesis. In every operation the decimal system of weights and measures helps man to do what is required of him with less exertion and greater accuracy, and assists the nation to greater national wealth. The honorable member for North Sydney has pointed out some of the reasons which have actuated those who have pressed forward this reform in the interests of the manufactures of the old country. I have here a report of an address delivered by Professor Liversidge at the University of Sydney. That gentleman, who is a scientific man, when addressing his students quite recently referred to the metric system, and pointed out its great advantages, and also what it would mean if we adopted it. He said—

It must be borne in mind that to make the change to the metric system would involve a money loss of untold millions, both to England and to the United States of America, since nearly all the present machinery would have to be altered; to take a single case only, instanced by a writer in a recent review, to adapt yard-wide looms to produce metric widths would mean an immense outlay of money, and a great loss of time; but unless this change be made a still greater loss will eventually ensue. In both countries it is used, to a certain extent, by some manufacturers and by instrument makers. I need hardly say that it is used by chemists and physicists in all parts of the British Empire. It is quite an easy thing for small, new, and non-manufacturing countries to adopt the metric system; it merely means a change in the method of buying and selling, and it does not involve the alteration or replacement, at a stupendous cost, of the manufacturer's plant and machinery.

Undoubtedly one of the difficulties connected with the adoption of the system will be felt—more largely, perhaps, in the old country—in connexion with the abolition of machinery now in use, which will be rendered obsolete. We have, however, either to face this loss now, or to continue our present obsolete system, and face a still greater loss

which will recur annually and go on for all time. Quite recently the Board of Trade issued circulars to the various consuls and vice-consuls in foreign parts, asking them for any suggestions they might be able to offer with regard to the improvement of trade facilities with Great Britain. Some of these reports are instructive, as showing what Englishmen in various parts of the world, occupying official positions, which compel them to take notice of what is going on, have thought of the wisdom of continuing our present system of obsolete weights and measures. We are told that in most Central and South American countries—

The metric system, while recognised officially, and used in Government offices and for Customs purposes (although even there it is not strictly enforced), is not used in the interior, where the original Spanish measures are retained. The existence of the two systems naturally give rise to confusion.

In Japan—

The metric system is used side by side with the old Japanese weights and measures, but its use appears to be almost confined to dealing with foreigners.

I have read two of the most adverse reports first, if only to show that in countries where we should expect to see the least desire to adopt this modern improvement they have at any rate the two systems, whilst in other countries we find that they have adopted the metric system solely. Mr. Vice-Consul Kerr reports that in Chili—

"The general opinion would appear to be that the use of this system for measures and money has always been attended with great success, and it undoubtedly possesses greater correctness than any other known system." The metric system was adopted in Mexico in 1862, but was not made compulsory until 1898, the delay being due to the persistency of the lower classes, mostly Indians, in using the old methods.

Regarding Argentina, Mr. F. S. Clarke states that there can be no doubt as to the satisfactory practical operation of the metric system, and he has observed no desire to return to the former system. From Brazil it is reported that the introduction of the new method appears to have been effected with perfect ease. It is considered to have greatly facilitated commercial transactions, and there is no desire to revert to former systems. Other extracts from the British Consular reports read as follows:—

(a) Milan, Italy, 28th October, 1894.—As an engineer of some twenty years' residence upon the continent, I have no hesitation whatever in stating that the present system of English weights and measures is detrimental to British

commercial interests in countries like this, where the decimal and metrical system is in force. The sooner the decimal system is adopted by Great Britain the more advantageous for her commercial interests when trading with the continent in particular, as also to facilitate home calculations, especially in engineering departments, where excessive accuracy is an absolute necessity.

(b) Varna, 23rd October, 1894.—If the quotations and specifications in trade lists are made out in English standards of weights and measures, intending purchasers here generally throw them aside, and consult others which give the required information in metres, kilogrammes, &c.

I will now quote from another Consul's report, dated Rouen, 24th October, 1894, which reads—

Within the past sixteen years I have served as Her Majesty's Consul in three countries using the metric and decimal systems, and I have not unfrequently had occasion to observe the maze into which an English trade prospectus or circular, if drawn up only on the British system, throws a foreigner, accustomed from childhood to the perfect simplicity of the metric system.

I may add that Lord Cromer has, to some extent, introduced this system into Egypt, where it has been one of the factors that have contributed to his remarkably successful administration. As previously stated, I desire to confine my remarks to quotations from high authorities regarding the benefits to be derived from the adoption of the metric system, in order to place upon record the opinions of thoughtful minds upon the subject. Writing upon this matter, the *Bulletin* says—

To most people the metrical system is a mere abstruse fad—a struggling of school men after a useless mathematical accuracy which is of no practical interest or advantage to the multitude. In the common opinion, the man who wants to introduce it ranks with the person who wants to demonstrate that the world is flat and the person who believes in the literal rendering of revelations, and similar learned debris of the human species. Yet the man who succeeds in introducing that system in Australia will be probably the greatest benefactor this country has had up to date. He will remove such a load of useless misery from the shoulders of the rising generation as no Australian ever removed before—and not only from the shoulders of the generation that is rising now, but from those of hundreds of generations which will begin rising hereafter. He will get rid of a dull and cumbrous stupidity that has blocked the path of education for ages, and which has no single real advantage to show by way of counterbalance to its uselessness. The present system of weights and measures and money has only one alleged positive merit—its antiquity; and it has only one negative merit—that the adult community which makes the laws have got used to it in a sort of way, and finds it easier to let things slide than to make them better.

The weights and measures and money which Australia inherited from Britain are such a

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sample of the malice of inanimate objects as could only exist in a community which had let things grow up mostly by themselves for 1,000 years or more. It takes the average child a great part of its time from six to twelve months to learn them, whereas the metrical system can be learned in as many days. It takes years of wrestling with arithmetic to become decently familiar with them, even after they have been formally introduced to the mind.

The latter portion of the article reads thus—

Of course, it would be something of a burden on the 3,000,000 or so of adult Australians to learn a new system. But still they are only 3,000,000—and the unborn Australians, whose education it would greatly simplify, are 30, or 300, or any other number of millions.

We have to consider not merely the benefits which we shall derive from this system, if we succeed in persuading the Empire to adopt it, but those which we shall confer *in futuro* right down through the centuries. I have no doubt whatever that by the introduction of the decimal system of coinage and the decimalization of our weights and measures we should effect very large savings in the educational bill of the Commonwealth. It would further save the Empire from the great impending danger of loss of trade throughout the world consequent upon the use of standards which are different from those of other nations. Wherever we turn for information upon the subject, we are brought face to face with the fact that buyers of machinery in various parts of the world have come to the conclusion that unless that machinery is constructed according to the metric system they are placed at a disadvantage in obtaining it from England. Mr. Arnold-Forster, to whose book, *The Coming of the Kilogram*, I have already referred, summarizes the matter in a very popular and lucid way by giving the following testimony to the value of the metric system of weights and measures—

1. 450,000,000 people use it.

2. No nation having adopted the metric system has discarded it nor has it made any improvement on it.

The fact is that the system is *ab initio* so perfect that no improvement can be made upon it. He continues—

3. The Right Honorable A. J. Balfour, First Lord of the Treasury, remarked, on the 20th November, 1895, in his speech to the deputation of Chambers of Commerce—"There can be no doubt. I think, whatever, that the judgment of the whole civilized world, not excluding the countries which still adhere to the antiquated system under which we suffer, has long decided that the metric system is the only rational system."

4. A Select Committee of the House of Commons was appointed in February, 1895—"To inquire whether any and what changes in the present system of weights and measures should be adopted." This committee, after making a most searching examination, recommended the following measures :—

- (a) That the metrical system of weights and measures be at once legalized for all purposes.
- (b) That after a lapse of two years the metrical system be rendered compulsory by Act of Parliament.
- (c) That the metrical system of weights and measures be taught in all public elementary schools, as a necessary and integral part of arithmetic, and that decimals be introduced at an earlier period of the school curriculum than is the case at present.

5. The following public bodies have passed resolutions in favour of the adoption of the metric system, viz. : 29 town councils, 18 trades councils, 29 school boards, 40 chambers of commerce, 45 public bodies and associations.

6. British Consuls in many parts of the world (in the interest of our enormous foreign trade) recommend the immediate adoption of the metric system.

7. It is the opinion of eminent men who have studied the subject, that by discarding the present system and adopting the metric system, one year would be saved in the education of every child.

8. It is an acknowledged fact that calculations in the metric system necessitate less than one-half the number of figures required by the present British system.

9. The metric system has been introduced into almost every civilized nation, and into many semi-barbarous countries without the slightest difficulty. Why then should any difficulty be apprehended in its introduction into our country ?

In these extracts Mr. Arnold-Foster has, I think, ably summed up the advantages of this system, and of the reasons why it should be adopted by the Empire. I quite agree with many honorable members that it would be absolutely impossible for the Commonwealth to deal with such a vast reform unless acting in conjunction with the Empire; and to that end we cannot do better than to refer the subject in the form of an expression of our opinion, which would assist the advocates of the reform in the old country, to the Imperial Government. The system has been taught, not only in the schools of Great Britain, but in the schools of Australia. I have two little daughters who work problems in the metric system far more ably than I could, and I see that in various superior schools in Australia, the system is not only constantly taught, but problems in it are given as subjects for examination. In England the

system has been prescribed for several of the forms in the board schools, and even younger boys and girls are taught it, those who enforce the teaching being of opinion that, as sooner or later the system must be adopted, it is necessary to instruct the rising youth. According to Professor Liversidge, the students at the Sydney University have been using the system for some years without difficulty, and find it greatly expedites their work. Seeing that the system has been introduced everywhere, and that there is such a body of opinion in favour of it, is there any reason why it should not be adopted? It seems, as I said before, that the adoption of the system in Great Britain is prevented only by those great questions which loom so large in the political eye, such as the Irish question and the South African question, which, important as they are, possibly mean less to the future welfare and prosperity of the Empire than the reform I am now advocating. I feel very proud to have succeeded this afternoon in getting the report of the Decimal Coinage Committee adopted, and proud also to have been in a position to introduce the present motion; but all that to me is nothing compared with the satisfaction which we, as a House, should feel in assisting the advocates of the reform in the old country to carry it into effect—to bring about that time when we shall approach very much nearer to what I consider was the highest and the purest ambition of the great Napoleon, who once said that he hoped to see one weight, one measure, one money, and one common law throughout the world. John Quincy Adams hoped to live to see that time when the metre adopted by the French would go right round the world in use, as it did in geographical extension. I desire to ask the leave of the committee to substitute for my motion a series of motions which the Prime Minister desires, and I feel rightly desires, should be adopted in order to carry out the undertaking that he entered into when he represented this Commonwealth at the recent conference of Prime Ministers in London. At that conference a resolution was passed as follows :—

That it is advisable to adopt the metric system of weights and measures for use within the Empire, and the Prime Ministers urge the Governments represented at this conference to give consideration to the question of its early adoption.

The Prime Minister, although I forestalled him, intended to introduce the motions which I now ask to be allowed to submit in lieu of that of which I originally gave notice. The motions I desire to submit are as follow:—

1. That in the opinion of this House it is desirable that the metric system of weights and measures should be adopted with the least possible delay for use within the Empire.

2. That the most convenient method of obtaining the object stated in resolution 1 is the passage of a law by the Imperial Parliament rendering the use of the metric system compulsory for the United Kingdom and for all parts of the Empire, whose legislatures have expressed, or may thereafter express their willingness to adopt that system.

3. That these resolutions be communicated by address to His Excellency the Governor-General for transmission to the Secretary of State for the Colonies.

4. That the foregoing resolutions be forwarded to the Senate by message with a request for its concurrence therein.

Question amended accordingly.

Mr. HUME COOK (Bourke).—I have much pleasure in seconding the motion. As I intimated the other day in seconding the adoption of the report of the Select Committee on Decimal Coinage, I think that both that system and the one now under consideration should be the subject of one reform.

Sir EDMUND BARTON (Hunter—Minister for External Affairs).—I desire to make a few observations with the object of furthering the end which the honorable member for South Sydney has in view—for the furtherance of which end, indeed, my resolutions, which the honorable member has now submitted, were originally drafted. I may say that it was my intention to seek an opportunity to propose those resolutions during the present session, and I drafted them with that object before the honorable member for South Sydney had, and very properly, given notice of his motion. The object which I have in view in seeking the adoption of the resolutions in the form I have suggested, and which the honorable member has acquiesced in, is that the matter may be brought before the Imperial Government and Parliament in the most concrete and practical form possible, and in order to further the adoption of the system throughout the Empire. It will be obvious that the application of the system to one portion of the Empire like Australia might, of itself, rather impede

than facilitate the commercial operations it is desired to make simpler and more general. But if the reform spreads from the centre of the Empire, and if the Parliament of the United Kingdom first legislates in a manner which can be adopted by all parts of the Empire, then the facilitating of commercial transactions becomes co-extensive with its adoption in the Empire, not to speak of the enormous benefits which will result, in the terms of the honorable member's own motion, in dealing with other countries. The honorable member asked us to affirm that the adoption of the system would—

—economize time and money in professional trading and mechanical operations, secure a far higher degree of national education without increased cost, and would avoid the impending danger of serious loss in the Empire's trade through the differences existing between our standards and those of a majority of the civilized nations of the world.

The honorable member for South Sydney has referred to the resolution passed at the conference of Prime Ministers last year, and there is no necessity for me now to repeat its terms. It would be as well, however, to mention what was the attitude of the Secretary of State, as representing the British Government at the conference. The Secretary of State was opposed to the original suggestion that there should be an adoption, so far as it could be made in any way of effect by the conference, of the system of decimal coinage. If I may mention the matter, it does appear that the Imperial Government, if at all in favour of the adoption of the decimal system, is at any rate not in favour of it at present, or until the metric system can be first adopted. The adoption of the metric system would, therefore, of itself advance a stage further the adoption of the decimal coinage system. It is clear to my mind, however, from what took place at the conference, that if our end is to be secured within a reasonable time, the adoption of the metric system must precede the adoption of decimal coinage, unless, indeed, by some great good fortune the adoption of the two reforms can be made concurrent. The prime object, therefore, is the passage of legislation in the United Kingdom for the adoption of the metric system throughout the Empire, and that is the practical object of the motion which the honorable member has so kindly accepted at my request. It will be seen that the second resolution

deals with the compulsory adoption of the system. The experience of authorities on the subject, and the results of inquiries by select committees, and by other methods, have shown that the mere legalization of the system would no more affect the reform than would a similar legalization of the decimal coinage system. The select committee of the House of Commons on weight and measures, whose report the honorable member quoted, recommended in 1895—

That the metrical system of weights and measures be at once legalized for all purposes.

They were not blind to the fact that this would not be sufficient, and they therefore proposed—

That after a lapse of two years the metrical system be rendered compulsory by Act of Parliament.

The difficulties in the way of both these systems are not in their application after they have once obtained general use, but in the period of transition from the use of the old system to the use of the new one. A remark or two will make it clear what are the difficulties during the period of transition, and how adverse the ordinary citizen will be to make the effort which is involved in that transition, unless there is some legislative authority which may turn his mind in that direction. The metric system is based upon the assumed length of the direct distance from the Equator to the North Pole. The ten-millionth part of this distance was adopted in 1795 by the French Government as the unit of length and called a metre. All other measurements are derived from this unit. The unit of capacity is the cube of a tenth part of a metre, and is called a litre. The unit of weight is the weight of a litre of water at a certain temperature, and is called a kilogramme. The unit of land measurement is a hectare, which equals 10,000 square metres. If that is not enough to show the initial difficulties, let me give the equivalents under our present system of weights and measures. A metre is equal to 39·37 inches, a litre to 1·76 pints, a kilogramme to 2·2 lbs. avoirdupois, and a hectare to 2·47 acres. It is obvious that, in attempting to carry out that change, the difficulties which beset the initial calculations for the purpose are more than the ordinary adult population would care to face, and it is therefore that

stress has been laid by those who have inquired into the subject on the teaching of both the new systems in all public and elementary schools, which is absolutely a necessity towards their ultimate and universal adoption within the empire. That recommendation of the select committee of the House of Commons in 1895 is also an essential, and will have to be faced, so as to give it absolutely full effect in any measures which we may subsequently adopt. Reverting to the argument, that to be effective the reform must be compulsory, what has been the course of legislation on this subject? In 1897 the Weights and Measures or Metric System Act, 60 and 61 Vict., c 46, was passed by the British Parliament. The use of the metric system had been authorized by the Weights and Measures Metric System Act 1864, 27 and 28 Vict., c 117. In spite of this it was doubtful, after the passage of the Weights and Measures Act 1878, 41 and 42 Vict., c 49, whether section 19 of the last-mentioned Act did not render liable to a fine any person using the physical weights of the metric system in trade. Section 1 of the Act of 1897 renders the use of such weights in trade lawful. By section 2 of that Act the Board of Trade standards, which might be made under section 8 of the Weights and Measures Act 1878, were to include metric standards derived from certain metric standards deposited with the Board of Trade. By section 2 of the same Act the Queen was authorized to make, by Order in Council, a table of metric equivalents in substitution for the table in Part I. of the 3rd schedule to the Weights and Measures Act 1878. No such Order in Council has yet been issued. The first position, therefore, is that the mere legalization of the system will never lead to its general adoption, and that is very largely shown by what I have said, first, as to the origin of the system, and next as to its history in the United Kingdom, and is further shown by what is advanced in the report of the Select Committee of the House of Commons. It is desirable for the House to resolve that the best and most convenient method of attaining the object stated is the passage by the Imperial Parliament of a law rendering compulsory the use of the metric system in the United Kingdom and in all other parts of the Empire whose Legislatures have expressed or may hereafter express their

willingness to adopt that system. When the law is passed, as it ought to be passed, first in the United Kingdom, and adapted to apply to other parts of the Empire, it may automatically come into operation in those parts whose Legislatures have not up to that time expressed their willingness to adopt the system so soon as the law is adopted by them, and by its gradual adoption in that way its usefulness will extend to every corner and portion of the Empire. I do not wish to speak at great length, because both on the other question and on this one the honorable member who has brought the subjects before the House, has performed his duty well, and has given full information to this Legislature. We desire, in common with the honorable member, that the resolutions of the House should be sent to the Senate for their concurrence in order that when they are sent to the Secretary of State for the Colonies through the Governor-General they may stand, not merely as the expression of this House or of the Senate, but as the conjoint expression of both Houses, and thus have that added weight which such concurrence will give them. I have nothing more to say, except that as it is one of the matters upon which the Conference of Premiers in London arrived at a resolution, the solution which is now presented, as far as immediate needs go, is altogether welcomed by the Government, who take this opportunity, with the assistance of the honorable member, to adopt the step suggested, and so bring the matter into such a practical form as may lead to the earlier adoption of so much needed a reform.

Mr. CONROY (Werriwa).—I should have spoken at some length, had it not been that I think the remarks made by the honorable member for South Sydney have been so extensive that little remains to be said in support of the resolutions. For many years I have been thoroughly convinced that a change of this sort would be for the ultimate advantage of the public. Of course, one difficulty is that, when a change is made, there will be a certain amount of annoyance created amongst individuals, especially amongst the older portion of the population, who are not so ready as the younger portion to welcome any changes. A great deal of that difficulty, however, is being overcome by the schools in New South Wales and Victoria, and, I believe, in other States, in teaching the metric system

side by side with the present system. In that way a very large portion of the difficulties will be overcome. I can only express my great feeling of thankfulness that this question is to be forwarded by a resolution of this House, and that the Ministry have expressed their willingness to fall in with it—that, in fact, the motion is really anticipatory of a resolution that they had intended to submit to the House. It shows all the more courage on the part of the Ministry to do this, because, from the very annoyance which may arise from the adoption of a new system, and which is seen and felt by every one—although it may be followed by ultimate benefits to the community, those benefits are not so readily perceived—a matter of this kind is not always one that politicians care to deal with. I congratulate the Government on having taken advantage of the superior knowledge that they have obtained on the subject, and which has led them to support this resolution.

Question, as amended, resolved in the affirmative.

ADJOURNMENT.

GOVERNOR-GENERAL'S SPEECH: ADDRESS IN REPLY.

Sir EDMUND BARTON (Hunter—Minister for External Affairs).—I move—

That the House do now adjourn.

May I state that probably Mr. Speaker has a statement to make to the House, which I shall be glad if honorable members will wait to hear? It has reference to the address in reply.

Mr. SPEAKER.—I desire to remind honorable members that it has been arranged that this House is to wait upon the Governor-General this afternoon at the Treasury buildings at ten minutes past three o'clock, with the view of presenting to His Excellency the address in reply which was recently passed. I shall be glad if such honorable members as desire to do so will meet me here at three o'clock, so that we may proceed to the place appointed to wait upon His Excellency.

Question resolved in the affirmative.

House of Representatives.

Tuesday, 23 June, 1903.

Mr. SPEAKER took the chair at 2.30 p.m., and read prayers.

GOVERNOR-GENERAL'S SPEECH : ADDRESS IN REPLY.

Mr. SPEAKER.—I have to inform honorable members that His Excellency the Governor-General was pleased, on Friday last, to make the following reply to the address adopted by this House :—

MR. SPEAKER AND GENTLEMEN OF THE HOUSE OF REPRESENTATIVES—

It gives me great pleasure to receive your address in reply to the speech delivered by me on the occasion of the opening of the second session of the first Parliament of the Commonwealth.

I thank you for your expression of loyalty to the Throne and person of His Most Gracious Majesty.

I trust that your earnest consideration of the various measures submitted to you will result in benefit to all classes of the Commonwealth.

TENNYSON,

Governor-General.

19th June, 1903.

ELECTORAL ROLLS.

Mr. PAGE.—I wish to know from the Minister for Home Affairs if his attention has been drawn to the following telegram, which appeared in the *Argus* of the 19th June :—

BRISBANE, Thursday.

The Premier, when interviewed with reference to the printing of the Federal rolls, said that two months ago the Federal Government were advised by the Treasurer that arrangements had been made to have the work done in the Government Printing-office. Sir William Lyne's statements, he thought, were not correct. Two tenders were submitted, one for linotype-setting and the other for setting by hand, but so far the Queensland Government had not been informed which tender would be accepted. However, on the assumption that linotype-setting would be preferred, arrangements have been made to get the necessary machines, and the printing-office was quite prepared to undertake the work. There never had been any intention to farm out the work. The Treasurer also said that there was no justification for Sir William Lyne's statements, and added that it had been very evident all along that the Federal Government was anxious to find some excuse for keeping the printing of the rolls in Melbourne.

Sir EDMUND BARTON.—The Minister for Home Affairs will be here presently, and will then, I have no doubt, be able to give a complete answer to the honorable member's question. But, as a part answer, I can say that the suggestion that this Government is endeavouring to find an excuse for keeping back the perfecting of the rolls is wholly inaccurate.

PACIFIC ISLAND LABOURERS ACT.

Mr. FISHER.—The following paragraph appears in to-day's *Argus* :—

His Excellency the Governor-General (Lord Tennyson) suggested that the King should not assent to the Pacific Island Labourers Bill until the regulations to be framed under it were issued. The King did not, however, withhold the Royal assent. The regulations governing the deportation of kanakas have not been prepared yet, but the Prime Minister states that they will be forthcoming when any are found necessary.

I wish to know from the Prime Minister if it is true that His Excellency the Governor-General took the opportunity to suggest a certain course to the King without being so advised by his Ministers?

Sir EDMUND BARTON.—I believe that the papers containing the passage upon which that construction has been put have been made parliamentary papers in England, and I will see that they are laid upon the table of this House, so that honorable members may form their own impression upon the subject.

PAPERS.

MINISTERS laid upon the table the following papers :—

Defence Forces. — Regulations under States Acts and Constitution of Commonwealth, dated 15th June, 1903.

Audit Act 1903.—Transfers of amounts approved by Governor-General, financial year 1902-3.

DEARNESS OF MEAT.

Mr. McDONALD.—I wish to know from the Prime Minister whether, in view of the high price of meat in Australia at the present time, the Government is prepared to introduce a Bill to provide for the imposition of an export duty upon it?

Sir EDMUND BARTON.—It has not yet occurred to the Government that there is any necessity for the measure to which

the honorable member alludes, and, so far as I can speak from personal impressions, I do not think that the necessity will arise.

Mr. O'MALLEY.—Following up the question of the honorable member for Kennedy, and having regard to the unsatisfactory reply of the Prime Minister, I should like to ask the right honorable gentleman whether, inasmuch as it was proved last week that there is a combination here to raise the price of meat, he will invite the Premier of New Zealand to open his butcher's shops in Melbourne instead of in London, so that we may be supplied with New Zealand meat?

Sir EDMUND BARTON.—The question is so momentous that I am not prepared with an answer.

Mr. CONROY.—Is the Prime Minister prepared to put an export duty upon other articles, and thus by checking all exportations more effectually check importations than by protective duties?

SORTING OF MAILS.

Mr. MAHON asked the Minister representing the Postmaster-General, *upon notice*—

1. Does the Postmaster-General not consider that economy and expedition would be promoted if the English and other mails were sorted during the four days passage of mail steamers from Fremantle to Adelaide?

2. Has this question been formally considered since the Commonwealth assumed control of the Department; and, if not, will the Postmaster-General cause inquiry to be made?

3. Has the attention of the Postmaster-General been directed to the lack of up-to-date facilities at Largs Bay for discharging mails, and to the great delay which usually occurs in placing them on the mail train?

4. Have any complaints been made to the Department by or on behalf of the staff of sorters engaged on the trains between Adelaide and Melbourne?

Sir PHILIP FYSH.—Inquiries are being made, and the desired information will be furnished as early as possible.

FEDERAL STAMPS.

Sir LANGDON BONYTHON asked the Minister representing the Postmaster-General, *upon notice*—

Whether arrangements can be made for printing, in Adelaide, a portion of the new Federal stamps which the Postal Department proposes to issue?

Sir PHILIP FYSH.—Inquiries are being made, and the desired information will be furnished as early as possible.

ADMINISTRATION OF NEW GUINEA.

Mr. CROUCH asked the Prime Minister, *upon notice*—

With reference to the Administrator of New Guinea's last annual report, recently presented to the House, in which the following passage appears:—

"Mr. Symons made a trip into the district of the offending natives, accompanied by several of the owners of property that had been stolen. In order the better to arrest culprits, and to try and find stolen goods in the small scattered villages, Mr. Symons divided his party. Some of those who were not under Mr. Symons' eye were not sufficiently careful about keeping strictly within the law. The result was that exaggerated rumours of natives being wantonly murdered, and so on, were spread abroad. These rumours, when sifted and reduced to distinct charges, and to the evidence that supported them, showed that, considering the circumstances, nothing very exceptional had taken place. One European had shot a native without justification, though it is but fair to the offender to state that he thought he was justified in doing what he did. Another European, believing that he had come upon an ambush, fired at what he supposed to be an hostile native man, and found that he had shot a native woman."

1. Will the Prime Minister cause inquiries to be made as to whether any trial and punishment were incurred by the alleged murderers referred to above; and will he communicate to the House the result of his inquiries?

2. Will he further inquire and state what are the ordinary conditions of life in New Guinea, if such conduct is regarded by the Administrator as "nothing very exceptional."

Sir EDMUND BARTON.—The answers to the honorable and learned member's questions are as follow:—

1. The alleged murderers were tried before the Chief Justice of British New Guinea, in November, 1901. The trial was a prolonged one, lasting two days. The result was that one man was found guilty of manslaughter, and sentenced to six months' imprisonment with hard labour. The others were acquitted.

2. The alleged offences occurred during the progress of an armed expedition through territory the inhabitants of which were hostile. The phrase "ordinary conditions of life" cannot therefore be properly applied to such an incident. A considerable portion of British New Guinea is still unexplored; and even in the better-known districts the natives are hardly yet under the complete control of the Government.

I may add that the Lieutenant-Governor considered that Mr. Symons had acted indiscreetly in not retaining full control of the persons composing his party, and he removed him from his position as assistant magistrate of the district to perform duties of a different character.

TELEPHONE GUARANTEES.

Mr. CONROY asked the Minister representing the Postmaster-General, *upon notice*—

Whether, in view of the fact that cash guarantees have been dispensed with in connexion with some telephone lines, the Postmaster-General will consider the advisability of proceeding with the following lines, which have been delayed in construction on account of guarantees being required :—

Binda to Bigga?

Bungonia to Goulburn?

Windellima to Goulburn or Bungendore (which ever is the more economical)?

Wombat to Murrumburrah or Young (which ever is the more economical)?

Sir PHILIP FYSH.—The answer to the honorable and learned member's question is as follows :—

In cases where cash guarantees have been dispensed with, the estimated revenue has been considered sufficient to afford a reasonable return for the expenditure. With respect to the lines mentioned this is not the case, the particulars being as follow :—

Binda to Bigga. Estimated cost of erection, without including cost of operating, &c., is £490; the estimated revenue under £13 per annum.

Bungonia to Goulburn.—Estimated cost of erection, without including cost of operating, &c., is £312; the estimated revenue, £20 per annum.

Windellima to Goulburn.—No application has been received, but the estimated cost of erection, without including cost of operating, &c., is £579; the estimated revenue about £20 per annum.

Wombat to Murrumburrah or Young.—The cost would be about the same, and is estimated at £280, without including operating, &c.; the estimated revenue, £9 per annum.

Under these circumstances the Postmaster-General cannot favorably consider the provision of the lines without guarantees.

Mr. CONROY.—Cash or other guarantees?

Sir PHILIP FYSH.—Cash guarantees.

ALLEGED FEDERAL EXTRAVAGANCE.

Mr. HUME COOK.—In asking the series of questions, *upon notice*, standing in my name, I should like to make a short personal explanation. The questions are as follow :—

With reference to an article in the *Age* newspaper of the 15th instant—

1. Is it true "that through Federal extravagance the State Governments do not receive the returns of revenue to which they are entitled." If not true, what are the facts?

2. Is it true "that dozens of officers whose positions were sinecures under the States were transferred to the Federal service at largely increased salaries"?

3. What is the total of new appointments?

4. Is it a fact that some State officers have been appointed to Federal positions "at double salaries." If so, how many, and what are the salaries paid?

5. Is it true that the private secretaries of two Ministers are being paid out of Commonwealth funds?

6. Are any officers of the Commonwealth service, whilst travelling, having their living expenses paid out of the public funds?

7. What was the Adelaide estimated cost of federation per head; and, including the proposed High Court expenditure, by how much has that estimate been exceeded?

8. What was the pre-federation cost of the military and naval forces, and what is the present cost?

9. What is the actual saving per head by the reduced military expenditure?

10. What is the net cost of federation per head of the population?

The article which prompted those questions, appeared in the *Age* of the 15th inst., and the questions were prepared with a view to getting an authoritative reply to the very important statements which it contained. Since then, in its issue of the 19th June, the *Age* has published the following statement :—

In the House of Representatives on Wednesday afternoon Mr. Hume Cook was put up to ask the Prime Minister a series of questions based upon an article published in the *Age* of Monday last in regard to Federal extravagance. One of these questions, at least, was framed in such a way as to distort the statement to which it was supposed to refer, possibly with the object of making a denial a little easier.

I should like to say that, if there is any unfairness in the questions as I have prepared them, I am solely responsible for it, my endeavour being, as I have said, to get an authoritative reply to the statements made in the article of the 15th. As to my being "put up," I desire to say that the questions were not suggested to me by any member of the Government or any member of this House. As a matter of fact I have had no consultation with any person, either inside or outside the chamber, in reference to them.

Sir EDMUND BARTON.—I have had no consultation with the honorable member for Bourke, nor, so far as I am aware, has he consulted with any member of the Government, with regard to the questions of which he has given notice. Neither I nor, so far as I am aware, any member of my Cabinet knew of his intention to give notice of these questions until they appeared on

the business-paper. The answers to the honorable member's questions are as follow :—

1. It is not correct to say that the State Governments do not receive the returns of revenue to which they are constitutionally entitled, or that they do not receive all that in honour and reason ought to be paid to them.

(a) The Commonwealth is bound by the Constitution to return at least three-fourths of the total net Customs and Excise revenues to the States.

(b) It is bound in honour and reason to return, beyond such three-fourths, any surplus after the requirements of the Departments of the Commonwealth have been economically provided for. During 1901-2, the only year for which complete figures are available, a sum of £888,742 over and above the necessary three-fourths was returned to the States. The subjoined table shows the exact figures :—

1901-2.

	N.S.W.		VIC.		Q'LAND.		S.A.		W.A.		TAS.		TOTAL COMMONWEALTH.	
	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.	£	s. d.
One-fourth of net Customs and Excise revenue ..	687,320	9 3	578,178	2 7	308,359	8 0	168,032	8 1	325,905	10 6*	90,703	4 6	2,158,490	2 11*
Net expenditure ..	367,548	13 3	392,983	2 3	328,547	0 1	52,291	7 11	81,673	14 0	46,712	19 7	1,269,756	17 10
Balance, being sum received back exceeding or less than three-fourths of the net Customs and Excise revenue ..	319,771	16 0	185,195	0 4	Dr. 20,187	12 1	115,741	0 2	244,231	15 9	43,990	4 11	888,742	5 1

*Includes receipts under special Western Australian Tariff.

Commonwealth Treasury,
18th June, 1903.

GEO. T. ALLEN.
Secretary to Treasury.

2. It is not correct to say "that dozens of officers whose positions were sinecures under the States were transferred to the Federal service at largely increased salaries." This statement, besides being unjust to gentlemen who occupied onerous and responsible offices in the service of the States, is inaccurate in so far as it refers to the Commonwealth service.

It is true that some officers who were transferred from the States are receiving under the Commonwealth higher salaries than they received under the States; but this is in every case because they occupy higher and more responsible positions in the Commonwealth service. It is also true that the salaries attached to the higher offices referred to are in nearly every case less than the salaries attached to corresponding offices in the State services.

In justification of the statement referred to in the honorable member's question, the paper referred to published the following list, to which I have added, to illustrate the unfairness of the statements in question, the columns showing the salaries paid to the holders of similar offices in New South Wales and Victoria :—

There is ample proof to support the justness of these observations in a few selections from the Federal salary list :—

	Federal Salary.	State Salary.	Salary of similar Office in	
	£	£	N.S.W.	Vic.
President of the Senate	1,500 ..	900 ..	—	—
Clerk of Parliament (Mr. E. G. Blackmore) ..	900 ..	600 ..	740 ..	1,200 ..
Auditor-General (Mr. Izrael) ..	1,000 ..	550 ..	—	—
Clerk Assistant, Senate (Mr. C. B. Boydell) ..	750 ..	476 ..	500 ..	600 ..
Clerk Assistant, Representatives (Mr. W. A. Gale) ..	750 ..	450 ..	722 ..	850 ..

Sir Edmund Barton.

	Federal Salary	State Salary.	Salary of similar Office in	
	£	£	N.S.W.	Vic.
Usher of the Black Rod (Mr. G. E. Upward) ..	550 ..	450 ..	428 ..	350 ..
Sergeant-at-Arms (Mr. T. Woollard) ..	550 ..	350 ..	522 ..	470 ..
Clerk of the Papers and Accountant (Mr. F. L. Clapin) ..	420 ..	343 ..	—	—
Clerk of the Records (Mr. E. T. Huber) ..	350 ..	200 ..	—	—
Chief Parliamentary Reporter (Mr. B. H. Friend) ..	700 ..	532 ..	865 ..	600 ..
Secretary to the Treasury (Mr. G. T. Allen) ..	750 ..	600 ..	1,000 ..	900 ..
Chief Clerk, Home Affairs Department (Mr. R. Bingle) ..	600 ..	350 ..	—	—
Comptroller-General of Customs ..	1,200 ..	1,000 ..	—	—
Secretary, Postal Department ..	1,000 ..	800 ..	—	—
Assistant Secretary, Postal Department (Mr. J. O. Oxenham) ..	600 ..	430 ..	—	—

If officers who do little or no work for months while Parliament is out of session are not in the enjoyment of sinecures, it would be interesting for Sir Edmund Barton to explain what he regards as a "fat billet."

In correction of the figures in the *Age*, I might say that the salary of the President of the Senate is £1,100, not £1,500; that the State salary of the Clerk Assistant to the House of Representatives was £560, including two allowances, not £450; that the former salary of the Secretary to the Treasury was £700, not £600; and that the State salary of the Comptroller-General of Customs was, including an allowance of

£200, £1,200, not £1,000. It should also be explained that the salary of £600 named in the table as attached to the position of Chief Parliamentary Reporter in Victoria is not fairly comparable with the salary of £700 paid by the Commonwealth, as the work controlled under the Commonwealth by this officer is, in Victoria, distributed between two officers, whose aggregate salaries amount to £1,210. To continue my answer to the honorable member's question—

As to these officers, with reference to whom it is suggested that "they do little or no work for months while Parliament is out of session," it is pointed out that this list includes nine Parliamentary and six non-Parliamentary officers. It is not correct to say that the Parliamentary officers have no work to do while Parliament is not in session; and it is also incorrect to say that Departmental officers, such as the Comptroller-General of Customs, the Secretary to the Treasury, the Secretary to the Post-office, "do little or no work for months while Parliament is out of session." It should further be stated that the salaries paid to the officers named are, in most cases, less than those attached to similar offices in Victoria or New South Wales.

Mr. JOSEPH COOK.—I rise to a point of order. I desire to ask you, Mr. Speaker, whether the course now being adopted by the Prime Minister is not an abuse of the ordinary method of questioning Ministers and eliciting replies?

Mr. SPEAKER.—What is the point of order?

Mr. JOSEPH COOK.—My point is that the Prime Minister is reading an answer of inordinate length in answer to a question which should not have been placed upon the notice-paper.

Mr. WATSON.—The Prime Minister is giving us very interesting information.

Mr. JOSEPH COOK.—Undoubtedly; if it were obtained in the ordinary way, but it is not such information as should be given in the form of an answer to a question. The Prime Minister is discussing certain statements which have appeared in the newspapers, and, if such a practice is to be permitted, there will be nothing to prevent any honorable member from embodying in a question the principal statements contained in a newspaper article, and eliciting from a Minister an argumentative statement in refutation. This practice might be carried to such a length that no other business could be transacted in the House. I submit that the question is out of order, and that the answer now being given is also out of order on account of its length and detail.

Sir EDMUND BARTON.—On the point of order, Mr. Speaker, I desire to say that it is a matter of everyday practice for questions to be asked whether statements in the newspapers are correct or otherwise, and inasmuch as news often appears in the newspapers before it can be made accessible to the public by means of official documents, one cannot wonder at the practice. I am confining my answer to a statement of the facts, and I submit that when I find that a newspaper contrasts the salaries attached to offices held in the States with those attaching to superior and more responsible positions in the Federal service, I am surely entitled to give details as to the salaries attached to positions in the States similar to those held by the Federal officers whose salaries are the subject of cavil.

Mr. CONROY.—I suggest that it might save time if direct answers were made to questions in the ordinary course. Another opportunity may be sought if it is thought necessary to place before honorable members details such as those now being submitted. If the course now being followed by the Prime Minister is to be permitted, I can conceive that it may lead to very serious abuse of the forms of the House.

Mr. SPEAKER.—There is no standing order which prevents an honorable member from asking such a question as that placed upon the notice-paper by the honorable member for Bourke, or a Minister from giving a reply, even at such length as that now being offered. But it is contrary to custom, and to the best practice of Parliament, that a reply, involving so much detail, should be given in answer to a question. It is far better that details, such as those now being submitted, should be laid upon the table in the form of a return. In future, if I consider that any question is likely to call for detailed information, I shall intimate to the honorable member giving the notice that his question should take the form of a motion for a return. I shall be glad if Ministers will, in future, abstain from supplying particulars such as those now being given in the form of answers to questions.

Sir EDMUND BARTON.—I shall be very glad to follow the practice indicated by you, Mr. Speaker, because it will relieve me of the necessity of going into much detail. I have mentioned the figures given above by way of illustration only, because I

have not been able to obtain full particulars. Of my own knowledge, however, I can say that the same comparisons would apply throughout, the difference being in some cases on the one side, and in some cases on the other. The answers to the other questions are as follow:—

3. The total of appointments to new offices created since the establishment of the Commonwealth is 26. If the honorable member intends his question to cover any wider ground than this I shall be happy to obtain the information.

4. Five officers are now receiving salaries double the amount they received in the States. They were specially selected, and are now performing much more onerous and responsible duties. Their aggregate salaries in the States were £740; their aggregate salaries now are £1,560. Corresponding positions in the public services of New South Wales and Victoria are more highly paid.

5. Ministers have no private secretaries. The official secretary to the Prime Minister and the official secretary to the representative of the Government in the Senate are both officers of the Commonwealth, under the Public Service Act, and their salaries as such are annually voted by Parliament.

6. Officers while travelling receive travelling allowances at a rate fixed by the public service regulations. There are no expenses allowed them beyond those stated.

7. The Adelaide estimate of the cost of Federation, including provision for the High Court, was 1s. 8d. per head. The expenditure for the half-year ending 30th June, 1901, was 4½d. per head; for the year 1901-2, 1s. 1d. per head; for the year ending 30th June, 1903, 1s. 1d. per head. Had the High Court been established in that financial year and throughout its currency the expenditure would have been increased by 2d. per head, if as much as £30,000 had been spent on it. This estimate does not include expenses not caused by federation, namely, administration of New Guinea and non-recurring expenditure—expenses of opening Parliament and Royal receptions and coronation celebrations.

8. The approximate expenditure for 1900-1 upon the military and naval forces was £860,000. This allows for the services now charged for in the votes of the Department, and also a sum of £25,000 for the expenses of salaries, pay, and contingencies of men away in South Africa, which are borne on present estimates. Estimate for 1903-4, say, £700,000; reduction, £160,000. Just before Federation the States very largely increased their defence expenditure, probably by £75,000, but it did not come into operation, except to a very small extent in 1900-1, and if it had, the amount for that year would, of course, be increased. Neither of the amounts given includes repairs, &c., which, however, would probably approximate pretty closely. In 1900-1 large sums were expended out of loan moneys for defence purposes, namely, £132,000, and although these would be far in excess of the amounts proposed for next year, they have not been taken into consideration.

Sir Edmund Barton.

9. The actual saving per head by the reduced military expenditure is about 10d.

10. The net cost of federation per head has been given in the answer to question 7.

The questions raised by the honorable member will be more fully dealt with by the Treasurer in his Budget statement.

OVERTIME : POST-OFFICE EMPLOYEES.

Mr. HUGHES asked the Minister representing the Postmaster-General, *upon notice*—

1. How has the grant of £2,000 voted for deserving officers and overtime pay of Sydney Post-office officials been allocated?

2. Is it a fact that the whole, or practically the whole, of this sum has been paid to officers receiving over £200 a year, while lower grade officers have not only received no increments for ten years, but have not been paid anything for overtime since Christmas last, notwithstanding that they have been recalled to extra duty on the arrival of the English mails and other occasions when there has been an extra press of work?

Sir PHILIP FYSH.—The answer to the honorable and learned member's questions is as follows:—

1 and 2. Nothing is known of the £2,000 referred to, but of the £1,000 provided on the Estimates of 1901-2 for increases to deserving officers, 33 officers with salaries over £200 received £415, and 81 officers of lower grade £585. Of the amount of £750 voted for the same purpose in 1902-3, 50 officers, receiving over £200 a year, obtained £475, and 48 of lower grade obtained £275. It is impossible to answer without names as to those who it is said have received no increases for 10 years, but it is assumed that they have received the maximum salary provided by the regulations as all others have received annual increments. The matter of payment for overtime is receiving consideration.

CUSTOMS FACILITIES, BURNIE.

Mr. HARTNOLL (for Sir EDWARD BRADDON) asked the Minister for Trade and Customs, *upon notice*—

Whether any steps have been taken—and what steps, if any—to effect the necessary improvements in the Customs accommodation and staff at the port of Burnie, Tasmania, as to which the Minister has been addressed at length by letter?

Mr. KINGSTON.—The answer to the honorable member's question is as follows:—

These matters are under consideration in connexion with the Estimates.

TELEGRAPH GUARANTEES.

Mr. MAHON asked the Treasurer, *upon notice*—

1. Referring to the second paragraph of his reply in this House on 11th June to questions concerning the Tarcoola telegraph line, does he

not consider it his duty to obtain an estimate of the probable revenue to be derived from it before proceeding further with a work costing £14,000?

2. Referring to the third paragraph of his reply, are not the additional telegraph lines to Eucla and Yardea, mentioned by him, part of the main system between Western Australia and the Eastern States; and is not their construction rendered imperative by climatic or commercial reasons, on which the question of guarantee has little, if any bearing.

3. Does not the line to Tarcoola terminate at that place; and, if so, what is the justification for placing it, as his reply does, in the category of lines connecting two States of the Commonwealth.

4. Was any guarantee required before the Tarcoola telegraph line was undertaken; and, if not, why was the guarantee condition dispensed with.

5. Are recommendations of new works by local officers submitted to any scrutiny except that of the central authority in Melbourne.

Sir GEORGE TURNER.—This matter comes within the Department of the Postmaster-General, who has supplied me with the following information:—

1. The Postmaster-General does not consider this necessary.

2. The additional telegraph lines to Eucla and Yardea mentioned constitute part of the State systems of Western Australia and South Australia respectively, and their construction is considered necessary for commercial reasons; therefore the question of guarantees was not considered in connexion with them.

3. The line to Tarcoola terminates for the present at that place; but it may eventually be extended to Western Australia in connexion with the suggested railway between South Australia and Western Australia.

4. No guarantee was required before the Tarcoola telegraph line was undertaken; the conditions were considered sufficient to justify the guarantee condition being dispensed with.

5. Recommendations of new works by local officers are dealt with in such manner as the Government or the Postmaster-General may consider most suitable under the circumstances of each case.

JUDICIARY BILL.

In Committee (Consideration resumed from 18th June, *vide* page 1155):

Clause 40—

The jurisdiction of Federal Courts shall be exclusive of the jurisdiction of the several Courts of the States in the following matters:—

- (a) Matters arising under any treaty;
- (b) Matters affecting consuls, or other representatives of other countries, in respect of any act done by them in their capacity as such consuls or representatives;
- (c) Suits between States, or between persons suing or being sued on behalf of different States, or between a State and a person suing or being sued on behalf of another State;

(d) Suits by the Commonwealth, or any person suing on behalf of the Commonwealth, against a State, or any person being sued on behalf of a State;

(e) Suits against the Commonwealth;

(f) Matters in which an order or writ is sought to be obtained against an officer of the Commonwealth in respect of some act done or omitted to be done by him in the execution of his duty.

Mr. DEAKIN (Ballarat—Attorney-General).—I propose to meet the criticism which has been directed against the first portion of this clause, by substituting for the words “Federal Courts” the words “the High Court.” On a former occasion it was pointed out by several honorable members, that although the phrase “Federal Courts” includes the “High Court,” at the present time it is not proposed to establish any Federal Court other than the High Court, and that perhaps it would be as well to leave that plain. I therefore move—

That the words “Federal Courts,” line 1, be omitted with a view to insert in lieu thereof the words “the High Court.”

Mr. GLYNN (South Australia).—Personally I think that the amendment proposed ought to be made. It would be a mistake to include in this Bill the words “Federal Courts,” because, when we come to create Federal Courts by special Act of Parliament, the question of the extent of their jurisdiction will be settled by the Act.

Amendment agreed to.

Mr. DEAKIN.—I move—

That the words “against the Commonwealth,” line 19, be omitted, with a view to insert in lieu thereof the words “by a State, or any person suing on behalf of a State against the Commonwealth, or any person being sued on behalf of the Commonwealth.”

When this measure was previously under discussion, it was pointed out that these words might possibly cover a number of actions in different parts of Australia where it would be difficult for litigants to await a visit from a Justice of the High Court. I therefore propose to omit them, and to introduce words which will simply cover actions by a State against the Commonwealth. These will have the effect of making the provision precisely parallel with that contained in the previous paragraph.

Mr. GLYNN (South Australia).—I would point out that if the amendment proposed by the Attorney-General be agreed to, there will be no power to decide the extent of the

area within which exclusive jurisdiction is to be vested in the High Court. In the discussion which took place on Thursday last, several suggestions were made as to the particular provisions of the clause which ought to be retained, and those which ought to be eliminated. I think it was the honorable and learned member for Bendigo who suggested that paragraphs (a), (b), and (c) ought to be excised. The Attorney-General, however, proposes to retain paragraphs (a) and (b).

Mr. DEAKIN.—I will show why.

Mr. GLYNN.—We all know well enough that actions in matters arising under treaties will be very rare indeed. But if such cases do arise, why should we confine jurisdiction in them to the High Court? Under this Bill defendants are empowered to remove suits involving a matter of Federal jurisdiction from the States Courts to the High Court, so that Commonwealth interests, if they are involved, are amply protected, if the clauses relating to the removal of causes are retained. But even if those clauses perish, a right of appeal to the High Court will still remain. Thus, any interests which the Commonwealth may have in any matter are thoroughly guarded. Something may possibly be said in favour of conferring exclusive jurisdiction on the High Court in cases arising under any treaty. That is not a very important matter, but as the honorable and learned member for Bendigo spoke strongly upon it, and as he is absent to-day, I venture to call attention to it. Further, I do not see why States Courts should not have concurrent jurisdiction in matters affecting consuls. I remember a case which occurred in Adelaide a few months ago, in which action was taken for the recovery of £15, which had been paid to a consul under the Merchant Shipping Act, and which sum was held in trust by him for certain sailors. In that case the consul was sued by a creditor of one of the sailors. It was a comparatively trivial matter. Surely it is not advisable that jurisdiction in a case of that sort shall be exclusively vested in the High Court? If it is, either the suitor will have to await the visit of a Judge upon circuit, or the suit will have to be heard at the seat of Government, wherever that may happen to be. I ask the Attorney-General to agree to the suggestion of the honorable and learned

member for Bendigo, and to excise paragraphs (a) and (b) in addition to some of the succeeding paragraphs?

Mr. DEAKIN.—When this matter was previously under discussion, I had an opportunity of replying to the honorable and learned member for Bendigo upon both the points which have been raised. In answer to an interjection, I think he admitted that he had never known of a case under a treaty arising in Australia, and he had great difficulty in conceiving how one could arise. Under the circumstances, I put it to him that no possible injury could follow the retention of exclusive jurisdiction in the Commonwealth Courts. Moreover, it is clearly a matter which for the dignity of the Commonwealth and of its Courts ought to be dealt with by them. The cases provided for under the clause are limited to those which arise in consequence of some alleged breach in a treaty obligation.

Mr. GLYNN.—I think that the honorable and learned member for Indi raised a similar point.

Mr. DEAKIN. — I think not. The honorable and learned member for Indi referred to paragraphs (e) and (f). Seeing that the Federal Government is charged with responsibility in all matters arising under any treaty, it would be only proper, if such a case did occur, that it should be dealt with by the High Court. I put that point as a matter of no very great importance from the standpoint of litigants, but as of some importance from the point of view of the dignity of the Commonwealth and its Courts. In the same way the honorable and learned member for Bendigo directed attention to the possibility of actions of any kind being taken against the consuls of other countries, and quoted from the United States practice in this connexion. But it was pointed out to him that under this provision the area covered had been expressly limited to actions against any Consul in his representative capacity. Thereupon the honorable and learned member for Bendigo admitted that such cases would be of very rare occurrence, and I understood—though he did not discuss the question further—that he was generally satisfied that these two paragraphs might be retained without injury to any one. The whole burden of the argument which took place was directed against paragraphs (e) and (f), and it is in one of them that I propose

to make the amendment which I have already submitted. It was admitted that a number of these cases might arise, and it can well be argued, that if litigants have to await the sittings of the High Court in remote States, they might be involved in additional expense. I ask the Committee to accept the amendment which I have moved.

Mr. GLYNN (South Australia).—I desire to move a prior amendment if the Attorney-General will permit me to do so.

Mr. DEAKIN.—Certainly.

Amendment, by leave, withdrawn.

Mr. GLYNN.—With regard to cases which may arise under treaties, I offer no objection to the provision in its present form; but I think I have already shown that there is some reason for making the jurisdiction conferred by paragraph (b) concurrent. Time after time claims will arise by sailors against consuls, or by parties having claims against the wages of sailors. Surely in such cases it is inadvisable that exclusive jurisdiction should be vested in the High Court. We ought not to increase the expense incurred by litigants in such pettifogging cases. I would further point out that this paragraph proposes to confer upon the High Court a jurisdiction which does not exist under the American Constitution. In America the jurisdiction of the Court in such cases is purely concurrent. I therefore move—

That paragraph (b) be omitted.

Mr. CONROY (Werriwa).—I hope that the Attorney-General will consent to the amendment proposed. I would point out that the honorable and learned member for Bendigo and the honorable and learned member for Corinella both urged the same objections to this paragraph that are now being put forward by the honorable and learned member for South Australia, Mr. Glynn. I am sure that the Committee desire to prevent the possibility of the expense to litigants being increased. Let me invite the attention of honorable members to what would occur if an action under this clause arose in Western Australia, and required to be determined at once. In such a contingency, the High Court would have to go to Western Australia or the litigants would have to come here. In either case there would be unnecessary expense. Personally, I think that when we come to discuss the appellate clauses of the Bill we can well allow any Court to determine matters such as those

which are mentioned in paragraph (b). Then, if the Commonwealth is dissatisfied with any decision in which it is interested, it has the right of appeal from the State Supreme Court to the High Court. Thus the whole difficulty would be solved. I trust that what was the evident desire of those honorable and learned members, who had looked into this question, will be followed.

Mr. MAHON (Coolgardie).—I am disinclined to agree with the honorable and learned member for Werriwa. If his idea be adopted I think that the expenses incurred by consuls who desire to secure justice will be increased. I take it that the settlement of these matters by the High Court is necessary to secure absolute uniformity in decisions. If each State Court is allowed to give its own judgment, it may happen that these judgments will be in conflict.

Mr. CONROY.—There is always the right of appeal to the High Court.

Mr. MAHON.—Exactly. A consul in Western Australia who was subjected to a decision by the Supreme Court of that State which conflicted with a judgment by the Supreme Court of New South Wales, would naturally feel that he had been denied justice, and would appeal to the High Court; whereas, if that tribunal had dealt with his case in Perth in the first place, he would have obtained satisfaction at much less expense. Consequently, under the clause as it stands, litigants would secure finality quicker than they would under the amendment proposed.

Mr. CONROY (Werriwa).—In reply to the honorable member for Coolgardie, I would point out that the States Courts practically sit all the year round. If the High Court is composed of either three or five Justices, it will be impossible for them to visit the remote States more than once in six months.

Mr. MAHON.—In certain circumstances the litigants might come to the High Court.

Mr. CONROY.—Under such a provision the expense involved may be so great as to prevent them from obtaining justice. If appellate jurisdiction is to be vested in the High Court, it is clearly within the power of that tribunal to correct all conflicting judgments. In the event of a decision being given by one of these States Courts, with which the Commonwealth Government was dissatisfied, an appeal would always lie to the High Court. Thus uniformity would

be obtained for all practical purposes, and at very much less expense than would be the case under the provisions of this clause.

Amendment agreed to.

Mr. DEAKIN.—I move—

That the words “against the Commonwealth,” line 19, be omitted, with a view to insert in lieu thereof the words “by a State or any person suing on behalf of a State against the Commonwealth, or any person being sued on behalf of the Commonwealth.”

The amendment simply renders the sub-clause parallel with the preceding sub-clause. We have provided that jurisdiction in suits by the Commonwealth against a State shall be exclusive, and I now propose a similar provision in regard to suits by a State against the Commonwealth. It was generally agreed, when the Bill was last before us, that these were two classes of cases in regard to which the jurisdiction might very properly be vested exclusively in the High Court.

Mr. HIGGINS (Northern Melbourne).—

If any jurisdiction is made exclusive, the jurisdiction contemplated in this sub-clause should also be exclusive. From my own point of view I should trust the States Supreme Courts with any power; but, if the Committee determined to make any jurisdiction exclusive, I see no objection to this sub-clause as amended. It will still be competent for a public servant to bring a suit in a Supreme Court to recover from the Commonwealth salary or damages for wrongful dismissal; the States Supreme Courts will still be available for small actions which continually arise between a Government and its employes.

Amendment agreed to.

Mr. HIGGINS (Northern Melbourne).—

Is there any objection to excluding sub-clause (f), which provides that the jurisdiction of the High Court shall be exclusive of the jurisdiction of the States Courts in—

Matters in which an order or writ is sought to be obtained against an officer of the Commonwealth, in respect of some act done or omitted to be done by him in the execution of his duty.

Mr. DEAKIN.—I shall not object if the honorable and learned member desires to move the omission of the sub-clause.

Amendment (by Mr. HIGGINS) agreed to—

That sub-clause (f) be omitted.

Clause, as amended, agreed to.

Clause 41—

1. The jurisdiction of Federal Courts in matters not mentioned in the last preceding section shall be exclusive of the jurisdiction of the several Courts of the States, except as provided in this section.

2. In such matters the several Courts of the States shall, within the limits of their several jurisdictions, whether such limits are as to locality, subject-matter, or otherwise, be invested with Federal jurisdiction, subject to the following conditions and restrictions:—

- (a) except as hereinafter provided Federal jurisdiction shall not be exercised by a superior Court of a State otherwise than as a Court of first instance;
- (b) except as hereinafter provided every appeal from a decision of a Court or Judge of a State exercising Federal jurisdiction, not being an appeal from one inferior Court to another inferior Court, shall be brought to the High Court;
- (c) provided nevertheless that in any suit in the Supreme Court of a State which cannot be removed by a defendant into the High Court as of right, the Supreme Court shall have appellate jurisdiction as well as jurisdiction as a Court of first instance;
- (d) wherever an appeal would lie, but for this Act, from a decision of any Court or Judge of a State to the Supreme Court of the State, an appeal from the decision shall lie to the High Court.
- (e) wherever a decision of a Court or Judge of a State is declared by the law of the State to be final, the High Court may, if the decision is given in the exercise of Federal jurisdiction, grant special leave to appeal from the decision to the High Court.
- (f) The Federal jurisdiction of a Court of summary jurisdiction of a State shall not be judicially exercised except by a Stipendiary or Police or Special Magistrate, or some Magistrate of the State who is specially authorized by the Governor-General to exercise such jurisdiction.

Mr. DEAKIN.—I move—

That the words “Federal Courts,” line 1, be omitted, with a view to insert in lieu thereof the words “the High Court.”

This is a similar amendment to that which has been made in the preceding clause.

Mr. GLYNN (South Australia).—Is the Attorney-General's idea that in all matters not specified in clause 40 the High Court shall have exclusive jurisdiction—that except where by clause 41 concurrent jurisdiction is given to the States Courts the High Court shall have exclusive jurisdiction? I understand that a subsequent amendment is to be proposed by the Attorney-General carrying out the suggestion made by the honorable and learned member for

Northern Melbourne, and supported by several other honorable members, that concurrent jurisdiction shall in all matters not specified in clause 40 be given to the States Courts. If the States Courts are to have this concurrent jurisdiction why not strike out the whole of sub-clause (2)? We have just settled what is to be the exclusive jurisdiction of the High Court; and the Attorney-General, by not excising the words to which I have called attention, leaves any other matters which are not mentioned to be matters of exclusive jurisdiction.

Mr. DEAKIN.—We afterwards give all the jurisdiction back.

Mr. GLYNN.—Is not that an extraordinary way of drafting? In the beginning of the clause we declare certain things which it appears there is to be a subsequent provision to negative. We start by declaring that, in all matters not mentioned in clause 40, the High Court is to have exclusive jurisdiction, and the Attorney-General asks us to do that, because he proposes to immediately afterwards undo it. Surely that is patching rather than clearly drafting a Bill. If the words to which I have called attention be excised, the clause will simply declare that the Courts of the States shall, within the limits of their several jurisdictions, have the exercise of the judicial power of the Commonwealth; in other words, that the States Courts shall have all parts of the judicial power which are not appellate, and which are not, by clause 40, exclusively vested in the High Court. It is the method of drafting to which I object. I do not wish to move an amendment, but merely to make a suggestion.

Mr. DEAKIN.—The honorable and learned member for South Australia, Mr. Glynn, admits that all that is involved is a question of method—of the manner in which a thing sought to be done is to be done. We are agreed as to what is to be done, and I propose to take steps in the remainder of the clause to accomplish all that the honorable and learned member desires. But I ask the honorable and learned member not to offer any objection to the sub-clause being retained, because it is deliberately adopted with a view to render it perfectly clear that the investing of the Federal jurisdiction is an investing under this Bill of the whole of the Federal jurisdiction in the High Court—with a view to putting beyond all question the fact that nothing has been omitted.

Mr. GLYNN.—It is making the jurisdiction exclusive.

Mr. DEAKIN.—We make it exclusive in the first instance, and then we invest the States Courts, subject to their own limitations, with the whole of this jurisdiction.

Mr. CONROY.—But the Attorney-General goes further than that.

Mr. DEAKIN.—One point at a time. I wish to make it perfectly plain that the object is to place it beyond doubt that all Federal jurisdiction is first of all exclusively vested in the High Court, and then is shared concurrently with the Courts of the several States. That procedure will, in my opinion, place beyond all question what the full meaning and extent of this investing is, and the method to which exception has been taken, is adopted for this particular purpose. If there be any other point in connexion with this clause which honorable members desire to discuss, I shall be happy to discuss it; but I wish it to be perfectly clear on the face of the measure, and perfectly clear in words which, in the opinion of the honorable and learned member for South Australia, Mr. Glynn, are, at the utmost, unnecessary; that the investiture of States Courts is an investiture of Federal jurisdiction which has been first made exclusive in the High Court, and which then comes from the High Court—as an express endowment of States Courts over again, if honorable members like to so regard it—of what is distinctly Federal jurisdiction. This is done to mark off the more emphatically the jurisdiction given through the High Court from any jurisdiction at present belonging to the States Courts.

Mr. MAHON.—What will be the position of a private individual who wishes to recover damages against the Commonwealth?

Mr. DEAKIN.—Such a private individual may bring his suit in any court.

Mr. HIGGINS (Northern Melbourne).—So far as the mere matter of expression is involved, I do not feel justified in interfering with the drafting of the measure. I never do so interfere, because it is utterly impossible for a large body like this Committee to draft a Bill; and the responsibility in this connexion must rest on the Attorney-General. But I think this particular clause raises some very grave questions of substance. In clause 40 we have defined where the High Court is to have exclusive jurisdiction, and in clause 41, we ought

to show where the High Court is to have concurrent jurisdiction with the Supreme Courts, or other Courts of the States. Of course, the simple and obvious way of doing this would be to provide that the jurisdiction of the High Court shall be concurrent with the Courts of the States in certain matters. However, the Attorney-General, in the exercise of his discretion, has said that he would like to provide first that it shall be exclusive, and afterwards to use special granting words in regard to it. I should not strenuously object to that, as I feel that we may attain the same object in other ways, if the Committee accede to my views. If honorable members will look at what the honorable and learned gentleman proposes to insert in clause 41 in lieu of paragraphs (a), (b), and (c), it will be seen that he wishes to substitute the High Court for the Full Courts of the States. I hope I am not dealing with technicalities more than is absolutely necessary, because it is a very important matter, and will go to the very root of the position of the High Court. The amendment says—

Every appeal from a decision of the Supreme Court of a State or any other Court of a State from which, at the establishment of the Commonwealth, an appeal lay to the Queen in Council, shall be brought to the High Court.

I think I am right in saying that the object of the Attorney-General is to prevent an appeal from a Judge of first instance in a Supreme Court to the Full Court.

Mr. DEAKIN.—Not now. Not under the new paragraph. I have had to abandon the original proposal in consequence of the amendments which have been made, and if my honorable and learned friend will look at the amendment, I think he will see that it does not affect any appeal to the Supreme Court of a State, but affects only appeals from the Supreme Court of a State.

Mr. HIGGINS.—Does the term Supreme Court include the Full Court?

Mr. DEAKIN.—Yes.

Mr. HIGGINS.—That is to say, an appeal may be brought from the Judge of first instance to the Full Court.

Mr. DEAKIN.—There may now.

Mr. HIGGINS.—It is very material that the intention of the honorable and learned gentleman shall be carried into effect, and I think we are justified in calling attention to the drafting, because I certainly read the provision in the form in which he says

it ought not to be read. I take it that it never was the intention of the Constitution to substitute the High Court for the Full Court of the State. It was the intention of the Constitution to give the High Court the same jurisdiction as the Privy Council. Supposing that a man has been made insolvent by the order of a Judge. If he is made insolvent his hands are tied, he cannot deal with his assets. These are vested in the assignee or trustee, and there he is helpless. Supposing that a mistake has been made, at the present time he is able to appeal to the Full Court, and very often he can be heard the next month. It is important that we should provide that that right of appeal shall not be taken away, because, if we restrict the right of appeal to the High Court, which must consist of three or four Judges at least for the purpose of an appeal, it will mean that the litigant will have to wait the time of five Judges who will have duties all over Australia, as distinguished from five, six, or seven Judges in a particular State, and his chances of getting his appeal heard will be much less. I think the Attorney-General has intimated that he is in favour of what we suggested on the last occasion—leaving the Full Court with that same jurisdiction.

Mr. DEAKIN.—We must be now.

Mr. HIGGINS.—Quite so. The honorable and learned gentleman desires to delete the words "in such matters" at the beginning of sub-clause (2), so that it shall then read as follows:—

The several Courts of the States shall within the limits of their several jurisdictions, whether such limits are as to locality, subject-matter, or otherwise, be invested with Federal jurisdiction, subject to the following conditions and restrictions.

Mr. DEAKIN.—No; the words are to come in after the word "jurisdiction," so that the provision will then read—

In all matters in which the High Court has original jurisdiction, or in which original jurisdiction may be conferred upon it, except as provided in the last preceding section, and subject to the following conditions and restrictions.

Mr. HIGGINS.—I have not had the privilege of seeing the list of amendments until this moment. I understand the honorable and learned gentleman to wish that the several Courts of the States shall be invested with Federal jurisdiction in all matters in which the High Court has original

jurisdiction, or in which original jurisdiction may be conferred upon it?

Mr. DEAKIN.—We transfer the whole—we give a complete endowment to the States Courts.

Mr. HIGGINS. — Yes, but there is to follow the new paragraph which appears on the sheet which has been circulated—

Every appeal from a decision of the Supreme Court of a State, or any other Court of a State, from which at the establishment of the Commonwealth an appeal lay to the Queen in Council shall be brought to the High Court.

Mr. L. E. GROOM.—That is in Federal matters only.

Mr. HIGGINS.—Quite so. I understand that it is so far limited. It is not clear, but I think it may be made clear that the Supreme Court of a State includes the Full Court and the appeals to it; that, in fact, there is no appeal to the High Court until after the Full Court has had a chance of dealing with the case.

Mr. DEAKIN.—Under that part, yes. There is a later paragraph, but I do not think it affects the honorable and learned member's point. We strike out paragraphs (a), (b), and (c), but we leave paragraph (d), which gives an option afterwards.

Mr. HIGGINS.—I should like the Attorney-General to state exactly what is the area of the proposed alterations. I feel that I am going a little on supposition here. Suppose that an action involving Federal jurisdiction is tried before a Judge in the Supreme Court of a State. In all cases, even those which involve Federal jurisdiction, there is an appeal to the Full Court.

Mr. DEAKIN.—I think that will be clear.

Mr. HIGGINS.—I am quite sure that the honorable and learned gentleman will satisfy himself that the words convey that intention. Paragraph (d) refers to an appeal from a decision—that is, of the Full Court or of the Judge of first instance.

Mr. DEAKIN.—It gives an optional appeal. In all these cases it rests with the litigant to say whether he will appeal to the Full Court or to the High Court.

Mr. HIGGINS.—As the amendments have only just been circulated, it is advisable that the honorable and learned gentleman should make an explanation to the Committee.

Mr. DEAKIN.—I did not make the explanation before, because I isolated, so to speak, the point raised as to the question

of drafting. But as I gather from the tacit assent of my honorable and learned friend, Mr. Glynn, and the remarks of the last speaker, that this question is waived, I am only too willing to proceed to the matter of substance, which is of extreme importance. Honorable members will notice that the amendment proposed to be made in the first part of sub-clause 2 is of great importance. Taking out the words "in such matters," we commence the sub-clause with the words "the several Courts of the States," and we then proceed within their respective limits, of whatever nature they may be, to invest them with Federal jurisdiction.

Mr. WATSON.—Does that mean the geographical limits of the State?

Mr. DEAKIN.—Yes, whatever the limits may be. There are in New South Wales District Courts, in Victoria County Courts, which entertain cases up to, I think, £250. Whatever their limits are, within those limits the State Courts are to be invested with Federal jurisdiction.

Mr. GLYNN.—Not absolutely. It is only given where an Act of Parliament gives it, or where the Constitution Act gives original jurisdiction.

Mr. DEAKIN.—Exactly; we give all that we have to give.

Mr. GLYNN.—It is left to be subsequently added to.

Mr. DEAKIN.—I am not able to agree with my honorable and learned friend.

Mr. GLYNN.—That is how the amendment reads undoubtedly.

Mr. DEAKIN.—If the honorable member will look at that part of the sub-clause again he will see that the endowment is as absolute as it can be made. If he can point to any way in which it can be made more absolute, I shall be very glad to adopt it. We commence the sub-clause by saying that the several Courts of the States within their several limits shall be vested with Federal jurisdiction, and we then introduce words to make it perfectly clear, so far as we can, that we convey the whole of the Federal jurisdiction as far as we can invest it.

Mr. L. E. GROOM.—Would that mean investing the whole of the powers contained in section 76?

Mr. DEAKIN.—We say so.

In all matters in which the High Court has original jurisdiction, or in which original jurisdiction may be conferred upon it.

So far as we can deal with original jurisdiction at all, by those words we invest the

States Courts with the whole of that jurisdiction—put it beyond all question by explicit words. Next we proceed to say—

Except as provided in the last preceding section.

That, of course, is necessary, because in clause 40 we have left a few matters, which are still to be exclusively in the High Court. But, by this form of words, we make it as plain as it can be made that, with the exception of those few matters, we vest the whole of the jurisdiction of the High Court. Now we come to the first affirmative proposition. We strike out paragraphs (a) (b) and (c) from the sub-clause, and substitute the new paragraph, which was printed and circulated last week, as follows:—

Every appeal from a decision of a Supreme Court of a State, or any other Court of a State from which at the establishment of the Commonwealth an appeal lay to the Queen in Council shall be brought to the High Court.

The other Courts which are there alluded to are the Equity Court in New South Wales, the Equity Court in Victoria, where the decision of a single Judge may be appealed against to the King in Council, and also that curious Court which is peculiar to South Australia. These are the only Courts from which an appeal lay to the Queen in Council at the time of the passing of the Commonwealth of Australia Constitution Bill. So that practically the substance of that paragraph relates to the appeal from a decision of the Supreme Court of a State. The honorable and learned member for Northern Melbourne has asked whether that includes a decision of the Full Court of the State. I take it that it does, that it in no respect alters, at all events it is not intended to alter, the present system by which appeals can be taken from a single Judge of a State Court to the Full Court of that State. The paragraph refers only to appeals which, having reached that stage, may otherwise be sent to the King in Council without going before the High Court, even although they were matters of Federal jurisdiction. This paragraph says that if there be an appeal in such a case, the parties not being satisfied with the decision of the Full Court of the State, that appeal shall be brought to the High Court. The operation of the provision is practically external, if I may use the word, to the practice of the Supreme Court, to which I

understand that my honorable and learned friend, the member for Northern Melbourne, was alluding when asked whether the endowment of the States Courts was absolute, and whether or not it was intended to interfere with their appeals within their own States, I replied distinctly that that was not intended, except so far as paragraph (d), confers that option. We have not arrived at paragraph (d) yet, but I have called attention to it. That paragraph says—

Wherever an appeal would lie but for this Act, from a decision of any Court or Judge of a State to the Supreme Court of the State, an appeal from the decision shall lie to the High Court.

But that is not an exclusive appeal. It does not interfere with the existing right of appeal, from, say, a District Court Judge or any County Court Judge to the Supreme Court of the State. But it does provide an option to which, at the risk of somewhat confusing the argument on this point, I would call the honorable and learned member's attention.

MR. L. E. GROOM.—An appeal would lie from a State Judge exercising Federal jurisdiction to the Full Court?

MR. DEAKIN.—Certainly; under my new paragraph it comes before the High Court on appeal from the Full Court of a State.

MR. L. E. GROOM.—A litigant can appeal to the Full Court of his State, or to the High Court, at his own choice?

MR. DEAKIN.—Yes.

MR. L. E. GROOM.—And in any case an appeal lies to the Full Court?

MR. DEAKIN.—In any case it lies to the Full Court.

MR. WATSON (Bland).—It seems to me that a portion of New South Wales is at present cut off almost completely, so far as concerns ordinary access to its own State Court. I refer to the district of Broken Hill. I was wondering whether this would be the proper place in which to introduce some provision that would allow the people of Broken Hill to go to the State Court at Adelaide if they thought fit. The clause under consideration seems in a manner to continue existing limits as to locality of venue; and I was wondering whether it would not be possible to insert some clause under which, so far as concerns Federal cases, the people of Broken Hill might have resort to the Supreme Court of the neighbouring State.

Mr. DEAKIN.—Of course, the honorable member for Bland clearly understands that it is only possible in this measure to deal with questions of Federal jurisdiction, and he also knows that its matters of original jurisdiction are now considerably limited. We are, so far as we can, transferring the whole of the Federal jurisdiction to the States Supreme Courts. There is no provision at present for such cases as those to which the honorable member has called attention.

Mr. WATSON.—Would it not be possible to insert something to meet them?

Mr. DEAKIN.—The question involves some very difficult problems, but I will give consideration to it and reply at a later stage. The honorable member understands that in some matters of Federal jurisdiction it would be possible for a litigant at Broken Hill to appeal to a Justice of the High Court if he were in Adelaide. But the honorable member desires me to consider whether it would not be possible to allow matters of Federal jurisdiction affecting certain parts of New South Wales to be dealt with by a State Judge of South Australia. That would be an entirely different problem.

Mr. WATSON.—It seems to me at the first blush that it should not be impossible to enable the people of Broken Hill to go to other courts than the courts of New South Wales.

Mr. CONROY (Werriwa).—My strong objection to this clause remaining as it stands relates to the form of drafting. We have struck out paragraphs (e) and (f) of clause 40. Now, in clause 41, we are giving back again to the High Court the powers we took from it under clause 40. There is a danger in allowing this drafting to remain, because, in passing other Acts, we may forget to state where the jurisdiction shall lie. In bankruptcy cases, where, of course, there ought to be a Judge sitting in each State—because it is of the greatest importance to the commercial world that such cases should be settled speedily, whatever decision is arrived at—we may find people in Brisbane having to wait until a High Court Judge visits them, or cases in Perth may be delayed until a Judge of the High Court goes to Western Australia. I cannot understand the Attorney-General's reason for striking out provisions from clause 40, and then in the first three lines of clause 41 practically reintroducing the same jurisdiction. Let me make this matter perfectly

plain to honorable members. We have first of all struck out of clause 40 certain paragraphs, and have consequently taken away the exclusive jurisdiction of the High Court as to those matters. Then, in the first few lines of clause 41, we give back again the whole of that exclusive jurisdiction. It is true that the Attorney-General points out that, in subsequent parts of the clause, there is a limitation as to that exclusive jurisdiction. But, by leaving in these words, the effect may be that in passing patent laws, bankruptcy laws, and divorce laws, we shall each time have to make provision as to where cases are to be settled, and by what courts they are to be tried. An omission to make such a statement in any future Act would vest the jurisdiction in the High Court exclusively. I cannot conceive of a more dangerous provision being inserted having regard to the contingency that we might allow a Bankruptcy Bill to go through Parliament without making provision for the question of jurisdiction.

Mr. L. E. GROOM.—Can the honorable and learned member conceive of a Bankruptcy Bill that did not provide for the courts by which cases were to be tried?

Mr. CONROY.—My objection is that this clause reinvests jurisdiction exclusively in the High Court. The honorable and learned member for South Australia, Mr. Glynn, agrees with me on this point; and I ask the honorable and learned member for Northern Melbourne whether he is not of the same opinion? I ask the Attorney-General himself whether it is not true that the effect of the first three lines of clause 41 is to give back to the High Court the jurisdiction taken from it by clause 40?

Mr. L. E. GROOM.—Has not the honorable and learned member failed to read the amendment circulated?

Mr. CONROY.—I am sufficiently answered by the Attorney-General's silence.

Mr. DEAKIN.—No, the honorable and learned member is not; this is simply a means to an end.

Mr. CONROY.—The only limitation is contained in paragraph (d). This is a matter of such importance that the Attorney-General might as well take the Bill back and redraft it in the light of the decisions of the Committee upon clause 40. If he does not, he will place a great many honorable members in the

unfortunate position that when the Bill comes up for its third reading they will be compelled to vote against it, however much they might be disposed to go part of the way with the majority.

Mr. HUGHES (West Sydney).—I should like to hear from the Attorney-General some answer to the statement that this clause gives back to the High Court the jurisdiction which was taken away in the preceding clause. It seems to me to be clear that it does so. In clause 75 of the Constitution it is provided that the High Court shall have original jurisdiction in five matters. It was sought, in this Bill, to make that original jurisdiction exclusive. Of those five matters, we have agreed to strike out three. We have left matters arising under any treaty, suits between States, and suits between the Commonwealth and any person. Those are matters in which, under the Constitution, the High Court has original jurisdiction, and upon which, by this Bill, exclusive jurisdiction was sought to be given to it. It is sought now to give the Supreme Courts jurisdiction in matters in which the High Court has original jurisdiction, or in which original jurisdiction may be conferred upon it, "except as provided in the last preceding section." I am not quite clear which clause that is. I suppose it is clause 41. I am bound to say, however, that the whole matter will be very ambiguous. One point is very clear, however, and that is, that what we effected by amending clause 40 is undone by clause 41 as it now stands. The Attorney-General contends that the matter will be made quite clear if a certain amendment, of which he has given notice, is agreed to. I do not think it will. The proposal is that sub-clause (2) shall be amended so that it will read as follows :—

The several Courts of the States shall, within the limits of their several jurisdictions, whether such limits are as to locality, subject-matter, or otherwise, be invested with Federal jurisdiction in all matters in which the High Court has original jurisdiction, or in which original jurisdiction may be conferred upon it. . . .

That is to say, they are to have jurisdiction in respect of all matters under section 75 of the Constitution. That jurisdiction is to be as exclusive as—

Mr. DEAKIN.—No. It sets out what jurisdiction the States Courts are to be invested with. It is investing the States Courts with all the jurisdiction.

Mr. HUGHES.—The position must be very clear to the Attorney-General, or he would not stand by his proposal; but if any honorable member can prove to me that the effect of clause 41 is not to take away directly the effect of the amendments made in clause 40, I shall be happy to receive that explanation.

Mr. HIGGINS (Northern Melbourne).—I think I should intimate at this stage that I intend to move an amendment of the amendment to insert new paragraph (a), notice of which has been given by the Attorney-General. The proposed new paragraph provides that—

Every appeal from a decision of the Supreme Court of a State, or any other Court of a State, from which at the establishment of the Commonwealth an appeal lay to the Queen in Council, shall be brought to the High Court.

In my opinion, that provision would be void as a matter of law.

Mr. L. E. GROOM (Darling Downs).—I understand from the Attorney-General that clause 41 vests the superior as well as the inferior courts of the States with jurisdiction?

Mr. DEAKIN.—Yes.

Mr. L. E. GROOM.—I presume that it is designed to confer upon them jurisdiction in regard to all laws made under the authority of Parliament?

Mr. DEAKIN.—Yes.

Mr. L. E. GROOM.—That being so, I think I should illustrate the point I desire to make by referring to the Immigration Restriction Act, which provides that penalties shall be imposed on summary conviction, but prescribes no tribunal for hearing cases of the kind. The words "summary conviction" appear in the Act, but no court is vested with jurisdiction. The Attorney-General will also observe that in the Punishment of Offences Act 1901, we make provision to carry on pending the establishment of the High Court, and we must remember that on the passing of this Bill, all the authority conferred on States Courts under that Act will cease. I desire, only as a matter of interpretation, to learn whether the Attorney-General considers that this clause will be sufficient to confer jurisdiction upon all inferior courts to hear cases under Commonwealth Acts, which impose certain penalties for certain offences, but which do not give jurisdiction to any particular court.

Mr. DEAKIN.—Before the honorable and learned member for Northern Melbourne

moves the amendment of which he has given notice, I should like to reply to the honorable member for West Sydney. I presume that he was absent when I explained that the object of the first sub-clause is to carry out precisely what he desires shall be done. It proposes to take all the Federal jurisdiction outside the exclusive jurisdiction, and vest it in the High Court, in order that the whole of it shall then be transferred from the High Court to the States Courts. I believe that object will be effectively accomplished by the sub-clauses which follow. Having vested the whole body of Federal jurisdiction, outside clause 40, in the High Court, we next provide in sub-clause (2), in the widest words I have been able to find, that the whole of the Federal jurisdiction shall be vested in the States Courts, subject to certain limitations. We thus give them an area of authority which embraces, as the honorable and learned member for Darling Downs has pointed out, the vesting of jurisdiction in them, to deal with cases under all the Commonwealth statutes in which penalties have been imposed, but in which the inferior courts required to act have not been specified. I am unable to conceive of a more complete vesting of all the Federal jurisdiction in the States Courts.

Mr. GLYNN.—All that can be conferred upon them.

Mr. DEAKIN.—Yes. I am not speaking of the possibilities of the future. I take it that the very essence of any amending Act, or any Act dealing with any extension of jurisdiction that may be passed, will be a provision as to the courts by which that jurisdiction shall be exercised, and the extent to which it shall be employed. It is at this point that I part company with the honorable and learned member for Werriwa. I cannot conceive that any House of Parliament would be so blind to the position as to proceed to greatly extend the jurisdiction of the High Court, or other Federal tribunals, without at the same time making provision for the exercise of that jurisdiction. Even a Parliament in which there was not one member of the legal profession would not do that. I am not attempting, in this Bill, to provide for all the extensions of jurisdiction which this Parliament, or future Parliaments, may think fit to authorize. "Sufficient unto the day is the evil thereof." Surely it is enough to provide

here, in the amplest way, for all the matters with which we have power to deal, and all the jurisdiction which we are actually vesting. If we give to the States Courts all the jurisdiction that we now have power to give, why should we enter upon the consideration of questions of what we might or might not give in the future?

Mr. CONROY (Werriwa).—I feel that the Attorney-General himself has fully justified my objection. When the Committee dealt with clause 40, it laid down the very definite principle that the High Court should be practically an appellate court. The object which the Committee had in view in making that provision was to save expense. Honorable members saw that if original jurisdiction other than that absolutely conferred by the Constitution were given to the High Court, fifteen or twenty Judges, instead of five, would be necessary, or a number of inferior courts would have to be created.

Mr. DEAKIN.—We are not departing from that principle.

Mr. CONROY.—The Attorney-General admits that he has gone outside it, and that he intends to extend the jurisdiction of the High Court, unless certain restrictive clauses are contained in every measure which we may subsequently pass. If we were to pass any Bill in which there was not a restrictive clause, the jurisdiction to deal with cases under it would vest in the High Court.

Mr. WATSON.—The exclusive jurisdiction?

Mr. DEAKIN.—No.

Mr. CONROY.—That practically would be the result. The Attorney-General admitted that it would be so when he asked the Committee whether there would not be a sufficient number of lawyers in the House to see that every Bill brought forward contained a few clauses determining what court should exercise jurisdiction under it.

Mr. DEAKIN.—The honorable and learned member is not applying my statement correctly.

Mr. CONROY.—I do not see how the honorable and learned gentleman can get away from that position. I intend to move—

That sub-clause (1) be omitted.

We cannot foresee what will be the absolute result of this clause if it is allowed to remain in its present form, and, therefore, I think it should be redrafted. If the Attorney-General is desirous of following the

principle laid down by the Committee, that the High Court shall be only an appellate court, he can readily draft a few clauses clearly embodying that proposal. In every Bill passed by this Parliament in future it will be necessary to provide where jurisdiction under it begins and ends. If we fail to do so we shall find the jurisdiction of the High Court practically exclusive under it. Even if this were not quite so, the practical effect of omitting such a provision would be to vest the High Court with jurisdiction, and in that way we should go beyond the principle that we have decided upon in striking out paragraphs (e) and (f) of clause 40, and also certain provisions in clause 31.

Mr. GLYNN (South Australia).—I should like to ask the Attorney-General whether, as the object which he has in view can be accomplished in the way proposed by the honorable and learned member for Werriwa—and as there is some doubt as to the expediency of allowing these words to remain—it would not be better to make the amendment suggested. As a matter of fact, I had given notice of an amendment to omit these words before clause 40 was dealt with. This clause is open to an objection similar to that raised to clause 40, although not to the same extent. Under clause 40, it was originally proposed to confer upon the High Court exclusive jurisdiction, with one exception, in all cases, arising under section 75 of the Constitution. The one case omitted from that clause, however, was impliedly re-inserted in clause 41, so that the clause was open to the objection which has been so strongly urged by the honorable and learned members for West Sydney and Werriwa before the amendment was made. The objection holds now with double force. As the desired change can be made in one general statement instead of two, would it not be better for the Attorney-General to allow those words to be struck out? I quite admit that the subsequent amendment proposed to be made, if we interpret it in the way in which the Attorney-General desires, though it is a little ambiguous, modifies the effect of the retention of these words. But surely it is bad drafting to first put in words which say a certain thing and afterwards to abrogate them by a subsequent part of the clause? The general rule of construction is that words are put in for some purpose,

and if the purpose cannot be clearly shown the Judges will not know what to do. The Attorney-General thinks that by the proposal he makes he is really vesting the Courts of the States with full concurrent jurisdiction, and I understand the honorable and learned gentleman to mean that he is giving it wherever the High Court has original jurisdiction, and wherever we can give jurisdiction under section 76 of the Constitution.

Mr. DEAKIN.—That is so.

Mr. GLYNN.—There is an ambiguity in the way in which the honorable and learned gentleman proposes to do that, because the proposed amendment reads—

In all matters in which the High Court has original jurisdiction, or in which original jurisdiction may be conferred upon it, except as provided in the last preceding section.

The jurisdiction may be conferred upon it by a specific Act of Parliament. The clause may not be read as the Attorney-General evidently intends that it should be read, "in all matters in which original jurisdiction can be conferred upon it." That is the honorable and learned gentleman's intention evidently.

Mr. DEAKIN.—Hear, hear.

Mr. GLYNN.—It is open to the other construction.

Mr. DEAKIN.—The honorable and learned member thinks that "can" is better than "may."

Mr. GLYNN.—The use of the word "can" will make the clause absolutely clear while the use of the other word will render its meaning doubtful. I think that if the word "can" is used it will meet the objection raised by the honorable and learned member for Werriwa. With that honorable and learned member I still think that it would be better to redraft the clause, but personally I do not care to interfere with drafting. If the Attorney-General will use the word "can" instead of the word "may" I shall be prepared to allow this clause to go as proposed.

Mr. DEAKIN.—I am perfectly willing to use the word "can" instead of the word "may." I hope that under these circumstances the Committee generally will accept my assurance that this matter has been given most careful consideration. In spite of the obvious objection to first giving a power and then transferring it, the way in which the Constitution is drawn in my opinion, renders this course desirable. This

is a deliberate opinion formed after a good deal of examination. The drafting of the clause in the way proposed will render the transfer more explicit. I am prepared to do what the honorable and learned member for South Australia, Mr. Glynn, has asked.

Mr. HIGGINS.—Am I to understand that the honorable and learned gentleman will be prepared to recommit the clause if he subsequently finds that it will not work well?

Mr. DEAKIN.—Certainly.

Amendment agreed to.

Amendments (by Mr. DEAKIN) agreed to—

That the words “in such matters,” line 6, be omitted.

That, after the word “jurisdiction,” line 10, the following words be inserted:—“in all matters in which the High Court has original jurisdiction, or in which original jurisdiction can be conferred upon it, except as provided in the last preceding section and”.

That paragraphs (a), (b), and (c) be omitted.

Amendment (by Mr. DEAKIN) proposed—

That, after the word “restrictions,” line 11, the following words be inserted:—“(a) Every appeal from a decision of the Supreme Court of a State, or any other court of a State, from which at the establishment of the Commonwealth an appeal lay to the Queen in Council, shall be brought to the High Court.”

Mr. HIGGINS (Northern Melbourne).—The time is now ripe to call the attention of the Committee to what I think is a departure from the Constitution. The proposal as re-drafted is that every appeal in a matter which involves Federal jurisdiction from a Supreme Court shall be brought to the High Court. I wish it to be quite clear that I understand this is only proposed where there is a question of Federal law or of the Federal Constitution involved. Assuming that in the course of a long case, there is some question raised as to the meaning of the Federal law on divorce, on insolvency, on bills of exchange, or any of the numerous matters with which this Parliament may deal, the idea is to deprive the Privy Council of the right it has at present of hearing appeals upon those matters.

Mr. DEAKIN.—As of right.

Mr. HIGGINS.—As of right. I submit that there is no power to deprive the Privy Council of this right.

Mr. DEAKIN.—It deprives it of the appeal as of right.

Mr. HIGGINS.—The position is that at present the Privy Council, under an Order in Council, made under the Act 7 and 8 Vic., has full power to hear all appeals from the Supreme Courts of the colonies, Canada, Australia, and elsewhere, so long as the amount involved is over £500. It is by virtue of an Imperial Act that the Privy Council has this right, and it is only by an Imperial Act that the right can be taken away.

Mr. DEAKIN.—Hear, hear.

Mr. HIGGINS.—The Constitution is an Imperial Act, but the Constitution does not take away the right of the Privy Council. All that the Constitution says is that a High Court may be created, and may hear appeals from the Supreme Courts of the States. It does not say that the High Court must hear appeals, and therefore the attempt which is being made is to concentrate, and to drive into the High Court, willy nilly, appeals which at present would go, as of course, to the Privy Council. I admit that the Attorney-General is limiting his proposal to cases where there is some question of the Constitution, or of Federal law involved. I hope honorable members will understand that I make the admission that the honorable and learned gentleman proposes to limit it absolutely in that way.

Mr. CONROY.—But does the Attorney-General limit it absolutely?

Mr. HIGGINS.—That is the intention. I rather think that these words will have the effect of limiting it to cases of Federal jurisdiction, because the amendment to which we have just agreed proposes that the several courts of the States shall within the limits of their several jurisdictions be invested with Federal jurisdiction.

In all matters in which the High Court has original jurisdiction, or in which original jurisdiction can be conferred upon it, except as provided in the last preceding section.

Then there is the new proposal involving this condition and restriction:—

Every appeal from the decision of a Supreme Court of a State, or any other court of a State from which at the establishment of the Commonwealth an appeal lay to the Queen in Council, shall be brought to the High Court.

Although I agree with the honorable and learned member for Werriwa that in this clause it would, perhaps, have been better to expressly state “every appeal where Federal matters are involved,” still I am assuming that the present drafting will be

put right, and that that is the intention. I desire now to raise the substantial question whether there is any right on the part of this Parliament to say to a litigant who has been defeated in a Supreme Court of a State—"You must appeal to the High Court, because there is some question of Federal law involved." I dispute the constitutionality of the proposed amendment. If one looks at the Order in Council made on 7th June, 1860, in pursuance of the Acts 7 and 8 Victoria, it will be seen that the litigant has a right of appeal in any case in which a Supreme Court of a State decides against him where over £500 is involved. The words are—

Any person or persons may appeal to Her Majesty, her heirs and successors, in her or their Privy Council, from any finding, judgment, decree, order, or sentence of such Supreme Court of the colony of Victoria in such manner and within such time as hereinafter mentioned.

The provision could not be more universal than that. The mere fact that there may be new laws made after the Order in Council, which for this purpose may be treated as an Imperial Act, would not prevent the Order in Council applying. So that the effect of the Imperial Act, taken with the Order in Council, is that, no matter what new laws may be made by the Parliaments of Australia, and no matter what orders may be made in the Supreme Courts of New South Wales, Victoria, or any other of the States, the right of appeal lies to the Privy Council. Our Supreme Court Judges have the right, and do frequently decide as to the meaning of Imperial laws. I had a case of the sort only a few weeks ago. In the course of the working out of a case it may become necessary to decide as to the meaning of an Imperial law and *a fortiori*, the courts will have to decide as to the meaning of Federal laws. We cannot put Federal laws upon a higher basis than Imperial laws. I claim that the Constitution of the Commonwealth, though an Imperial law, has not altered the Imperial law which gives the right of appeal to the Privy Council. I do not dispute that the Imperial Parliament can change its mind and make any alteration it likes, but I say that so far it has not done so. In 1844 the Imperial Parliament said in effect, through an order in Council under the Act, that any person aggrieved by a decision of the Supreme Court of New South Wales, may appeal to the King in Council. Then

Mr. Higgins:

there is another Imperial Act, passed in the year 1900, which says that the Parliament of Australia may create a High Court to which appeals from the Supreme Court of Victoria, New South Wales, or any of the other States may lie. The Imperial law enables litigants to appeal to the High Court of Australia, but it does not compel them to do so.

Mr. L. E. GROOM.—Cannot we give Federal jurisdiction, and limit the conditions under which it shall be exercised?

Mr. HIGGINS.—I am speaking now only of the effect of the clause upon the right to appeal to the Privy Council. It is not now a question of giving Federal jurisdiction. We can give Federal jurisdiction to any Court in Australia, but when any of the Supreme Courts gives a decision under any law one may choose to name, there is annexed to it the right of the litigant who thinks he is aggrieved thereby to appeal to the Privy Council. It does not matter what body made the law under which the decision is given. It is not a question of the source of the law; it is a question of what court gave the decision. If a Supreme Court, either through a Judge sitting as a court of first instance, or as a Full Court, gave a decision affecting a matter involving £500, an appeal would lie as of course to the Privy Council. I know that the Attorney-General is enamoured of the idea of this clause, but he will acknowledge that I suggested to him some weeks ago that I doubted very much whether such a provision could be carried into effect.

Mr. DEAKIN.—Hear, hear.

Mr. HIGGINS.—I do not want to have a clause put into the Bill which is either obviously wrong or will lead to litigation and trouble hereafter. In these matters there must be differences of opinion, however, and therefore I would waive my objection if this particular difficulty were referred to any impartial lawyer in practice, and he said that the clause is a right one.

Mr. A. McLEAN.—Is it necessary to leave the matter in doubt? Cannot it be put beyond the possibility of doubt?

Mr. HIGGINS.—The question is one which is vital to the High Court. The Government is trying to compel litigants to appeal to the High Court instead of to the Privy Council. Digitized by Google

Mr. WATSON.—That is in respect to matters affecting our legislation.

Mr. HIGGINS.—In cases in which even incidentally some trivial question with regard to the meaning of a Federal law is involved.

Mr. L. E. GROOM.—The interpretation of the Constitution may arise independently of any of the statutes of this Parliament.

Mr. HIGGINS.—Quite so. There is, however, a vague theory afloat to the effect that one set of Judges may close its eyes to one set of laws, and another set of Judges to another set of laws; that the State Judges can close their eyes to the Federal laws, and the Federal Judges to the State laws. That is a mistake. The whole body of law must be consistent, and every State Judge, down to Justices of the Peace, just as much as the highest dignitaries of the High Court, must obey the Federal law. A rule of law must be followed in every court. I venture to respectfully submit to the Attorney-General, however, that the effect of 7 and 8 Vic., taken with the Order in Council made under it, is to give a litigant the right, if he feels himself aggrieved by an interpretation of the Federal law, to appeal to the Privy Council. He may, therefore, snap his fingers at this provision compelling him to appeal to the High Court. I will give a concrete instance. Under the Constitution we may make a law dealing with bills of exchange. Now there is no class of actions more common than actions upon bills of exchange. Suppose then that we had made a law affecting bills of exchange, and a question arose in one of the States Courts as to the rights of parties under a certain bill for £5,000—a question relating to indorsement, to presentation, or to any other matter. That would be an ordinary commercial case. As things stand now the dissatisfied litigant can appeal directly from the Supreme Court of the State to the Privy Council. But the proposal of the Attorney-General is to deprive litigants of that right, and compel them to go to the High Court. There is to be no appeal to the Privy Council from the High Court unless special leave be given, and in most cases there must be a special recommendation from the High Court. That is an extraordinary interference with existing rights, and, not only do I not think it expedient, but I think it impossible. I put my argument on two

grounds. First, that it is inexpedient under present circumstances to deprive litigants of their right to appeal on commercial causes to the supreme tribunal of the Empire; and secondly, that we have not the power to do so, because we cannot interfere with the operation of 7 and 8 Vic., which gives litigants the right to appeal to the Privy Council. I have indicated before that I think the option a most unwholesome one, and I know how it will work out in practice. Litigants who are aggrieved by the decision of a Supreme Court will study the idiosyncrasies of the members of the High Court Bench and of those of the Privy Council before deciding which court to appeal to, and thus the man who wants to appeal will be able to hold the whip over the man in whose favour the decision is given.

Mr. CROUCH.—The Attorney-General is trying to prevent that.

Mr. HIGGINS.—Yes, but in my opinion a provision to that effect would be *ultra vires*. We cannot abolish the option; but we can prevent our statutes from becoming foolish. The option is given by the Constitution, and we must abide by it. If we provide in the Bill that appeals must go in a certain direction, we shall be exceeding our powers, and only misleading litigants. I move—

That the amendment be amended by the omission of the word "shall," line 7, with a view to insert in lieu thereof the words "may at the option of the appellant."

Mr. CONROY (Werriwa).—I thoroughly agree with the remarks of the honorable and learned member for Northern Melbourne. We are now face to face with one of the difficulties which were foreseen, both when the Convention was sitting and alternative clauses were before it, and, subsequently, when the Constitution Bill was altered by the Imperial Parliament. The clause attempts to get over a difficulty in the Constitution itself. That difficulty arises because the Constitution allows alternative appeals. There is, however, no way in which we can overcome it without amending the Constitution. No doubt, if we took the course provided in the Constitution itself for the making of amendments, the Imperial Parliament would consent to any amendment that we might make; but the honorable and learned member for Northern Melbourne has pointed out that we cannot amend the Constitution

by the mode of procedure now being adopted. All that we shall do, if we pass the clause as proposed, will be to create doubt in the minds of the non-legal world as to the meaning of the provision. Laymen, when they read the words "shall be brought in the High Court," will think that an appeal will not lie to the Privy Council, and may, therefore, go to the High Court against the wishes of their legal advisers. But where they adopt legal advice they will no doubt go to the Privy Council. One of the first rules for the drawing up of a statute is to make it as precise and certain in form and expression as the knowledge of the men who are drawing it up enables them to make it, and we are departing from that practice when we agree to a provision which, at best, can result only in litigation. I think that the amendment of the honorable and learned member for Northern Melbourne should be accepted. The words in the Constitution Act are very clear, and I am at a loss to understand how the Attorney-General can think that they can be got over. Does he suggest that because Federal jurisdiction is conferred upon the Supreme Courts they must, before they allow any appeal as of right to the Privy Council, inquire as to the law under which the decision was given? If they did, they would practically be saying to litigants—"Although the Constitution entitles you to appeal to the Privy Council from the Supreme Court on any matter, as this is a Federal matter you cannot appeal." Under such an interpretation of the Constitution, an appeal from a decision under the Imperial Navigation laws would not lie. Are not our courts called upon every day to interpret Acts passed in other countries? Does the Attorney-General hold that no appeal would lie to the Privy Council in a case such as that of *McLeod v. McLeod* in Sydney, which involved the interpretation of an American Act?

MR. DEAKIN.—In that case the court did not deal with an American law, but with an Act passed in New South Wales, and an Imperial Act which had been repealed, and of which one section was still in force in New South Wales.

MR. CONROY.—Does the Attorney-General wish us to believe that, if a decision were given in New South Wales upon a question affecting New Zealand law, the Privy Council would refuse to hear an

appeal? I contend that, irrespective of the law involved, the moment a decision is given by a State Supreme Court upon any matter an appeal will lie to the Privy Council, and that we cannot take away this right. Perhaps we have the right to limit the power of appeal in matters involving the interpretation of the Constitution, but, even in regard to this point, it is held by some honorable and learned members that, the moment we invest States Courts with jurisdiction, the ordinary course of proceeding will not be followed, and that appeals will lie to the Privy Council. If that view is correct, the objections raised by many honorable members against the Bill on the ground that it is unnecessary are strengthened. The position taken up by those honorable members who supported the proposal that original jurisdiction should be given to the High Court would also have been improved if the committee had not decided against their views. I shall support the amendment, because the first object of a statute should be to lessen litigation, and because, in view of the doubts raised regarding a possible conflict with the provisions of the Constitution, it is necessary to make matters perfectly clear.

MR. DEAKIN.—With all deference, I differ from the honorable and learned member for Northern Melbourne upon this question, which he was good enough to bring under my notice privately a few weeks ago. The strength of his case on the question of law must be apparent to all honorable members who listened to his extremely clear exposition of his views. They may, however, have been somewhat puzzled when, after exposing with great force the very undesirable position in which we shall be placed if optional appeals are permitted, my honorable and learned friend went on to say that, although disapproving entirely of optional appeals, he yet thought, on the ground of expediency, that it would be very undesirable, even if we had the power, to get rid of them.

MR. HIGGINS.—No; I say that the optional appeal is fixed upon us by the Constitution, and that we must abide by that.

MR. DEAKIN.—I think that the honorable and learned member will admit that the extreme difficulties imposed upon us by optional appeals justifies us in making

every effort to get rid of them; and that is the object with which the proposal is made in this Bill. I have addressed myself with great care to the Constitution, in order to discover if it is not possible to avoid the optional appeal. I need not at present enter into a discussion as to their inexpediency, because, first of all, if it be not possible for us to obtain the desired jurisdiction, we must submit to the double jurisdiction. I fear, however, that it may weigh with honorable members who, whatever their opinion of the legal question may be, are disposed to agree with the law of the honorable and learned member for Northern Melbourne. Let me now, apart from that aspect of the matter, explain why I have endeavoured to introduce this sub-clause into the measure, even after my honorable and learned friend was good enough to put to me his own clear and strong views on the question. In the first place, I rely upon the fact to which the honorable and learned member has referred, that the Constitution is an Imperial Act, and carries with it all the authority which Acts creating the appeal as of right to the Privy Council can carry, and that, we are to read it as passed in the light of existing Imperial statutes, when emanating from the body which having passed these statutes has authority to amend them either directly or by implication. I submit that the endowment which section 73 of the Constitution gives to the High Court may in effect repeal them by implication. Section 73 provides that the High Court shall have jurisdiction to hear and determine appeals from all judgments, decrees, orders, and sentences, not only of Justices of the High Court, but of any other Federal Court, or court exercising Federal jurisdiction. It is in the power of the High Court—in fact the Constitution imposes jurisdiction upon it—to hear appeals from any Federal Court or court exercising Federal jurisdiction. The courts which would be affected by this sub-section, are courts exercising Federal jurisdiction. They are Courts of the States, and are being endowed with all the Federal jurisdiction we can give them under this clause. Section 71 is important in this connexion. Then, if we turn to section 77 we find that with respect to any of the matters mentioned in the previous two sections, that is with respect to any matter of Federal jurisdiction, the Parliament may make laws not only defining

the jurisdiction of any Federal Court other than the High Court, but defining—

The extent to which the jurisdiction of any Federal Court shall be exclusive of that which belongs to or is vested in the Courts of the States.

and vesting it or any part of it in State Courts. I submit, therefore, that under section 77, sub-section 2, it is possible for us to give exclusive jurisdiction to the High Court in all those matters of Federal jurisdiction which go on appeal to the Supreme Courts of the States, and to require that all appeals in matters of Federal jurisdiction which come before them shall be brought before the High Court. If, then, we have the power to make this appellate jurisdiction exclusive, and to shut out the Supreme Courts of the States or to define the extent to which they shall exercise jurisdiction, that implies that we have the right to invest them with power to hear appeals subject to certain conditions. That is what is sought to be done in this clause. First of all, we absorb in the High Court the whole of the Federal jurisdiction, and then invest the States Courts with it, subject to certain conditions. The position I take is that we are empowered under the Constitution to render back the appellate jurisdiction upon Federal matters to the Supreme Courts, with the condition that any appeals from them shall be brought before the High Court. They will have no such jurisdiction except under that condition. I admit the force of the contention of the honorable and learned member for Northern Melbourne, but, notwithstanding the deference which I pay to his opinion, and to the opinions of other honorable and learned members, venture to submit that the Constitution justifies the assumption that we have the power to condition these appeals. The inconvenience, loss, and difficulty created by the optional appeal to two different courts justifies us in endeavouring to claim this power. The appeals to the King in Council preserved either by section 73 or 74 of the Constitution, are those as of grace as distinguished from those as of right, and as the only appeals with which we propose to deal in the new paragraph are appeals as of right—I admit our inability to reach appeals as of grace, which would still be retained in these matters—it seems to me a fair construction to place upon the whole of these clauses when read

together to say that just as section 74 disposes of appeals as of right from the High Court, and leaves untouched appeals as of grace, in like manner sections 71, 73, and 77 when read together, empower this Parliament to deprive litigants of appeals as of right from the States Courts always leaving them the prerogative appeals as of grace.

Mr. HUGHES.—When the Attorney-General speaks of an appeal as of grace, does he mean an appeal direct to the Privy Council or to the High Court?

Mr. DEAKIN.—Section 74 refers to appeals from the High Court only, but section 73 relates to appeals to the Judicial Committee of the Privy Council from States Courts in matters arising in them apart from Federal jurisdiction.

Mr. HUGHES.—Under this clause does the honorable gentleman say that an appeal would lie direct to the Privy Council in any circumstances?

Mr. DEAKIN.—This clause does not attempt to deprive litigants of the right of appeal as of grace. Its effect is to take away from them the appeal as of right from States Courts. Both on the particular reading of the words relating to these appeals, and on the general construction to be placed upon the whole chapter, the insertion of the new paragraph can be justified. Unless it be disposed of upon considerations of expediency, as being, perhaps, premature, there is a great deal to be urged in its favour from the stand-point of taking the utmost advantage of our powers in the Constitution, of reading them in the largest possible way, while not attempting to deprive litigants of the prerogative appeal as of grace, to the Judicial Committee of the Privy Council. I hope the lay members of the Committee will understand that if this paragraph be inserted, it will still leave, even in matters of Federal jurisdiction, the same appeal from the States Courts upon special leave to the Privy Council that exists to-day. We cannot entirely abolish appeals to the Judicial Committee of the Privy Council. It will abolish only appeals as of right. But if my proposed paragraph be inserted, all matters involving the exercise of Federal jurisdiction would first have to be brought before the High Court. It would then rest with the appellants to determine whether they would go farther. We know that in the great majority of cases the decisions given by the Supreme Courts of

the States are accepted by suitors as satisfactory. The functions of the High Court would cover a larger ambit and probably a great many of the cases coming before it would not be taken on to the King in Council. I do not dispute that there is much force in the contention of the honorable and learned member for Northern Melbourne, but from the reading of the Constitution which I have given, it seems to me that we are within the power of Parliament if we enact this sub-clause.

Mr. GLYNN (South Australia).—Personally, I lay less stress upon the legal objection to this clause, because of the possibility of its validity being challenged on the ground that it is unconstitutional, than I do upon the wisdom of passing it. The honorable and learned member for Northern Melbourne has declared that if a clause is *ultra vires* it is our duty not to place it upon the statute-book. I confess to entertaining a slight doubt about that matter. The balance of my opinion is with the honorable and learned member, but I cannot absolutely set up that opinion against the position assumed by the Attorney-General, and also by Professor Harrison Moore, that Federal jurisdiction can be conferred upon State Courts subject to a condition. I quite agree with the Attorney-General that possibly appeals as of right will be affected by the adoption of this paragraph, whilst appeals as of grace may not be affected. I am not quite sure upon that point. But quite irrespective of whether or not we vest Federal jurisdiction in the States Courts, I would point out that under the Constitution itself, probably those courts already have that jurisdiction. If so, appeals, both as of right and as of grace, are permitted to the Privy Council. At the same time any Act that we pass may, by implication, repeal appeals as of grace to the Privy Council, though it is generally acknowledged that to accomplish that end express words must be employed. It has been laid down in a Canadian case that Parliament cannot negative a prerogative which exists without the use of express words having that effect. The Dominion Parliament passed an Act in which it declared that notwithstanding any prerogative to the contrary an appeal was abolished. Within the past two or three years a case was heard in England, in which it was decided that the old rule requiring a prerogative to be expressly

negatived did not hold good in all cases. It was held that by implication the prerogative could be cut down. That being so, it is quite open to argument that under the Acts Interpretation Act, and under section 2 of the Constitution which expressly binds the Crown, we may, by implication, limit the power of appeal to the Privy Council as of grace—that is with the permission of the Privy Council. But subject to that qualification, I agree with the Attorney-General that the appeal as of grace will be open, and that what we are now attacking is the power of appeal as of right. The honorable gentleman declares that where we vest Federal jurisdiction in a court, we can vest it subject to any condition which we choose to impose. To some extent I have answered that contention by showing that we may not be required to vest it by Act of Parliament, because such jurisdiction may have been conferred upon the States Courts by the Constitution. It is a doubtful point, but it has been held by some—and I think by Professor Harrison Moore—that the jurisdiction may exist under section 5 of the Constitution. I believe he even goes further and says that as a matter of general British law this jurisdiction may exist without it being specially conferred by Act of Parliament. If that be so, the appeal as of right to the Privy Council exists under the Constitution. The original jurisdiction exists without any action being taken by us, and incident to that jurisdiction is the power to appeal to the Privy Council. If, as the Attorney-General says, we bestow jurisdiction, it might be we can limit it, but if it exists without us we cannot cut it down.

Sir JOHN QUICK.—Where does the honorable and learned member say that Federal jurisdiction has been vested in the States Courts?

Mr. GLYNN.—Under section 5 of the Constitution, which makes that Act as an Imperial Act binding upon the Crown.

Sir JOHN QUICK.—That merely means that the law must be executed.

Mr. GLYNN.—But it has been argued that it has a very much wider signification. It is argued by Professor Harrison Moore with a good deal of conclusiveness that, altogether apart from the Constitution, as a matter of general British law, this Federal jurisdiction does exist. If that be so, inasmuch as the jurisdiction arises out of this Bill, the appeal to the Privy Council which

exists before it is passed will still be open. In the Canadian case of *Cushing v. Dupuy* it was laid down that where Parliament confers a right of appeal it can also take away that right. In that case an appeal was given as of right from the Insolvency Court of Quebec to the Supreme Court of Canada or the Privy Council. In a subsequent Act, however, the Dominion Parliament took away that right of appeal by declaring that the judgment of the Provincial Courts in matters of insolvency should be final. In that case it was decided that the appeal of right had been abolished because it had its origin under a Canadian statute, and that what a Canadian statute could confer, it could also take away. But it expressly stated that it did not take away the appeal of grace to the Privy Council, because that existed before the Canadian appeal as of right was conferred by a Canadian Act. I mention this to show that there is another side to that which has been taken by the Attorney-General. Some of the lay members of the Committee may imagine that the power of construing the constitutionality of statutes is absolutely vested in the High Court, subject to any permissive appeal given to the Privy Council by the High Court, but as a matter of fact, it is possible that if a point involving the constitutionality of statutes—an *inter se* point—arose in the Supreme Court of a State, under the Federal jurisdiction to be conferred, an appeal would lie direct to the Privy Council.

Mr. DEAKIN.—Unless we make that provision.

Mr. GLYNN.—I do not know that the clause does that.

Mr. DEAKIN.—I do not say this clause. There is a later clause.

Mr. GLYNN.—No doubt an attempt is made by the Bill to stop that; but I do not know that it is efficacious. Supposing that an Act passed by a State Parliament was unconstitutional under the Commonwealth of Australia Constitution Act. If such a question arose in the Supreme Court of the State exercising Federal jurisdiction, an appeal would probably lie to the Privy Council; so that the safeguarding of the interpretation about which honorable members heard so much on the second reading as arising under section 74 does not exist; and so far as these appeal clauses are concerned, there is very little final jurisdiction in the High Court. Of course, that

ought to have told more strongly than it has done against the immediate creation of the High Court.

Mr. DEAKIN.—It does not relieve us of the obligation to create it.

Mr. GLYNN.—We do not want to go into that point now.

Mr. DEAKIN.—And the optional appeal lies all the same under section 73.

Mr. GLYNN.—No doubt—much to my regret. On the last division in the Convention, I was defeated by three votes in making the attempt to abolish all direct appeals to the Privy Council.

Mr. L. E. GROOM.—Now we are trying to get back to where the honorable and learned member left off.

Mr. GLYNN.—Yes; but by sinister methods. There is no doubt that this is an attempt to cancel the bungling of the Convention in its final division. On this point the delegates were unfortunately—and, I believe, unintentionally—misled by their leader and Sir Josiah Symon. I endeavoured to point out that direct appeals were retained, and I was point-blank contradicted by those gentlemen, who said that no appeals were allowed in Canada. What they had in their minds was that there were few appeals from the Supreme Court of Canada, but the direct appeals exist of right and grace. The tremendous leakage which will take place in Australia will be from the States, and do what we will, we shall find that there will be very little final jurisdiction exercised by the High Court. The passage of the High Court Bill and the abolition of the appeal to the Privy Council from the States ought to be contemporaneous. As regards the policy, what the clause does is to protract litigation, because really, where a suitor wishes to appeal direct, he is compelled to appeal to a court not of final jurisdiction—that is, to the High Court of Australia. So that we may have two appeals where, if the clause were left out, we possibly would have only one, or at all events one of the litigants could say that there was to be only one appeal. The probability is that an appeal as of grace from the High Court, if we leave the appeal of the High Court, will be granted in almost all cases. The Privy Council refuses to allow appeals as of grace from the Supreme Court of Canada except in very rare cases of public importance, or where something more than mere money is concerned. But it acts on this

ground, that the suitor having had the option of two appellate courts—the Supreme Court of Canada and the Privy Council—has chosen one and is bound by his option. There is no option given by this clause, so that the reason which frequently influences the Privy Council to refuse these appeals does not hold in this case, because the suitor is compelled to go to the High Court. I therefore contend that in almost every case the Privy Council will grant an appeal from a Judge of the High Court. If that is so, the best thing we can do is to diminish the opportunities for appeal by leaving out the clause. For that reason, if a division is called for, I shall vote against it.

Mr. McCAY (Corinella).—I listened with very great attention to the view put by the Attorney-General as to the constitutionality of the clause. But I confess that I was unable to go with him in his reasoning to the conclusion at which he arrived. He has had to say in effect that, taking section 73 of the Constitution with section 77, he could spell out from the two an implied power to place a condition upon the bestowal of jurisdiction on the Courts of the States. Section 73 deals solely with one of the courts created by the Constitution, or that may be created under the Constitution, but does not deal in any way with the jurisdiction to be bestowed on existing courts on which we have the right to bestow further powers. Then, if we look at section 77, upon which the honorable and learned gentleman relied, we find in sub-section (2) that the Parliament may make laws—

Defining the extent to which the jurisdiction of any Federal Court shall be exclusive of that which belongs to or is invested in the Courts of the States.

If I understand the honorable and learned gentleman aright, he says that that power implies an authority to limit the jurisdiction.

Mr. DEAKIN.—To impose a condition on the granting of the appeal, because we can define the extent to which the jurisdiction shall be exclusive.

Mr. McCAY.—Exactly. The honorable and learned gentleman says that the word “extent” implies the power to impose a condition. Let us grant for a moment that it is so. Sub-section (2) refers solely to courts created by the Commonwealth.

Mr. DEAKIN.—To Courts of the States!

Mr. McCAY.—The term "Federal Court" in the sub-section includes the High Court and any other Federal Courts that we may create, but it does not include the States Courts, which we invest with Federal jurisdiction. The first section of the Judicature chapter of the Constitution says—

The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other Federal Courts as the Parliament creates, and in such other courts.

which are not called Federal Courts—

as it invests with Federal jurisdiction.

Consequently sub-section (2) of section 77 does not refer in any way to States Courts invested with Federal jurisdiction.

Mr. DEAKIN.—But it says, "or is invested in the Courts of the States?"

Mr. McCAY.—I know. It says the Parliament may make laws—

Defining the extent to which the jurisdiction of any Federal Court—

That is, the extent to which that jurisdiction of Federal Courts shall be exclusive of certain other jurisdictions.

Mr. DEAKIN.—Exactly, "Invested in the Courts of the States."

Mr. McCAY.—Quite so, but the definition of extent is only permitted with respect to Federal Courts. We can only say as regards a Federal Court, that this jurisdiction shall be exclusive of State jurisdiction. But it does not convey the power to impose a condition upon the investment of the States Courts with Federal jurisdiction. It does not convey the power to define the extent to which Federal jurisdiction shall be bestowed upon States Courts, because, when we come to sub-section (3), we have the investing power given without any corresponding power of defining the extent. Sub-section (1) refers solely to courts created by the Parliament. In sub-section (2) the words "any Federal Court," refer solely to courts created by the Parliament, and it is only in the case of courts created by the Parliament that we can define the extent of their jurisdiction in the sense in which we can impose a condition with respect to jurisdiction. In sub-section (3)—beyond section 71, of course—we get the only express authority for investing States Courts with Federal jurisdiction. There is no power to be spelled out of that sub-section, or any other portion of the chapter which allows us to impose a condition at the same time that we invest the

Courts of the States with Federal jurisdiction. What I mean is that, having decided that the State Court is to have a given Federal jurisdiction, we must bestow that jurisdiction along with all the incidents and rights of litigants which belong to the State Court in the exercise of its ordinary State jurisdiction; that the only ground on which we can say that a State Court can have the jurisdiction bestowed on it limited with respect to the right of appeal is that we have the authority to define the extent of its jurisdiction, which we cannot do. The wording of sub-section (1) and sub-section (2)—to define in one case the jurisdiction and in the other case the extent to which the jurisdiction shall be exclusive—varies so markedly from the third sub-section, which authorizes us to invest the States Courts with Federal jurisdiction that it seems to me there is a very cogent argument to be drawn from these words to the effect that the Constitution has almost, in so many words, distinguished between what we can do with regard to Commonwealth-created courts, and what we can do with regard to previously existing courts. Sub-section 2, when it is read carefully, seems to me to give only a power to assert that the jurisdiction shall be exclusive—nothing else surely the power to assert that the jurisdiction of Court "A," shall be exclusive, cannot be read to mean that Court "B" may have a condition imposed upon the jurisdiction vested in it, which is not made exclusive in Court "A." The Attorney-General has used sub-section (2) in support of the clause in a way in which it cannot be used, when we consider the words of the whole section. I submit that sub-section (3) is the only one dealing with the question, and that it does not give such authority. When we find irresistible inferences arising from express words, it will require a very strong implication to be gathered from the general sense of the chapter on the Judicature to justify us in overriding those inferences. I feel compelled, on the ground of law, to say that this sub-clause is not within the authority of this Parliament; because having invested the States Courts with Federal jurisdiction, having said that they shall have power to hear cases arising under laws made by the Commonwealth, we propose to say that there shall be no appeal in the ordinary way. I can see no authority for such a condition; and, though

it is almost with timidity I say it, my mind is, rightly or wrongly, not in any state of doubt on the matter. Rightly or wrongly, it seems to me that unless we are to have the Constitution enlarged by interpretation by some court in a most national and most notable manner—unless we are practically to have meanings read into the Constitution which the ordinary reader cannot there find—this power does not exist. Even if this question were only debatable, it would be unwise at this stage to adopt the proposal of the Attorney-General, quite apart from whether its adoption might not be an interference or an imagined interference with the prerogative, and thereby give rise to the necessity of reserving the measure for the Royal assent. We do not want to pass laws here of such a character that there shall be a chance of any custom growing up of reserving measures, unless in cases in which the Constitution positively orders such a step. In regard to the matter of appeals, it seems to me—and I expressed very much the same view during the debate on the second reading—that so long as we, as a matter of fact, have no finality, or anything like finality, in the High Court, it is not desirable to introduce another stage in litigation.

Mr. DEAKIN.—We want as much finality as we can get.

Mr. McCAY.—We want as much finality in Australia as we can get, but I do not think that finality will be attained, under existing conditions, by merely introducing a fresh stage, or possibly fresh stages, of litigation, and thereby giving rise to appeal after appeal, until the Privy Council is reached. There is a great deal in what was said by the honorable and learned member for South Australia, Mr. Glynn, as to the probability of leave of appeal to the Privy Council being given in a large number of cases. If under this clause every appeal went to the High Court, many litigants, whether satisfied or dissatisfied with the result, would probably be thoroughly satisfied with the bill, or bills, of costs which would come in due course, and consequently a great number of appeals would stop, because of reasons other than the satisfaction—if such a term may be used—of a litigant with the decision against him. I base my objection to the clause chiefly on the ground that I do not see any authority in the Constitution for imposing a condition on a State Court which we have invested with

Federal jurisdiction. I can see reasons for arguing that, given a Federal Court, we can impose conditions on that court. I may have grave doubts on that point, but I cannot—probably through my own fault in not properly following the arguments of the Attorney-General—see at the present time any ground for imposing any condition, and, therefore, I feel it my duty to oppose the honorable gentleman's proposal.

Sir JOHN QUICK (Bendigo).—The arguments in this matter seem to be very strong both ways, but on the whole I feel inclined to accept the view of the Attorney-General. If there is any doubt, the decision should be in favour of the High Court. It is quite clear that the judicial power conveyed by the Constitution is to be vested in the High Court, in such other Federal Courts as are created, and in such courts as may be given Federal jurisdiction; and if there are arguments both ways, it would be as well to give effect to that provision and concentrate the Federal jurisdiction in the Federal Courts which come within the purview of the Constitution. The honorable and learned member for South Australia, Mr. Glynn, said that in his view Federal jurisdiction is conferred on States Courts *ipso facto* by the Constitution, under covering section 5, which provides that the Constitution and the laws of the Commonwealth shall be binding on the States Courts and States Judges.

Mr. GLYNN.—I said that possibly that was so.

Sir JOHN QUICK.—A similar provision exists in the United States Constitution, and yet it was not held there that the States Courts had full Federal jurisdiction. What is meant is, as I understand it, that any prohibitions or mandates of the Constitution, or laws passed thereunder, are binding on the States Courts.

Mr. GLYNN.—The words are not identical in the two Constitutions.

Sir JOHN QUICK.—They are pretty nearly identical; at any rate they are based on the same design. But the view suggested by the honorable and learned member is quite deprived of anything to sustain it *prima facie* by the distinct power conveyed by our own Constitution to invest the States Courts with Federal jurisdiction. If the jurisdiction had been previously granted there would have been no occasion for the special provision in the Constitution

authorizing the Federal Parliament to invest the States Courts with Federal jurisdiction. It seems to me that if Parliament has the power to invest the States Courts with Federal jurisdiction, it has the power to describe the mode, conditions, surroundings, and provisions under which the jurisdiction is to be exercised. The power is unlimited; and, therefore, I think there is very great force in the view presented by the Attorney-General, namely, that we may give Federal jurisdiction to the States Courts subject to the condition that the High Court shall have the right before the Privy Council to review decisions in the first instance. I entertained no doubt whatever on the subject originally, and should never have entertained any doubt but for the suggestion made by the honorable and learned member for Northern Melbourne, for whose opinion I have very high respect. It seems to me, however, that there are very strong arguments for the view presented by the Attorney-General, that this is a power which may be invested in the States Courts, either unconditionally or with a reservation. There is another argument by which the view of the Attorney-General can be sustained. The High Court, under the Constitution, has the right to hear appeals from the States Courts; and it is, therefore, quite clear that where there is a Court of Appeal presiding over courts of inferior jurisdiction, the Court of Appeal has the power of removal, and that that power of removal exists both during the hearing of a suit, and after the decision is given. The High Court having this inherent power of removal, there must be power in this Parliament to make a provision which certainly does not exceed the inherent power of the High Court. Under the Constitution of the United States it has been held in the leading case of *Martin v. Hunter*, that there is a power of removal of all causes from the States Courts which assume Federal jurisdiction, at any stage during the history of the case—during its progress or after the decision—and it has been held that this is a power inherent in the appellate jurisdiction.

Mr. GLYNN.—That power was conferred by statute.

Sir JOHN QUICK.—No; it is an inherent power.

Mr. GLYNN.—There was no Privy Council, and the power was subsequently conferred by statute.

Sir JOHN QUICK.—It may be that the Privy Council, as a Court of Appeal, has also inherent jurisdiction of removal, but the position is quite clear from the remarks of Mr. Justice Story, in the case *Mart v. Hunter*, that the High Court will have the power of removal. Mr. Justice Story said—

This power of removal is not to be found in express terms in any part of the Constitution; if it be given, it is only given by implication, as a power necessary and proper to carry into effect some express power. The power of removal is certainly not, in strictness of language, a grant of original jurisdiction: it presupposes an exercise of original jurisdiction to have attached elsewhere. The existence of this power of removal is familiar in courts acting according to the course of the common law, in criminal as well as civil cases, and it is exercised before as well as after judgment. But this is always deemed, in both cases, an exercise of appellate, and not of original jurisdiction.

According to that principle the High Court of Australia would, in any case dealt with by the States Courts in the exercise of Federal jurisdiction, have power, as the Court of Appeal, to remove a cause from the States Courts, whether or not this provision proposed by the Attorney-General be passed. If that can be done by the inherent authority vested in the High Court as a Court of Appeal, I see no objection whatever to an express provision in the Bill vesting in the High Court, in the first instance, the exclusive right of appeal from the States Courts exercising Federal jurisdiction. Also, on the ground of expediency, I think it would be better to accept the proposal so as to avoid any option in a case where one party desired to go to the Privy Council, while the other party desired to go to the High Court. Of course, the proposal does not in any way interfere with the inherent power, which is still vested in the Privy Council, to grant leave to appeal from the decision of a State Court; and it is not proposed to take away that power. All that is taken away by the Attorney-General's proposal is the legal right to appeal under Orders in Council. Nor does the provision interfere with the ultimate right of the Privy Council to grant leave of appeal from decisions of the High Court provided no constitutional question is involved. Under these circumstances, I feel quite justified, according to constitutional principles, as well as on the grounds of expediency, in supporting the proposal of the Attorney-General.

Question—That the word “shall,” proposed to be omitted, stand part of the proposed amendment—put. The Committee divided.

Ayes	...	...	24
Noes	...	...	23
			—
Majority	...	...	1

AYES.

Barton, Sir E.	Mauger, S.
Batchelor, E. L.	O'Malley, K.
Chapman, A.	Quick, Sir J.
Cook, J. H.	Ronald, J. B.
Crouch, R. A.	Sawers, W. B. S. G.
Deakin, A.	Spence, W. G.
Edwards, R.	Tudor, F.
Ewing, T. T.	Watkins, D.
Fisher, A.	Watson, J. C.
Forrest, Sir J.	
Fysh, Sir P.	<i>Tellers.</i>
Groom, L. E.	Fuller, G. W.
Kingston, C. C.	McDonald, C.

NOES.

Cook, J.	McLean, A.
Cooke, S. W.	Paterson, A.
Edwards, G. B.	Poynton, A.
Glynn, P. McM.	Smith, B.
Hartnoll, W.	Smith, S.
Hughes, W. M.	Solomon, E.
Kennedy, T.	Thomas, J.
Kirwan, J. W.	Thomson, D.
Knox, W.	Willis, H.
Manifold, J. C.	<i>Tellers.</i>
McCay, J. W.	Wilks, W. H.
McEacharn, Sir M.	Conroy, A. H.

PAIRS.

<i>For.</i>	<i>Against.</i>
Clarke, F.	McLean, F. E.
Turner, Sir G.	McMillan, Sir W.
Wilkinson, J.	Cameron, D. N.
Harper, R.	Groom, A. C.
Cruckshank, G. A.	Brown, T.
Lyne, Sir W. J.	Braddon, Sir E.
Isaacs, I. A.	Phillips, P.
Page, J.	Higgins, H. B.
Fowler, J. M.	Skene, T.
Bamford, F. W.	Solomon, V. L.
Mahon, H.	Salmon, C. C.

Amendment of the amendment negatived.

Amendment agreed to.

Sir JOHN QUICK (Bendigo).—I should like to know how the clause stands as amended. Is it still proposed to retain paragraph (d)?

Mr. DEAKIN.—Yes.

Sir JOHN QUICK.—What is the effect of paragraph (d)?

Mr. DEAKIN.—An option.

Sir JOHN QUICK.—Does that mean that an appeal is to lie direct from a decision of a court of petty sessions exercising Federal jurisdiction, to the High Court?

Mr. DEAKIN.—Yes.

Sir JOHN QUICK.—If that be so, it does not come within the limitation of the newly-added paragraph (a).

Mr. GLYNN (South Australia).—Paragraph (e) states that—

Whenever a decision of a Court or Judge of a State is declared by the law of the State to be final, the High Court may, if the decision is given in the exercise of Federal jurisdiction, grant special leave to appeal from the decision to the High Court.

I had intended to move an amendment upon that paragraph, but I do not think I shall bother about the point now. As regards paragraph (f), I do not know whether the Attorney-General ever does appoint magistrates to act in a Federal capacity in a State. This paragraph appears in one of our Acts, which provides that summary jurisdiction under Federal laws may be exercised either by a stipendiary or police magistrate, or a magistrate of a State who is specially authorized by the Governor-General to exercise such jurisdiction. In other words, the Justice of a State exercising Federal jurisdiction must have a special authorization. But I know of cases where magistrates have been acting without that special authorization. I gave notice of appeal on this ground in one case, but from other considerations did not go on with it. I saw the other day that a case had arisen in Western Australia, where the point was taken that the magistrates acting were not specially appointed. Surely the administration should see that magistrates who act in Federal cases are not without the necessary authority, or should prevent them from sitting. But as it is, a magistrate may be authorized, and beside him upon the Bench there may be two or three other justices who have no authorization. Personally, I think it would be better to strike out the rest of the clause, but I do not intend to move in that direction.

Mr. DEAKIN. — The honorable and learned member will notice that this clause is negative. The section of one of our Acts to which he has alluded is positive. That section endows police and stipendiary magistrates or other magistrates to be specially appointed, with power to sit as courts of summary jurisdiction. This paragraph provides that the summary jurisdiction shall not be exercised except by a police or stipendiary or special magistrate. It is not a qualifying provision. But I admit the difficulty of which the honorable and learned

member has spoken. A case has occurred in Western Australia. It will be necessary to meet that difficulty, although I do not know that it would be desirable to meet it by appointing many of the honorary magistrates. It is desired that there may be, if possible, a higher standard of qualification.

Clause, as amended, agreed to.

Clauses 42, 43, and 44 negatived.

Clause 45—

1. Any cause or part of a cause involving a matter of Federal jurisdiction which is at any time pending in any court of a State, and whether it is or is not removable into the High Court under the foregoing provisions of this part of this Act, may at any stage of the proceedings before final judgment be removed into the High Court, under an order of the High Court, which may, upon the application of any party or sufficient cause shown, be made on such terms as the Court thinks fit, and shall be made as of course upon motion in open Court by the Attorney-General of the Commonwealth or on his behalf.

2. When any such order for removal is made, the proceedings and documents in the cause or certified copies thereof shall be transmitted to such registry of the High Court as is directed by the order, in the same manner as hereinbefore prescribed in the case of a removal by a defendant.

Mr. DEAKIN.—This is an important clause to which I would direct the attention of honorable members, first of all by way of indicating the amendments which I propose to move. I propose to omit the words "and whether it is or is not removable into the High Court under the foregoing provisions of this part of this Act." That amendment will be necessary, because, the foregoing provisions having disappeared, the words I have quoted must disappear also. I move—

That the words "And whether it is or is not removable into the High Court under the foregoing provisions of this part of this Act," lines to 6, be omitted

Amendment agreed to.

Mr. DEAKIN.—The next amendment in sub-clause (2.) I move—

That the words "And documents in the cause certified copies thereof," lines 15 and 16, be omitted, with a view to insert in lieu thereof the words "in the cause and such documents, if any, relating thereto, as are filed of record in the court of the State, or, if part only of the cause removed, a certified copy of those proceedings and documents."

Mr. CONROY (Werriwa).—In my opinion the whole of the clause ought to be struck out.

Sir JOHN QUICK (Bendigo).—I wish to direct the attention of the Attorney-General to the concluding portion of sub-clause (1)—

And shall be made as of course upon motion in open Court by the Attorney-General of the Commonwealth or on his behalf.

I wish to know whether that means in suits to which the Attorney-General is a party, or whether it is intended that the Attorney-General may interpose in a suit between two private persons, and move that it be removed to the High Court?

Mr. DEAKIN.—Yes.

Sir JOHN QUICK.—I do not think that is justifiable. Why should the Attorney-General interfere between plaintiff A as against defendant B, and say—"I will not allow you to have this case settled in the court of the State; you must have it removed to the High Court."

Mr. WATSON.—Is it intended to cover constitutional points?

Sir JOHN QUICK.—I do not know. It seems to refer to all cases.

Mr. DEAKIN.—I look upon that matter as one of the questions of substance with which I propose to ask the Committee to deal presently. I propose to make these formal and necessary amendments, and then to submit the clause as a whole. If any difficulty occurs, I shall be prepared to recommit the clause.

Amendment agreed to.

Amendment (by Mr. DEAKIN) agreed to—

That the words "in the same manner as hereinbefore prescribed in the case of a removal by a defendant," lines 18 to 20, be omitted.

Mr. DEAKIN. — Honorable members will observe that this clause contains two important proposals. In the first place, the clause as a whole relates to the power of removing cases from the States Courts to the High Court.

Mr. WATSON.—As a matter of appeal.

Mr. DEAKIN.—Not as a matter of right, but on the application of any party, if sufficient cause be shown.

Mr. WATSON.—After the case has been initiated in a State Court?

Mr. DEAKIN.—Yes. The words of the clause as amended are wide. They provide that—

(1) Any cause or part of a cause involving a matter of Federal jurisdiction which is at any time pending in any Court of a State may at any stage of the proceedings before final judgment be removed into the High Court under an order of the

High Court, which may, upon the application of any party for sufficient cause shown, be made on such terms as the Court thinks fit, and shall be made as of course upon motion in open Court by the Attorney-General of the Commonwealth, or on his behalf. . . .

Let me deal first of all with the power of removal. The honorable and learned member for Bendigo in criticising the preceding clause, pointed out that, under words precisely similar to those which we have used in our Constitution with reference to judicial power, it had been held that the power to remove a cause involving matters of Federal jurisdiction was so inherent, that the Constitution of the United States of itself was sufficient to confer that right on the court. Subsequently that right was formally conferred by statute in the United States. The power of removal can be exercised first of all on the application of any party.

Mr. McCAY.—Does the Attorney-General say that the United States decision would be applicable to our circumstances?

Mr. DEAKIN.—I have mentioned that, after the judgment in *Martin v. Hunter* was given, a statute was passed by Congress regulating the method of removal. But Mr. Justice Story, whose decision was quoted by my honorable and learned friend, held that such a power was absolutely inherent in the United States Courts, although in the Constitution, no such power was expressed in any definite words.

Mr. McCAY.—Does the honorable and learned gentleman think that, in our circumstances, that decision would be followed by the Privy Council?

Mr. DEAKIN.—That is a very large question; but I think that as the words upon which that decision was based appear in our Constitution, and as it is obviously necessary that matters of Federal jurisdiction should be dealt with by the High Court, and that there should be power to remove cases from the States Courts in which they arose, a very favorable inclination would be shown towards that reading. Whether such a reading would be established or not I should hesitate to say until I had had an opportunity of examining the question much more closely than I have yet had occasion to do. But quite apart from that matter, which is merely a preliminary indication of the urgent necessity of such a power in the circumstances of the American Commonwealth, I submit that it may be an equally necessary power

in the Commonwealth of Australia. A question of the most fundamental character, involving the interpretation of the Constitution upon some matter of vital importance, may arise in a matter of ordinary litigation, and, unless there be power to remove such a case from the State Court in which it is being tried to the High Court, it would have been possible—as the honorable and learned member for South Australia, Mr. Glynn, has pointed out more than once—that the High Court might be avoided altogether. In a case of that kind, the decision might have been given, in the first instance, in some inferior State tribunal. It might then have been taken, upon appeal, to the Supreme Court of a State, and carried direct to the Privy Council, without having been considered by the High Court. Such a proceeding might have been followed in connexion with a case, the decision of which might go to the very roots of the Federal power. It might occur in regard to a case involving some interpretation of the Constitution, affecting, perhaps, a large body of Federal legislation; affecting the courts themselves, and the powers of this Parliament.

Mr. WARSON.—Would not the clause we have just passed have some bearing upon such a case?

Mr. DEAKIN.—Yes. It has a direct bearing upon it. One of the chief reasons for its insertion was to enable us to escape this danger.

Mr. GLYNN.—It is a reserve method.

Mr. DEAKIN.—Yes. This is also necessary, because cases might occur in which it might be to the advantage of the parties themselves that it should be removed at once to the High Court. My honorable and learned friend knows that the only power given to us by the sub-clause of the preceding clause which we have just discussed is in regard to appeals. It refers to a case which will have been heard as of first instance in a State Court, which may have gone before the Supreme Court of the State on appeal, and which will then, under that provision, be brought before the High Court. But if it be perceived at the very outset of the case that a vital Federal question involving some decision of far-reaching importance must arise, it will be decidedly to the advantage of the parties if, instead of waiting for the appeal stage in the State Court, it is removed at once to the High Court. If its importance is so

clear, and its Federal operation so extensive that it is manifestly a cause in which the decision of the inferior court would not be allowed to stand unchallenged by the unsuccessful party, it is much better in such a case—in which the ordinary course would be to take it on appeal to the Supreme Court of a State, and then to the High Court, before sending it on to the Privy Council—to have the power to take a short cut and bring it at once before the High Court. In that way a distinctively Federal matter would be dealt with by a distinctively Federal Court.

Mr. THOMSON.—But this clause would enable the Attorney-General to remove any case.

Mr. DEAKIN.—Yes. It is impossible to foresee in what case an issue of the kind I have referred to may arise. If the honorable member thinks that the expression used in this clause is too wide, and that we can embrace the necessary cases by some other form of words, I shall be happy to listen to a suggestion in that direction. The provision is set forth in this general manner, because it is impossible to foresee or, as far as I am able to judge, to describe by definition, those cases in which these points, and these alone, will occur. This is one of the instances in which if we desire to make the power effective, we must make it extremely broad. In these circumstances I think the sense of the Committee will be that it is emphatically necessary, not only in order that we may have a Federal interpretation of the Constitution or of the Commonwealth statutes on any vital question, but to spare the litigants themselves the cost of proceeding through the varying stages, to be able to say that the case shall be removed to the High Court directly it becomes evident that such a question has been raised and must necessarily be settled.

Sir JOHN QUICK.—Why should there be any interference with the litigants by the Attorney-General?

Mr. DEAKIN.—I shall deal with that matter presently.

Sir JOHN QUICK.—But the honorable and learned gentleman cannot separate it.

Mr. DEAKIN.—I think we can distinctly separate it. I am dealing now only with cases in which either party to a suit that has arisen in a minor court in any one of the States perceives directly the pleadings are exchanged, or as soon as the hearing is commenced, that some important

constitutional question is involved. Such a party has the power of saying—"I object to be taken from this court to the Supreme Court of a State, then to the High Court, and, perhaps, ultimately to the Privy Council. I shall take the short cut of stopping this action in its earlier stages, and taking it direct to the High Court."

Mr. McCAY.—Would that case be taken to the *Nisi Prius* Court—would it be heard by a single Judge?

Mr. DEAKIN.—It may be.

Sir JOHN QUICK.—It does not say so.

Mr. McCAY.—If it were heard by a single Judge it would not carry the Attorney-General's object any further.

Mr. DEAKIN.—It would help the litigant to this extent—that he would avoid whatever stages had not been passed in the inferior court, as well as the appeal to the Supreme Court.

Mr. A. McLEAN.—But perhaps the parties would be satisfied with the decision of the court in which the case originated.

Mr. DEAKIN.—A case in which both parties are satisfied will not be removed. But it is absolutely necessary that the Attorney-General should have some power of removal. I am dealing now, however, with the power of the parties. If either party to a case thinks that its hearing and final settlement would be facilitated by going direct to the High Court, instead of working his way through the States Courts, this clause will enable him to take that short cut, and as such I take it that it should commend itself to honorable members.

Mr. WATSON.—Under the preceding clause parties have the right of appeal from a single State Judge to the High Court.

Mr. DEAKIN.—They have the option.

Mr. McCAY.—Does not the Attorney-General see that this power might be made an engine of oppression?

Mr. DEAKIN.—What procedure in laws which allows an appeal or any fresh proceeding may not be made an engine of oppression?

Mr. McCAY.—But we need not add another to the list.

Mr. DEAKIN.—We are obliged to adopt this course. The honorable and learned member knows that if he followed out the principle he has enunciated, it would be necessary to have a new Procedure Act, and new measures of jurisprudence which would cut down the existing practice, which is equally capable

of misuse. The fact that the Federal features of a case necessitate a prompt Federal judgment is worthy of recognition in the interests of litigants themselves. Every power capable of use is capable of abuse. That is true not only of legal powers, but of every power which exists. The more strength a machine has to perform its work the greater the danger if it is misapplied. The Committee must consider that the important part of section 74, which requires that questions as to the limits *inter se*, of the constitutional powers of the Commonwealth, or of a State or States, shall not be taken from the High Court, without the consent of that body, to the Judicial Committee of the Privy Council, may become a dead letter unless it is safeguarded by provisions of which this is one and an effective one.

Mr. McCAY.—Is there a case of that kind which is not covered by the clause just passed?

Mr. DEAKIN.—That provides an appeal—as the last stage of a series of appeals.

Mr. McCAY.—I understood the honorable and learned gentleman's contention was that a litigant might get to the Privy Council on an *inter se* question behind the back of the High Court. How could he, in view of the clause we have just passed?

Mr. DEAKIN.—If I conveyed that to the mind of the honorable and learned member, I did not intend to do so. What I pointed out was that we have one provision under which suits, after they have passed through all the stages in which the States Courts can deal with them, are brought before the High Court on appeal. I used the word "provisions" deliberately, because this is another provision which will enable us to interrupt that long course of procedure in certain cases, and in those cases, directly it becomes clear that a question of the character to which I have referred is being raised, there will be a means of removal.

Mr. WATSON.—If litigants saw before them a prospect of having to go through a State Supreme Court to the High Court, would they not exercise their option in the lower court of going direct to the High Court from a single State Judge?

Mr. DEAKIN.—They have the power to do that under the Bill.

Sir JOHN QUICK.—I asked the question just now, and the Attorney-General replied

that they could go direct from a State Police Court to the High Court.

Mr. DEAKIN.—That is perfectly true, but what I am coming to now is the power proposed to be vested in the Attorney-General of intervening in any suit. That is the second proposal in this clause. I take it that it would be the duty of the Attorney-General to intervene at any stage of a case at which it became plain that a serious constitutional question was arising. The honorable and learned member for Darling Downs interjected that it would probably appear on the pleadings, but it will be admitted that whenever it arises it would be desirable that the suit should be transferred at once to the High Court because such a question can only be finally dealt with by the High Court, and, in fact, it rests with the High Court under the Constitution to say whether it shall ever be dealt with by any other court. Those who desire to shorten legal proceedings, and to see finality obtained as soon as possible, will surely not complain of a provision which enables cases of that particular character to be brought to the speediest possible trial in the shortest possible way?

Mr. McCAY.—Is it contemplated to remove a cause to a hearing before a single Judge of the High Court, or to the Appellate High Court direct?

Mr. DEAKIN.—It can go, under this clause, to a single Judge of the High Court.

Mr. McCAY.—That means a *nisi prius* hearing with a subsequent appeal, which is exactly what is covered by the previous clause.

Mr. A. McLEAN.—Would the Attorney-General pay the costs of the litigants where he intervenes?

Mr. DEAKIN.—That is a question for the Committee to consider.

Mr. CONROY.—If he would all suits would be removed.

Mr. DEAKIN.—If honorable members will look at the clause they will see that it provides that a suit—

May at any stage of the proceedings before final judgment be removed into the High Court under an order of the High Court.

That order will be made upon such terms as the High Court may think fit, and honorable members will see that by clause 46 it is provided that—

When the cause is removed into the High Court under the provisions of this Act the High Court

shall proceed therein as if the cause had been originally commenced in that Court, and as if the same proceedings had been taken in the cause in the High Court as had been taken therein in the Court of the State prior to its removal.

That indicates the stage at which it would be taken up. For instance, if it was a removal whilst still in the court of first instance it would go before a single Judge; but if it had passed the court of first instance, and reached the appeal stage, it would go to the High Court in its appellate jurisdiction.

Mr. McCAY.—If we assume that a cause is taken from the Court of first instance, what saving would there be?

Mr. DEAKIN.—This saving: that it would get at once to a Federal Judge whose particular business it is to deal with Federal issues, who will be dealing with them every day, and who may, therefore, be expected to deal with the cause more rapidly and more definitely than it is likely to be dealt with by some tribunals before which a litigant may find himself. As it stands, this power of removal safeguards every power of appeal with which we have been dealing. The power of removal will be useful to litigants, and it may be extremely valuable to the Commonwealth as a whole when exercised by the Attorney-General, as it would be exercised, only in cases meriting that special and extraordinary interference. No Attorney-General could be found who would lightly or willingly intervene in litigation in order merely to change the tribunal before which a cause was being heard. It would require to appear upon the face of it that an important Federal issue was involved.

Mr. THOMSON. — An Attorney-General who was trying to build up the High Court might intervene.

Mr. DEAKIN.—Many matters might be suggested, similar to the illustrations already given, in which it is desirable that the business should be dealt with by the High Court, which will be able, not only to deal with it more speedily, but upon more consistent and uniform principles than we can expect every particular tribunal before whom it may come in the States to apply.

Mr. McCAY. — That argument applies only to the Appellate High Court, and not to a Judge of the High Court of first instance. Those Judges will differ among themselves as much as do the Judges of the States.

Mr. DEAKIN.—Still I think the High Court Judges would be better able to deal with these questions. If the Committee consider that the power of removal can be safeguarded effectively by making it a removal always to the appellate jurisdiction of the High Court, we can consider that proposal.

Mr. McCAY.—It would be removal only on appeal then.

Mr. L. E. GROOM.—It would have to be a matter involving some hundreds of pounds. This provision gives much wider grounds.

Mr. DEAKIN.—Very much wider. Under this provision a cause involving a matter of £10 or £5 might be removed.

Mr. L. E. GROOM.—It gives the right to order a fair trial.

Mr. DEAKIN.—I do not assert that removal is essential to that. Sometimes that can be obtained without this mode of removal. What I wish to impress upon the Committee is the importance of the power, and at the same time my entire willingness to consider any proposal that will safeguard removals, and which authorize it only upon reasonable and proper grounds, so as to prevent it being made what one of my honorable friends calls an instrument of oppression. I am perfectly prepared to consider any limitations either of the matter to be removed or the manner of removal. I have no desire to multiply proceedings or to increase costs.

Mr. McCAY.—I suggest the insertion of the words "on appeal" after the word "pending" to begin with.

Mr. DEAKIN.—What I desire is to retain this power as a safeguard, in order that the class of cases for which the Federal Court is specially created, and to decide which it will exist, may be brought before it when necessary, in the most summary and inexpensive manner. That is the design underlying all the removal clauses, and I hope I shall have the assistance of honorable members in shaping them in any better form than is at present proposed to achieve that end. I do not desire that they should be unduly elaborate, coercive, or cumbrous. I hope that honorable members are agreed as to the necessity of possessing a power of removal, and am willing to accept their assistance to so safeguard its exercise, and the manner of its exercise, as to meet all the objections we can.

Mr. CONROY (Werriwa).—If the powers conferred in clauses 42, 43, and 44 had remained, clause 45 would probably have been rightly drawn, but since this Bill was introduced we have started upon entirely different lines. We are now trying to secure that the High Court to be created shall be purely an appellate court, and regarding it as an appellate court, especially in view of the alteration we have made in clause 41, I cannot see how clause 45 can possibly be necessary. It may work much evil, and it should therefore be eliminated. If the Attorney-General drafts a clause to deal with cases pending appeal or on the lines lately suggested by himself, it might meet with a different reception from the Committee. At present we cannot disguise the fact that this clause is altogether too wide, and would allow the Attorney-General to control and to entirely alter the jurisdiction which we have decided to vest in the High Court. The honorable and learned gentleman would, of course, in his opinion, be rightly exercising his powers under this clause, in giving original jurisdiction to the High Court. Any one can see that that was the honorable and learned gentleman's intention in regard to it. If some later Attorney-General is of the same opinion honorable members can imagine the difficulty we shall be met with—we shall have gone altogether outside of what the Bill as amended by the Committee is intended to provide for. As the clause is drawn, we have no option but to excise it; but it could be drafted in a very much narrower form to meet the class of cases which the Attorney-General has suggested. Perhaps the honorable and learned gentleman, upon recollecting that this clause was drawn when very much larger powers were provided for under the Bill, will see his way to withdraw it.

Mr. THOMSON.—We have restricted the power of the High Court, and we are now being asked to expand it.

Mr. CONROY.—Really this clause amounts to that. I remind the Committee that, under clause 15—

Any Justice of the High Court, sitting alone, may exercise in court, or, in the cases hereafter specified, in chambers, all or any part of the jurisdiction of the High Court.

So that, so far from any saving of time being secured by this clause, considerable additional delay might be involved. There

would, for example, be a removal to a Justice of the High Court, and then the right of appeal would still continue from the Justice of the High Court to the Appellate High Court. There could be no possible saving of time under those circumstances. While the Supreme Courts of the various States are practically always ready to give their decision, it will be admitted that, considering the limited number of Judges of the High Court which the Committee seems likely to agree to, the delay under this proposal will be very much greater than without it. However, the chief objection I have to the clause rests on the ground that we are here being asked to extend a power which has been removed from the previous clauses by the Committee. So far as we could take it away, the Committee has taken away the whole of the original jurisdiction proposed to be conferred upon the High Court, and our desire has been, as far as possible, to create an appellate court only. Two principles were at first involved, the giving of appellate and also of original jurisdiction, and this clause 45 deals with questions of original jurisdiction, as if no alteration whatever had been made in the preceding clauses. The very fact that the Attorney-General was unable satisfactorily to answer the question put to him by the honorable and learned member for Corinella should preclude us from accepting the clause as it stands.

Mr. McCAY (Corinella).—I hope that the Attorney-General will see his way to abandon this clause. In effect it provides first, that either party to a suit for cause, on application to the High Court may have a suit which is pending in a State Court transferred to the High Court, and that the Attorney-General, as of right, shall be entitled to have any such suit transferred to the High Court, whatever the wishes of the parties may be. In order to justify the clause we must show that it is likely to confer some benefit upon the parties, or that it is desirable in the interests of the Commonwealth. The only benefits that would be appreciated by the parties to a suit would be speed and economy in the conduct of the litigation. We may leave out of consideration cases which are pending in inferior Courts of States jurisdiction, because the decisions of such tribunals are not considered as binding except upon the parties to a suit. In the greater number of cases pending in the

Supreme Courts of the States evidence will have to be taken either orally or on affidavit, and, if causes are removed, a single Judge of the High Court, instead of a Judge of a Supreme Court of a State, will have to hear that evidence. In either case there will be an appeal to the High Court, so that there will be no saving in time or expense by the removal. On the contrary, probably some time will be lost, because, I venture to say that, whether three or five Judges constitute the High Court, the original jurisdiction of that tribunal will not be exercised as speedily as the primary jurisdiction of the State Court. If a case should be partly heard, and one of the parties desired to remove it to the High Court, the whole of the proceedings before the State Court would have to be repeated before the High Court. Then there would be the expenses attendant upon the application for removal. Presumably the application would be made upon notice, and there would be a fight before the High Court as to whether or not the cause should be removed. The exercise of the right of removal of a cause from the primary Judge or Judge of first instance will not result in any saving, and if the power of removal is limited to pending appeals it can be exercised only in regard to appeals from a single Judge of a State Court to the Full Court of the State, in view of a subsequent appeal to the High Court. A single stage in the proceedings might be saved by the party who had won before the single Judge removing the cause from the appellate jurisdiction of the State Court to the appellate jurisdiction of the High Court; possibly because he might think that he would lose before the Full Court of the State and win before the High Court. Such cases would not occur with frequency, or be of sufficient importance to justify the retention of the clause. Then the question arises whether the ultimate decision of the High Court could be evaded. I think that the Attorney-General will admit that the clause does not offer any safeguard unless regard is had to the fact that under it a litigant could bring before the High Court a case involving less than the appealable amount elsewhere provided for. It would rarely be worth while to transfer such a case to the High Court. The Attorney-General could justly intervene only in suits between private individuals which could not otherwise be

brought before the High Court, but under the Bill as it stands there could be no such cases.

Mr. ISAACS.—Suppose that a private individual could not afford to take a case to the High Court?

Mr. McCAY.—If a suitor had not the money to enable him to take a case before the High Court in its appellate jurisdiction, would the Attorney-General, upon intervening, pay the expenses? He told us that the clause was intended to insure the speedy decision of the High Court in important constitutional matters. If the Attorney-General is to be a beneficent aider of impecunious litigants, and a friend and protector of poor suitors at the expense of the poor taxpayers generally, I shall vote against any such benevolent proposition.

Mr. ISAACS.—May it not be important for the Attorney-General to secure from the High Court a decision which will guide the whole Commonwealth?

Mr. McCAY.—If an appellant could not afford to appeal to the High Court, neither could he afford to appeal to the Full Court of a State; because we are told that the High Court is to be much less expensive to litigants than are the Supreme Courts in their appellate jurisdiction. The decision of the single Judge of a State would not have any weight in any other State, beyond that attached to a learned opinion, nor would it be binding upon his fellow Judges if they took a different view of the matter. Therefore, as regards the individual the proposal cannot make for economy or speed, whilst as regards important matters affecting the Commonwealth, the causes must ultimately go to the High Court if the litigants have the necessary money, or, if they have not, it is open to the Attorney-General to provide the funds for the appeal without exercising the power of removal.

Mr. DEAKIN.—The social democrats of Germany contend that the State should bear the whole expense of litigation.

Mr. McCAY.—We have not reached that stage here. My experience leads me to believe that there would be a great deal more litigation if the parties could escape the payment of the costs, and until we are further advanced on the lines of the social democrats' programme I am not prepared to regard that matter as within the field of practical politics, or to promise it my support when it does come within that area. The clause does not effect any good purpose

that is not achieved by provisions already passed relating to appeals to the High Court. The Attorney-General has stated that he is prepared to agree to modifications, and I would suggest to him that it is not desirable to remove causes from courts of first instance to a single Judge of the High Court. We may regard the courts of first instance as capable of dealing with these matters, and getting the causes into form for decision, and if the clause is retained it should apply only to cases pending appeal from the court of first instance to the appellate court. The Attorney-General might also consent to the elimination of the power of intervention by the Attorney-General, because for all practical purposes the High Court will have ultimate jurisdiction under the clause already passed; that is, assuming that that clause is *intra vires* of the Constitution. Perhaps the arguments upon this head used against the clause to which I refer might also be urged, though with perhaps less force, against this clause. I ask the Attorney-General to agree to that limitation of the clause, and then let us decide whether the clause as amended shall or shall not be retained.

Mr. GLYNN (South Australia).—I think that the clause should be struck out altogether, though, of course, I agree with the honorable member for Corinella that it should be amended in the direction which he suggests. But I fail to see that it is required.

Mr. DEAKIN.—A stage will be saved if we provide for removal before appeal.

Mr. GLYNN.—A stage may be saved.

Mr. DEAKIN.—Then why not give an opportunity for the saving?

Mr. GLYNN.—By the last clause we passed we added a stage, so that I suppose the Attorney-General now wants to save a stage by way of counterbalance. But the clause is unnecessary. The power of removal was regarded in the case of *Martin v. Hunter* as inherent in the American Supreme Court under the implied powers of the Constitution, because otherwise the decision of the State Court might have been final. In that case it was laid down, not only that there is a power of removal to prevent States Courts from giving decisions upon questions of jurisdiction which could not be checked, but that the Federal Parliament was obliged to create Federal Courts in which to vest Federal jurisdiction. If a removal from an American State Court

were not allowed, there would be no possibility under the American system of checking its decisions, because there is no Privy Council to appeal to. But here there is the right to appeal from the States Courts to the High Court in all matters, and there is the check of the Privy Council as well. Therefore, our need for a provision like this is nothing like so great as the need for the power under the American Constitution. But this clause is far more comprehensive than the American provision. In America there is no power of removal—except in one or two cases in which justice might otherwise be denied in small matters arising in the district courts, or where a public officer is concerned—unless the amount in dispute exceeds 2,000 dollars. Under the clause, however, a constitutional question might arise during the hearing of an action upon a bill of exchange, because the clause does not apply only to constitutional questions arising under section 74, and affecting the mutual rights of the Parliaments of the States and of the Commonwealth to pass laws, but to all Federal matters. That is the meaning of “Federal jurisdiction.”

Mr. L. E. GROOM.—It will depend upon the meaning placed upon the words “for sufficient cause shown.”

Mr. GLYNN.—That is a matter for the discretion of the court; but a litigant would have the power to put his opponent to the expense of an application, even though the case was only one upon a bill of exchange in which £5 was in dispute. About 90 per cent. of the cases which would come under the clause are such as occur at the present time—State cases. The chief end which the Attorney-General has in view is to provide for the removal of cases where decisions are given on constitutional matters, but to do that he asks us to give the power of removal in all cases, sweeping into one net all the cases which may arise under section 51 of the Constitution. That is bad legislation. We should confine the operation of the clause to the necessities of the case. The honorable and learned gentleman, however, seems to act upon the principle that if we want to do a little we must do all. With regard to the power of intervention given to the Attorney-General, I think it is provided for in the wrong place. I quite understand that where an important constitutional matter has arisen on the judgment

of a State Court or of the High Court in original jurisdiction, and the litigant does not wish to take his case on to the Court of Appeal, the Attorney-General of the Commonwealth should be allowed to do so. I go further, and say that in certain cases the Attorney-General of the State should be allowed to intervene, and bring a matter on appeal to the High Court, or to the Privy Council, whichever Parliament likes to fix upon. Suppose that in a small matter in a District Court the question of the rights of the Commonwealth Parliament and a State Parliament *inter se* arose, and a decision was given affecting the constitutional powers of one of those bodies, and the litigants had not sufficient funds to conduct an appeal. In such a case the Attorney-General of the Commonwealth, if the Commonwealth was concerned, and the Attorney-General of the State if the validity of a State law was affected, should be allowed to intervene, and have the question authoritatively settled once and for all. That might be done at the expense of the Commonwealth or of the State, whichever was affected. I think there is some power of that sort in the Canadian Constitution. At all events there is a power of reference. If a constitutional point is raised in any of the lower courts in Canada, it can be carried on to the Supreme Court or to the Privy Council, by the Attorney-General raising a point by way of opinion, and that is a much more independent way of dealing with the matter than the method provided for here, because the actual issue between the litigants is not decided, but only the constitutional point involved. Under the method provided here, the rights of the parties may be affected, both as to the amount of the judgment given and the costs. In Canada, however, the judgment is not affected. All that is done is to carry the constitutional point on to the Supreme Court or to the Privy Council. No such power exists under our Constitution, though some of us did our best to have provision made for it. We can, however, provide that where an important constitutional point arises in connexion with appellate cases—and I think that the provision might be limited to matters of constitutionality arising under section 74—and is left undecided by the litigants, the Attorney-General of the Commonwealth, or the Attorney-General of the State, may step in and have it dealt

with by way of appeal. But that power should not be given in this clause, because it has relation only to appellate jurisdiction. But, under this clause, power is given to the Attorney-General of the Commonwealth, though not to an Attorney-General of the State, instead of waiting until a decision is given, to intervene at any stage, either in the beginning, or after judgment has been given. But if it is right that the Attorney-General of the Commonwealth should have that power, it is right that it should be given also to the Attorneys-General of the States, because not only may the powers of the Commonwealth be challenged, but the powers of the States may also be challenged, and provision should be made for such an occurrence. Honorable members will therefore see that the clause is imperfect even from the point of view of the Government, because it gives to one party only a remedy to which both are entitled, and which ought to belong to the appellate jurisdiction of the High Court. Under these circumstances I think the Attorney-General should not continue his opposition to the wish of honorable members to have the clause omitted. If he amends the appellate clauses with a view to allowing the intervention of a State or the Commonwealth after judgment has been given, there are many reasons why such a provision should be supported, and then the omission of this clause will not destroy the whole object that he has in view.

Mr. DEARIN.—But if this provision is retained we can miss a stage.

Mr. GLYNN.—Possibly. I do not see much objection to that, but all the honorable and learned member wants to accomplish is accomplished at the present time. I think that he should adopt the suggestion of the honorable and learned member for Corinella, and even go further, and make the clause apply only under section 74 of the Constitution Act, where the constitutionality of a statute is affected. I would, therefore, suggest the insertion, after the word "jurisdiction," in line 2, of the words "under section 74 of the Constitution." That may cover cases in which it is desirable that the High Court should have the first and only say. They are partly provided for already, but if the Attorney-General wishes to have a subsidiary provision, and amends the clause in that direction, I shall not vote against it, though without such an amendment I must do so.

Sir JOHN QUICK (Bendigo).—I believe that the power of removal is part of the appellate power, and, consequently, I cannot object to that portion of the clause which provides that in special cases the High Court may remove a cause pending in a State Court upon the application of one of the parties. So far, I am with the honorable and learned member in charge of the Bill, on the grounds which I have previously stated, but I take strong objection to the power reserved to the Attorney-General to remove. I do not see why he should intervene to remove a private suit during its hearing in a State Court which is exercising Federal jurisdiction. Why should he remove a case during its progress through a State Court? Let the parties fight it out, and let it be determined by the State Court first.

Mr. DEAKIN.—I shall not press that part of the clause.

Sir JOHN QUICK. — I am glad to hear the honorable and learned gentleman say that. If that part of the clause is omitted, my objection to the clause will be removed. It may be, however, that provision should be made in some other part of the Bill for special cases where the decision of a Supreme Court has been given upon a Federal question.

Mr. DEAKIN. — And the matter is not taken further?

Sir JOHN QUICK.—And the matter is not taken further. The interests of the Commonwealth may in some indirect way be related to, or determined by, a decision in a State Court, or a State right or a Federal right might be left in doubt. It might be desirable in such a case to allow the Attorney-General to cause an appeal to be made, so that the matter might be dealt with by the High Court in its appellate jurisdiction.

Mr. HIGGINS.—If there is no power to remove while a case is pending before the State Court, the removal will be practically an appeal.

Sir JOHN QUICK.—It would be an appeal after determination. If that portion of the clause to which I object is removed I shall support the clause.

Mr. ISAACS (Indi).—I do not agree that the Attorney-General should have power as of course to remove a cause. But I think the Attorney-General of the Commonwealth should have power to protect its interests in some shape and form when the

exceptional circumstances of the case require it.

Mr. DEAKIN.—That will very rarely happen.

Mr. ISAACS.—Yes; but I think in all cases he should be under the same obligation as either of the parties to show sufficient cause for removal to the High Court. I should not object to allow the Attorney-General of the Commonwealth or the Attorney-General of a State to intervene in a case if sufficient cause were shown to the High Court, which would mean that the court would be called upon to say that there were good reasons for its removal. I think the case might be met by reserving to the Attorney-General of the Commonwealth, and to the Attorney-General of a State, leave to apply to intervene in a cause in its primary stage. In a case before the Supreme Court, or any other Court of a State, it might be very important that the Attorney-General of either the Commonwealth or the State concerned should be present before the facts were finally decided. We know that when the facts of a case are finally decided, the question of law may run almost as a matter of course. It may be of the highest importance, in some particular case, that the Commonwealth and the State shall be protected in regard to the determination of the facts, because, after a case goes to appeal, the facts are not as a rule raised again, and the court decides the law on the facts as put before it; and, for a long time after, the facts as found in a particular case may limit the law in the particular State concerned. It is therefore important that the facts shall be rightly found, so that all courts and persons may act upon them properly from the beginning. Subject to that, I see no reason why power should not be given to suitors to apply to the High Court for an order to remove any cause involving a matter of Federal jurisdiction, which is pending in any State Court. I think that the fallacy lurking in the minds of honorable members is that upon any such application being made, the High Court will, as a matter of course, order such removal, whereas the clause under discussion merely empowers the High Court "for sufficient cause," to order it. In other words, if that tribunal thinks that any particular case is of so exceptional a nature that it ought to be removed from a State Court, it has the power to order its

removal. In this respect the provision is very similar to that which operates in our State laws. For example, a man may bring an action in the County Court, and the other party to the suit may apply to have it heard by the Supreme Court. The positions are of an analogous nature. In each case, power is given to order the removal of any cause provided that it is of an exceptional nature.

Mr. POYNTON.—Does not this clause give the Attorney-General power to extend the original jurisdiction?

Mr. ISAACS.—Yes; but I do not agree that the Attorney-General should have a right to remove causes from the States Courts to the High Court as a matter of course. I think that there is great virtue in the clause. We can never foresee what circumstances may arise. I can conceive of no harm being worked by the operation of such a provision, and possibly it may result in much good. It is guarded against abuse by the use of the words—"for sufficient cause shown."

Sir JOHN QUICK.—Why not say—"for special reasons shown"?

Mr. ISAACS.—I do not object to the inclusion of those words in the clause. I think that some safety valve should be provided for circumstances that we cannot foresee, by enabling the High Court, in special cases, to remove causes into its own cognizance from the beginning. If that were done the Attorney-General, in making any special application, would have to show sufficient cause in support thereof, otherwise the High Court would not entertain it. It might be very important that the Attorney-General of a State, which was involved in litigation before the Supreme Court of another State should have power to apply for the immediate removal of the cause to the High Court.

Mr. CONROY.—Such a provision might be very unjustly used.

Mr. ISAACS.—I cannot conceive of it being unjustly used, if the High Court has a discretionary power—if it is told that it is to exercise its power only for special reasons. I think we can trust the High Court to do justice in each case. If the Attorney-General is placed upon the same footing as other litigants, with the safeguards I have indicated, I shall be disposed to support the clause.

Mr. HIGGINS (Northern Melbourne).—I think it would be very dangerous to concede the power to remove causes at any stage. I know well enough how such a power would be abused. Let us take for example a case connected with bills of exchange, which come within the Commonwealth competency. Every civilized country has provided means for deciding the liability of a man upon bills of exchange by summary process. Under the present law of Victoria and New South Wales, after the issue of a writ, a defendant is no longer able to prevent the plaintiff from obtaining his rights by postponing the evil day as long as he can, by protracting the proceedings. The plaintiff applies for summary judgment, and the defendant must show that he has a good defence, or judgment is given against him without allowing him an opportunity to be heard. This practice is a great convenience to banks and other financial institutions. But, under this clause, what will happen? I say unhesitatingly that, under its operation, frequent endeavours will be made to remove causes from the States Courts to the High Court with the view to delaying the course of justice. It should also be recollected that delay very often affords an opportunity to litigants to get rid of property, and it is, therefore, highly inadvisable to confer upon them the power to remove actions at any stage. I was very glad that the Attorney-General intimated his intention to prevent the removal of causes until they had been fully heard by the States Courts.

Mr. L. E. GROOM.—Until the facts had been ascertained.

Mr. HIGGINS.—Yes; until the final stage.

Mr. MCCAY.—I do not know that he has agreed to that.

Mr. HIGGINS.—At any rate the honorable gentleman seems inclined to act in that way. I would further point out that during the hearing of cases a Judge frequently makes observations which disclose the direction in which his mind is working; consequently the interested parties to any suit listen with great eagerness to such observations. But under this clause as soon as a suitor discovers that a particular Judge takes up an antagonistic attitude towards him, he will at once avail himself of its provisions, and find some reason for the removal of his cause to the High Court,

because he will thereby secure another "run for his money."

Mr. McCAY.—Proceedings will have to be stayed till the application to the High Court is heard.

Mr. ISAACS.—The clause does not provide for anything of that sort.

Mr. HIGGINS.—It must be remembered that every application brings grist to the lawyer's mill. What honorable members do not sufficiently realize is that under the Commonwealth Constitution the operations of this Parliament cover a far wider area than do those of the States Legislatures. If we compare the matters in which our Parliament has jurisdiction under section 51 of the Constitution with those in which the United States Congress has jurisdiction, we shall find that there is an enormous difference between them. When we commence to enact laws relating to banking, currency, bills of exchange, and divorce, it will be found that nearly every matter of commercial import, and a great many of social and domestic concern, will come within the scope of our legislation. Why should not cases of divorce, or cases relating to infants, or to companies, be tried by the Supreme Courts of the States? All such cases are at present dealt with by those tribunals. Of course, the honorable and learned member for Indi will say that it will rest with the High Court to determine whether sufficient cause has been shown for the removal of any cause from the States Courts to itself. But I would point out that each case involves the making of an application, and that most ingenious attempts will be made to raise issues which never would be raised but for this power of removal. I think there is a strong feeling both in this Chamber and elsewhere that the more the functions of the High Court are restricted to matters of appeal the better. There will be an enormous number of cases under the ordinary Federal laws with which the tribunals will have to deal. Very often I see obvious evidence of rich litigants by means of numerous applications compelling poor suitors to submit to an unjust compromise. I am quite sure that the Committee have no desire to countenance that sort of thing. I hold that the power of removal is a very exceptional one to confer, and I would point out that in the United States it is very limited. May I remind the Attorney-General that in the United

States a suitor cannot remove any cause from the States Courts in which the sum involved is less than 2,000 dollars. It must be a very exceptional case. But, apart from that limitation, there is no power to remove causes unless the State Court has decided against a Federal Act, or in favour of a State Act.

Mr. ISAACS.—In the United States I do not think there is any limit as to amount.

Mr. HIGGINS.—Oh, yes. In *Moon*, on *The Removal of Causes*, page 146, I find the following:—

The amount in dispute in an ordinary case must exceed the sum or value of 2,000 dollars to make it a removable one.

The Attorney-General desires to apply the power of removal to a far wider area of causes than is covered in the United States. No doubt he is actuated by the laudable anxiety that the Judges of the High Court shall have plenty of work to perform, but I do not desire them to obtain that work at unnecessary expense to litigants. I feel that he will serve his purpose better—having regard to the temper of the country and of Parliament—if he will allow the functions of the High Court to be confined as much as possible to the exercise of appellate jurisdiction. Of course, I do not attempt to predict the decision of the Committee in regard to the number of Judges to be appointed. But I think that the general tendency of the voting will be in the direction of limiting the number of Judges, and limiting the jurisdiction, making it as far as possible a court of appeal in Federal matters. I would ask the Attorney-General to consent to strike out the words "at any stage of the proceedings before final judgment," and although I would not ask him to consent to do it right off, he might consider whether he would not take away the power of removal before final judgment, and simply leave the ordinary right of appeal. If you do not give the power of removal before final judgment there will be a right of appeal. I might move an amendment.

Mr. DEAKIN.—The clause will have to be recommitted to make any further amendments in it, because it has been amended right down to the end.

Mr. HIGGINS.—"For sufficient cause" is hardly definite enough.

Mr. DEAKIN.—"For special cause" has been suggested.

Mr. HIGGINS.—I would go even farther than that. I can see that if we keep the power of removal, there is a distinction between a cause in which the Constitution is involved, and a cause in which a Federal law is involved. There is no real need for removing a cause because a mere Federal law is involved; but there may be a ground for removing a cause where the Constitution is involved. A Federal law may be amended if it seems to be uncertain. It should be remembered, also, that Federal laws include divorce laws, bills of exchange laws, company laws, and mercantile laws generally.

Mr. L. E. GROOM.—They may involve matters affecting the Constitution.

Mr. HIGGINS.—I am speaking of the effect of Federal laws. That is very different from a question of whether a Federal law or a State law goes against the Constitution. In a case where there is only a question as to the meaning of the Federal law, I do not see why there should be the power of removal, but in a case where there is a question as to the scope and ambit of the Constitution I can see that there is much more reason for that power, and although I think that it might be omitted, I suggest that as an alternative.

Mr. DEAKIN.—I hope that I have collected the meaning of the Committee from the interesting discussion which has been maintained in connexion with the clauses. Although I felt that the changes made in the measure would require alterations here, I thought it best to endeavour to obtain the mind of the Committee before essaying that difficult task. We are placed in the position—and it is not altogether a disadvantage—that having amended this clause, we cannot further amend it now to meet the views of honorable members, even if we desire to undertake that task at once. What I propose to do is to ask honorable members to allow the clause to pass, undertaking to recommit it with the amendments which I shall be prepared to suggest on further consideration. As I take it, the trend of the mind of the Committee is to limit this power of removal as far as possible to the appellate stage, to make it ancillary to appeals, and, if possible, to indicate the cases in which alone it shall be applied, to make it in all cases dependent upon the High Court, being satisfied that there is substantial ground for that removal, and possibly—I have noted it

—to limit its area to cases arising under the Constitution or involving its interpretation. I must confess that it was the illustrations drawn from that class of cases which principally occupied my mind when I was previously speaking. Having now an indication of the mind of the Committee in regard to the clauses preceding, I hope I shall be able to submit amendments which shall represent the sense of the great majority.

Sir JOHN QUICK.—Eliminating the part relating to the Attorney-General?

Mr. DEAKIN.—My present thought is to leave the Attorney-General power only on the same terms as any other person if I do not make a separate provision allowing the Attorney-General of the Commonwealth or of the States to refer certain cases as was suggested by my honorable and learned friend, Mr. Glynn, or in the manner suggested by the honorable and learned member for Indi. That proposal seems to me to be one which, if separated from this clause, might be very useful. It certainly could not prejudice the interests of any litigant, while it might assist the solution of difficult problems if such happen to arise in minor cases which would otherwise not be brought to appeal. The decision in such a case might, within a State at all events, and perhaps over a wider area if it were a court exercising Federal jurisdiction, operate unfavorably to the construction of the Constitution which, in the interests of the Commonwealth, ought to be maintained. If honorable members will pass the clause as it is it will be reprinted, and they will then be able to grasp with less difficulty the significance of the amendments I shall propose.

Clause, as amended, agreed to.

Clauses 47 to 51 postponed.

Clause 52—

1. There shall be paid to the Chief Justice a salary at the rate three thousand five hundred pounds a year, and to each other Justice a salary at the rate of three thousand pounds a year.

2. There shall also be paid to each Justice of the High Court, on account of his expenses in travelling to discharge the duties of his office, such sums as are considered reasonable by the Governor-General.

Mr. McCAY (Corinella).—Surely we are not going to pass the clause without any debate. I understand that some amendments have been given notice of. I consider that the salaries proposed to be paid are too high. I am quite aware that in

some of the States, for instance in Victoria, such salaries are paid.

Mr. DEAKIN.—New South Wales and Queensland, too.

Mr. McCAY.—In Victoria the salaries of all future Judges are to be £500 less than the salaries of the present Judges.

Mr. MAUGER.—They will also get a pension.

Mr. McCAY.—I do not see why a Judge with a salary of £3,000 should get a pension any more than a post-office messenger with a salary at £100 or £200. A Judge has a better chance of providing for his old age than the average working man. I do not propose to vote for pensions to Federal Judges. They should be left as other people are to provide for their old age. I think that the salaries ought to be reduced, but I am not prepared at this moment to say what salaries should be paid. I only rose because I thought that the clause was going to be passed without debate.

Mr. GLYNN.—What does the honorable and learned member say to a salary of £3,000 for the Chief Justice, and a salary of £2,500 for the other Judges?

Mr. McCAY.—I shall not move an amendment at the present time. Like the Attorney-General, I shall wait to see what the sense of the Committee is.

Mr. CONROY (Werriwa).—Whatever its individual opinion may be the Committee is in a certain way committed by the action of certain of the States Parliaments in voting salaries of £3,500 to their Chief Justices. They only do that because they find it necessary to have a perfectly free choice in order to get the best men. I would point out to those honorable members who happen to think that a smaller salary should be paid to the Chief Justice that we are in a certain sense precluded from fixing any amount which we may think reasonable while the States Parliaments retain their present rates of salaries. It stands to reason that we could not get a man to take a smaller salary in one position than he can get in the other position. If I am referred to the example of the United States I shall reply that in New York there are 34 Judges whose average salary amounts to £3,500.

Mr. McCAY.—Are they as good as the Judges of the Supreme Court of the United States at £2,100?

Mr. CONROY.—It shows the price that the State has to pay for its Judges. In

making the appointments to the Bench of the Supreme Court the United States is absolutely limited to a number of wealthy men, that is if it wishes to obtain the services of men of known and tried abilities. Of course, if it went outside that class it could get plenty of men to take the positions at a salary of £100.

Mr. A. McLEAN.—Are they such inferior men in the United States and Canada?

Mr. CONROY.—If I am assured that there is a sufficient number of wealthy men at the Bar here—men of the best experience who are prepared to make the large sacrifice which is involved in the acceptance of a Judgeship—

Mr. McCAY.—Are not the best men, if chosen for the Bench, as a rule those who have been making the largest incomes at the Bar.

Mr. CONROY.—My own opinion is that it is so, but it does not always follow that a man is willing to give up his practice. I could mention four or five leading men at the bar in New South Wales who have refused to accept the salary which is offered there, and I have no doubt that in one or two cases Victoria has had a similar experience. There are two considerations which should actuate us at the present moment. We desire to secure the most suitable men for the positions, and to offer them what is a *quid pro quo* for what they must practically give up, and we desire that the best men shall be attracted to the service of the Federal Government as against the service of the States. If the best men are attracted to the States Benches, it stands to reason that the opinions of the States Judges will be of more value than the opinions of the High Court Judges. In these days of economy we are all desirous of limiting the expenditure as far as is possible having regard to the importance of obtaining men of the highest ability; and I do not see how we can fix a lower sum for the salary of the Federal Chief Justice than is at present paid to the Chief Justices in at least three of the States. Much as I disapprove of the Government in many respects, I think they have adopted the only attitude open to them on the present occasion. I was, and I still am, strongly opposed to the constitution of the Federal High Court as quite unnecessary; but now that we have determined on having a High Court, we ought to be able to select a Judiciary composed of

men who show that their abilities in their outside walks of life are rated at something like the salaries now proposed. It cannot be inferred for a moment that, because in three of the States the Chief Justices each receive £3,500 per annum, three corrupt Parliaments have been ready to give larger salaries than are necessary.

Mr. PAGE.—That was the case in one of the three States.

Mr. CONROY.—But what about the other two States? I remember when the present Chief Justice of Queensland was elevated to the Bench, the late Sir Henry Parkes, whose public appointments throughout New South Wales reflected great credit on his judgment, and have been of eminent service to that State, said that Queensland could not afford to lose from its political life a man of the ability of Sir Samuel Griffith—that in Parliament he could save Queensland the amount of his salary twenty or thirty times over every year.

Mr. PAGE.—Sir Samuel Griffith voted the money for himself.

Mr. CONROY.—I had a conversation with Sir Henry Parkes on Sir Samuel Griffith's appointment at the time, and am thus able to state his opinion of the loss to Queensland in that gentleman's retirement from public life, and I do not think there is any breach of confidence in making public the circumstance. Whether we like it or not, we are bound by the decision of the various States Parliaments in this respect.

Mr. MAUGER.—The honorable member has not applied that rule in other matters.

Mr. CONROY.—In a matter of this kind the States afford a good precedent; at any rate, we do not find that in any of the States there is agitation for a reduction of the salaries at present paid to the Judges.

Mr. A. McLEAN.—No future Chief Justice in Victoria will receive £3,500 per annum.

Mr. CONROY.—Does the honorable member for Gippsland say that the Federal Government could not afford £3,500 per annum for the Federal Chief Justice when three Judges of the States Courts are at present receiving that amount? I do not believe that we can make the High Court as effective as it would otherwise be unless we offer salaries sufficient to attract men who will be a credit to the Judiciary; and under the circumstances I feel bound

to support the Government. No doubt the Government would gain more popularity throughout Australia just at the present time if they made salaries low; but I venture to say that if later on the question was raised as to unsuitable Judges having been selected, they would find themselves accused of false economy. In dealing with the affairs of a continent like Australia we must remember the Roman maxim, the very age of which proves its value—"Sometimes the greatest tax of all is parsimony." That, I am inclined to think, will be the conclusion arrived at if the Committee do not adopt the proposals of the Government.

Mr. A. McLEAN (Gippsland).—It would be a great mistake to pass this clause as it stands. We must remember that the times were very different when the high salaries were fixed for the States Judges. The best talent was then very scarce, as it was possible to earn large sums at the Bar. Those were the golden days when we in Victoria fixed the salary of the Governor at £15,000 per annum; and we know that now his salary has been reduced to £5,000, though the salaries of the Judges remain at the original figures. A law has, however, been passed fixing the salary of future Chief Justices at £3,000 per annum, and the salaries of the puisne Judges at £2,500.

Sir MALCOLM McEACHARN. — But the States Judges receive pensions.

Mr. A. McLEAN. — Pensions are also provided in this Bill, and will be dealt with later on; at any rate, the question of pensions is not mixed up with the question we are now discussing.

Sir MALCOLM McEACHARN.—If the honorable member is comparing the proposed salaries with the salaries of the States Judges, it must be remembered that the latter receive pensions, and that the clause providing pensions under this Bill may hereafter be struck out.

Mr. A. McLEAN.—But for one consideration I should regard the salaries I have just mentioned as much too high. They are much higher than are paid in other parts of the world. In the United States, with a population of 87,000,000, the Chief Justice receives £2,100 per annum, and the puisne Judges £2,000, and surely the duties they perform must be as important as those to be performed in Australia, with a population of less than 4,000,000? I do not think it would be wise to fix the salary of the Federal Chief

Justice at a lower sum than it is intended to give future Chief Justices in Victoria, and for that reason alone I am prepared to go to the length of fixing the salaries at £3,000 and £2,500 for the Chief Justice and the puisne Judges respectively under this Bill. We can get the services of the best men available for the position of Prime Minister at a lower salary than that proposed for the Federal Chief Justice.

Mr. MAUGER.—And the position of Prime Minister is uncertain in tenure.

Mr. A. McLEAN.—A man may run the risk of losing his practice at the Bar for the sake of a year or two of office, and yet we have no difficulty in getting the best men as Premiers and as Prime Minister.

Mr. CONROY.—Surely the honorable member does not pretend that a Prime Minister or Premier is paid an adequate sum in return for his work, seeing that a bank manager may receive £3,000 per annum?

Mr. A. McLEAN.—I consider that £3,000 per annum is an excellent salary for any Judge. In these days, when the professions are largely overstocked, and a great many legal practitioners are unable to obtain briefs, there will be very little difficulty in getting the best talent available for the Federal Judiciary. When commencing our career as a nation it would be a fatal mistake to fix the standard unreasonably high. In fixing the salaries we must have regard to the maximum, and go down on a graduated scale through the other salaries; and if we fix the remuneration of the Judges—who occupy the highest-paid offices—at an unreasonably high figure, we shall not be able to fix other salaries at an amount proportionate to the services rendered.

Mr. SAWERS.—Why should there be such a large difference between the salary of the Chief Justice and the salaries of the puisne Judges?

Mr. A. McLEAN.—I am merely taking the salaries as they are proposed; otherwise I might be disposed to think the difference rather too great. However, I shall not in any case vote for a higher salary than £3,000 for the Chief Justice, because to go beyond that would be to take a mistaken step which we might not be able to retrace. These appointments are practically for life; and after we have induced men to give up the practice of their profession, we cannot break faith with them by reducing their salaries.

Mr. ISAACS.—The Constitution forbids it.

Mr. A. McLEAN.—And therefore we shall be making a fatal mistake if we fix the salaries unreasonably high. I shall support a reduction of the salaries to at least the limits I have mentioned.

Mr. JOSEPH COOK (Parramatta).—I do not agree that our hands are tied in any way, but hold that Parliament is perfectly free to do what is deemed best in this important matter. I intend to move that the salary of the Chief Justice be reduced by £1,000, because in my opinion £2,500 per annum is sufficiently high as a commencing salary. It is much easier to go up than down in the matter of salaries. I do not subscribe to the theory promulgated to-night, that a Judge goes on the Bench merely for the sake of what he can make out of the position. I read an article to-day, in the *Age* or the *Argus*, by Professor Harrison Moore, who expresses the opinion that Judges sell their law precisely as a grocer sells sugar, or any other commodity. I do not agree with that view. My own opinion is that most of our leading lawyers sacrifice something in the way of remuneration when they are elevated to the Bench. We are told repeatedly that barristers when pleading at the bar earn much larger amounts than they do when they become Judges; and personally I believe that the present Chief Justices in nearly all the States made great pecuniary sacrifice when they went on the Bench. If that be so, it is clear that the Bench has attractions other than those of a monetary character. The prestige and status of a Judgeship are in themselves a high attraction to ambitious men, apart altogether from the remuneration offered. As has been suggested, the attraction of the judicial office is something akin to that of the Premiership of a State. It is well known that the present Premier of Victoria is making a huge sacrifice of income in holding the position he does. If this operates in connexion with the administrative functions of a State, why not in connexion with the interpretation of its laws?

Mr. CONROY.—A man has power when he is at the head of a State.

Mr. JOSEPH COOK.—Has a Judge no power?

Mr. CONROY.—To construe laws, but not to make them.

Mr. JOSEPH COOK.—I think that a Judge has more real power than any other man can have. At any rate we might

begin in a modest, economical way in connexion with the judicial offices of the Commonwealth. If we must not offer a lesser salary to the Federal Judges than is being paid in the States, the same argument would apply to all the civil servants in the pay of the Commonwealth. We have paid smaller salaries in nearly every other case.

Mr. McCAY.—The Federal Parliament pays the heads of the Commonwealth Departments about 25 per cent. less than the States pay the heads of their Departments.

Mr. JOSEPH COOK.—Quite so. Take the case of the Secretary for External Affairs. He gets £800 a year, but the head of a corresponding Department in New South Wales receives £1,100 a year. The Secretary for Home Affairs receives £700, whereas £1,000 is paid in New South Wales. The Secretary to the Attorney-General's Department receives £750 a year; a similar State officer receives £950. And so, all through the gamut of these salaries, we have deliberately fixed them at a much lower rate than is paid in the States.

Mr. HIGGINS.—There is no Federal extravagance there.

Mr. JOSEPH COOK.—I see none. On the other hand, it is only fair to say that I do not believe that the Federal officers have the same amount of work to do as have similar officers of the States, for the simple reason that all our functions are not yet developed. Similarly, my own opinion is that the Judges will not have so much work to do; that is to say, it will not be so continuous, and their noses will not be kept so close to the grindstone in the earlier stages of federation, as is the case with the Judges of the States Courts. My object is to give to the court as few functions as possible. It is a much easier matter to clothe the court with greater powers, and to increase the salaries of the Judges at a subsequent period, than to curtail its powers and pay the Judges less, once the court becomes a settled institution in the country. We see how difficult it is to interfere in any way with the present States Courts. Reductions ought to be made in connexion with all of them. That is the doctrine that is being preached industriously throughout the Commonwealth. But it is found to be a matter of prodigious labour and of almost insuperable difficulty to curtail the privileges and the functions of State institutions in

any way whatever. So it will be with the Judges of the High Court. Therefore we shall do a wise thing, and certainly a thing that will be in keeping with our protestations of economy, if we reduce the amount to be paid to the Judges. I move—

That the word "three," line 2, be omitted with a view to insert in lieu thereof the word "two."

I move this amendment with the object of fixing the salary at £2,500 a year.

Mr. MAUGER.—Make it £3,000 and many of us will vote with the honorable member.

Mr. JOSEPH COOK.—I consider that £2,500 would be an adequate salary.

Mr. O'MALLEY (Tasmania).—I do not desire to enter into this question very seriously after the debate of a legal character which we have had to-night; but I wish to say that I cannot see that the Chief Justice will have much more work to do than the other Judges. Therefore, if we reduce the salary of the Chief Justice to £3,000, we should fix the salaries of the other Judges at £3,000 also. We have not yet fixed the number of Judges, but I am taking it for granted that there will be three. We ought not to be too penurious about this matter, because justice is cheap at any cost. Justice is something wherein the height of extravagance may be the essence of economy. Therefore, I shall be perfectly willing to pay £3,000 per annum to each of three Judges. It is nonsense to argue that we must pay £3,500 to our Chief Justice because a State has done so. That is a ridiculous way of looking at the matter. What have we to do with the States? The States can vote what they like. The State of Victoria gave for years £10,000 a year to her Governor, and borrowed the money with which to pay it. That is economy from the Victorian point of view. For years all the States borrowed the money with which to pay high salaries. But the Commonwealth must live within its own means. The Commonwealth has already given back to the States a surplus greater than it is required to do under the Constitution, to enable them to pay their way. I shall vote, not because the States pay their Judges £3,500, or £10,000 or whatever it may be, but because I consider a certain sum to be a proper amount to pay the Judges of the High Court of Australia. The honorable and learned member for Werriwa has said that in the State of New York the Judges are paid £3,500 a year.

There are no pensions attached to those positions.

Mr. PAGE.—How much do they make besides?

Mr. O'MALLEY.—I have heard a good deal about corruption among the Judges in America, but my experience is that law and justice in the United States are as pure as in any part of the world. I received far more even-handed justice while I was living in the United States than I got in South Australia at the hands of one of the Judges of the Supreme Court there.

Mr. POYNTON.—The honorable member won his case there.

Mr. O'MALLEY.—Yes, I won it; and I got forty "bob" for my character. I am perfectly willing to tell the truth, though some honorable members would be afraid to get up and say how much their characters are considered to be worth. The point to bear in mind is that we have nothing whatever to do with what the States pay. It is a pity that the States do not abolish their useless tinselled Governors, and make the Chief Justices take their place. If they did they could save a lot more money; and if the Kyabramapootrahs and the gilded-spurred roosters would begin to crow in that line it would be far better for the States. I am talking of the Deform Leagues of this country, which have their paid agitators, who say that we are extravagant, while the States will pay any price for a jamboree or a fandango. I intend to vote against the honorable member's amendment, with a view of supporting the payment to all the Judges of a salary of £3,000 a year.

Mr. MAUGER (Melbourne Ports).—As I intend to move that the provision with regard to pensions for the Judges be struck out, I cannot follow my honorable friend the member for Parramatta in his amendment to reduce the salary of the Chief Justice to £2,500. A salary of £3,000 for the Chief Justice, and salaries of £2,500 for the other Judges, would be sufficient even for such important positions. I quite agree with my honorable friend the member for Tasmania, Mr. O'Malley, that Judges do not take positions of this kind merely for the monetary considerations connected with them. I notice that the late Professor Morris says, in his Memoir of the late Chief Justice Higinbotham, that the statement to the effect that he had made a monetary sacrifice in becoming a Judge was not in accordance with fact.

Mr. DEAKIN.—He made a monetary sacrifice when he went into politics, and was punished for his politics.

Mr. MAUGER.—We all make sacrifices in going into politics, and do not get credit for it.

Sir MALCOLM MCEACHARN.—And generally get punished!

Mr. MAUGER.—I think that if we fixed the salary of the Chief Justice at £3,000 per annum and abolished the pensions, we should be offering a scale of remuneration commensurate with the positions.

Mr. DEAKIN.—I hope that the Committee will not alter this clause in any particular; because if they do so they will place the Commonwealth, at the very outset of its career in connexion with the High Court, at the disadvantage of finding itself outbid in each of the States. The important consideration has escaped the honorable member for Gippsland that even in the State of Victoria, after a time of economy and reduction, they still propose to pay £3,000 a year to the Chief Justice, and £2,000 to their other Justices of the Supreme Court—six in all; and to continue the pensions which they have always paid to them. These proposed salaries for the Judges of the High Court are, of course, followed by another clause in which a scheme is given for limited pensions. What we have to consider is the position that we shall occupy if we offer these positions to the leading men at the Bar in the States, or if they should be offered to any of the Judges who are now on the State Benches. Are we to ask them, in the one case, to accept a largely diminished income, and in the other case to step down from the receipt of the incomes they now enjoy, with pensions added, to take a lower salary, and perhaps diminished pensions, in order to enter into the service of the Commonwealth? It is perfectly true that the consideration of pay is not the only one that attracts leading members of the Bar to these high offices. There is the permanency; there is the social dignity; there is the opportunity offered to men of high character and intellect to write their names large in the legal history of the country. All these motives count, and will continue to count. But what will be the effect if these salaries are reduced below the current rates in the States? Victoria is the only State that has lately reduced the salaries of future Judges. In New South Wales there has

been no such proposal, nor, so far as I am aware, is there such a proposal in any of the other States.

Mr. A. McLEAN.—What does South Australia pay?

Mr. DEAKIN.—£2,000; but her population is about one-fifth of the whole Commonwealth.

Mr. McCAY.—And her Chief Justice is a man with a magnificent record.

Mr. DEAKIN.—But he has the good fortune to hold a position similar to that which many of the Judges of the United States occupy—that he is a wealthy man, absolutely independent of his office. In the United States of America the salaries of the Judges of the High Court were fixed at £2,100 a year, when that sum was more than equivalent to the £3,500 a year paid in Australia at present. Attempts have been made in America for a number of years to alter that rate of salary, and increases would have been carried last session but for the fact that the two political parties came into hopeless collision over other legislation, and the session had to be closed with most of its business unfinished. According to an article published in *Harper's Weekly*, the salaries of the United States High Court Judges would undoubtedly have been raised in the last session of Congress, but for the fact I have mentioned. As I have already said, they were fixed at a time when America had the same number of people as Australia has to-day, and when the value of £2,100 a year, represented more than £3,500 a year does to-day in Australia. The facts are very much the same in Canada. In Canada the salaries were fixed at a time when Canadian rates were even lower than they are now; and Canadian rates, as honorable members are aware, are always lower than Australian rates. I commend to honorable members the letter by Professor Harrison Moore, published in to-day's *Argus*, wherein he shows that the principal legal journal of Canada states that the low salaries paid there are a direct bar to attracting the best men to the Bench.

Mr. JOSEPH COOK.—The evidence is that the salaries do not attract the men who are earning the largest incomes at the Bar.

Mr. DEAKIN.—In these States I am aware that there are many men at the Bar who are reputed to be making considerably larger sums than the Chief Justices of the States are paid.

Mr. JOSEPH COOK.—They have refused Judgeships.

Mr. DEAKIN.—It is understood that they have refused Judgeships. The present Chief Justice of Victoria refused to accept a Judgeship until offered the position of Chief Justice, which carried with it a salary equal to that proposed by us. That was some five or six years ago. In Victoria and in New South Wales, and probably in Queensland, we can point to-day to members of the Bar who are earning more than is proposed to be given to the Chief Justice. In some cases they are certainly, and in others probably, earning more than the salary we have fixed.

Mr. A. McLEAN.—But their earnings are not permanent.

Mr. DEAKIN.—I am coming to that point. I have little doubt but that if we fixed the salaries which have been mentioned, we should be able to obtain men qualified for the office. But we should not be able to obtain men in the prime of life who, with the full capacity of earning before them, are carrying on their practice at the Bar and are probably earning something considerably above the salaries proposed. The men obtained for the positions would have the advantage, perhaps, of riper wisdom, but they would be men who felt their powers to be not what they were, and who realized that it might not be possible to continue to earn a larger income.

Sir LANGDON BONYTHON.—The case of Chief Justice Way is against the Attorney-General.

Mr. DEAKIN.—He is a man of independent fortune with whom the Chief Justiceship counts. If there be a sufficient number of independent men in Australia to fill these positions, no doubt some of them would be prepared to accept salaries lower than those proposed in the Bill. But I submit it to the Committee as an incontestable fact that we shall not be able to have a free choice, both from the Bench and the Bar, if we fix the salary of the Chief Justice at the amount named in the amendment. I would myself have fixed a lower salary than that provided in the Bill, if I had thought it possible to obtain that free choice by doing so. But I took the lowest sum possible. The salary fixed in the Bill is being paid in three other States, and only in one has a future reduction been authorized. What

chance have we then of carrying out our desire, when, looking round at Bench and Bar, we ask ourselves whether the three or the five Judges—I hope it will be five—to be appointed are to be the best men that we can obtain? When we have found them are we to go to them cap in hand and request them to accept the position, because of the dignity it will confer? Can we say that we expect them to make so great a sacrifice of their incomes in order that we may obtain their services.

Sir LANGDON BONYTHON.—The Chief Justice of South Australia surrendered a practice of £6,000 per annum for an office carrying a salary of £2,000 per annum, and the dignity attaching to it.

Mr. DEAKIN.—The salary which Chief Justice Way receives from the State is not the income upon which he depends. If he received nothing from the State he would still be independent. When the honorable member can show us a number of persons as able and as wealthy as is Chief Justice Way, we shall be in a happy position. But we shall be placed in an unfair position, especially at the outset of the Commonwealth, if we have to offer salaries lower than those actually paid in three of the States of the Union. The gentleman holding this position is to be the Chief Justice of the whole of Australia, but if measured by his income he is to be a man of less standing than are the Chief Justices of three of the States over all of which he presides, and all of which fall within his area. This is to be the status of the first Chief Justice of the Federal Courts which are to interpret our Constitution and our laws, and upon whose interpretation of the Constitution its future reading for a long time is certain to depend. I do not wish to delay the Committee, but would remind honorable members that the salaries we have fixed are far below the standard set by English salaries. It is true that they are above those paid in Canada and the United States, which were fixed a century ago; but they are not above the amounts which to-day have to be paid in Canada and the United States, where they seek to obtain the best men and do obtain them. We have no desire to constitute a court such as that in Canada, to which the chief legal journal of the Dominion has referred in the severe terms which have been quoted. We have no desire to see our court passed by because there is no confidence in

its decisions. We have no desire to see it the Chief Court in Australia only in name, because men will not accept positions on the Bench.

Mr. A. McLEAN.—The salaries paid in Canada are not one-half the amount of those proposed by the Government.

Mr. DEAKIN.—The Chief Justice receives £1,650, while the other members of the Bench are paid £1,450 per annum. But what is the statement that has been made concerning that court? Professor Harrison Moore states that—

Of the highest appellate tribunal in the country it was declared last year that it did not possess the confidence of the profession or the public; that litigants went there, not from any belief in the goodness of their cause, but "on the off-chance of a reversal by another set of Judges, gambling on the uncertainty of the law."

Mr. JOSEPH COOK.—That is a mere statement.

Mr. DEAKIN.—It is made by the chief legal journal in the Dominion, and as Professor Harrison Moore points out legal journals, like members of the legal profession, invariably defend the Bench and uphold its dignity with all the strength at their command. If we desire to avoid this stigma, and to maintain our courts at all events on a level with the best Courts of the States—if we desire to secure for the first Judges of Australia the best men that Australia can produce—we ought not to reduce the salaries fixed in this Bill.

Mr. SAWERS (New England).—Although the question of pensions to be granted to the Judges of the High Court is not strictly before the Committee it is one that seems to influence many honorable members.

Mr. POYNTON.—It should be decided first.

Mr. SAWERS.—It may be necessary to do so.

Mr. DEAKIN.—If the Committee think that honorable members would have a free hand in dealing with this question after the clause relating to pensions has been disposed of, I shall have no objection to postponing the consideration of this clause for the present.

Mr. SAWERS.—I am not specially advocating the adoption of that course, but the intimation by the honorable member for Melbourne Ports that he intends to move the omission of the provision for the payment of pensions will certainly influence

many honorable members. I shall be glad if the question of pensions is decided first; but in any event I shall give my vote on this clause with the clear determination of voting for pensions. We must remember that gentlemen who are raised to the Bench are generally well advanced in years, and that even if they received a fairly high salary they would not be adequately recompensed, as they would remain on the Bench only for a few years. It seems to me that the offer of a pension will be one of the attractions of the position. It goes without saying, that the object of the Government ought to be to secure the very best men to occupy the position of Judges of the High Court. I cannot overlook the fact that in New South Wales when the late Sir James Martin died not many years ago, the utmost difficulty was experienced in filling the vacant position of Chief Justice of that State. I am almost safe in saying, that for a time the office practically went begging. It was offered to various barristers but refused, and it was not accepted by the present Chief Justice until Parliament passed a Bill raising the salary from £3,000 to £3,500 a year. Honorable members for Queensland may remember that a somewhat similar case occurred in that State.

Mr. PAGE.—We remember that too well.

Mr. SAWERS.—I am not in a position to discuss the merits of the Queensland case, but in New South Wales the facts were as I have stated. If we look around the commercial world we shall find men at the head of firms or great banking institutions, for example, who receive salaries far in excess of those proposed to be given to our Judges.

Mr. DEAKIN.—That is so in Melbourne and Sydney to-day.

Mr. SAWERS.—I dare say that there are men at the head of commercial institutions in Melbourne and Sydney who receive from £4,000 to £5,000 a year. Then we have our Railways Commissioners. The Chief Commissioner of Railways in New South Wales receives £3,000 a year, while the Chief Commissioner of Railways in Victoria draws a salary of £3,500 per annum. A few days ago, when it was proposed to fill a vacant commissionership, it was found necessary to raise the salary attaching to the office.

Mr. POYNTON.—But the commissioners are not appointed for life.

Mr. SAWERS.—No one is appointed for life. In New South Wales the commissioners were appointed for seven years, and the term was recently renewed.

Mr. PAGE.—Do they receive pensions?

Mr. SAWERS.—I do not say it is essential that our Judges should receive pensions, but the offer of a pension would be one of the great attractions of the position. I am willing to admit that this is a time for economy, and that we should not go to extremes, but I am inclined to support the Government. I hope that, in any event, the Committee will not consent to reduce the salary which will attach to the great position of Chief Justice of the Commonwealth below £3,000 a year.

Mr. WILKS (Dalley).—The Attorney-General has just made an appeal to the Committee to look to the various States for guidance in this matter. He urged that we should be outbidden by the States, and that the current rates paid in Australia were higher than the amount fixed in the amendment. We have to remember, however, that these are not the current rates of to-day, but were really fixed in the boom time, when the mercantile, professional, and other classes were receiving very high emoluments. I would reverse the comparative statement made by the honorable and learned gentlemen, for £3,500 a year received to-day, is equal to £5,000 per annum paid seven or eight years ago.

Mr. WATSON. — Notwithstanding the Federal Tariff.

Mr. WILKS.—I am sorry to say that has been the position of affairs for the last seven or eight years. The purchasing power of money has become larger and larger, and those in receipt of a salary of £3,000 seven years ago were in no better position than those who now receive £2,000 per annum. While some urge that no reduction should be made in the salary proposed by the Government, it might be admitted that the purchasing power of salaries is greater than it was. I find that special provision for the payment of the salaries of our Judges is made in the Constitution. Section 72 provides that they—

Shall receive such remuneration as the Parliament may fix, but the remuneration shall not be diminished during their continuance in office.

That is to say if we fix this salary to-night we shall have no power to diminish it during the term of office of the Chief Justice, although we shall be able to

increase it. That is another reason why we should support the reduction proposed. If we find by experience that we cannot get the best men to be had in Australia, that the most active members of the Bar will not accept positions upon the High Court Bench, that the salaries we vote are not sufficient, and if we find that the work to be done by the High Court Judges will be so heavy as to involve a great demand upon their time, Parliament can increase the salaries. There is, therefore, no danger in agreeing to a reduction upon the amounts suggested by the Government. They ask that the salary of the Chief Justice shall be £3,500 a year. I intend to support an amendment making the salary £2,500, but whether that amount or £3,000 is the salary fixed, it must not be forgotten that we can diminish the salary proposed only once, and that is to-night. Afterwards, during the life time of the person appointed, it will stand at the sum fixed by Parliament unless it is found necessary subsequently to increase it. I think that £2,500 a year is a fair salary. It must be remembered that upon clause after clause of this Bill, the Attorney-General has been urging the Committee to confer greater powers upon the High Court in order to give employment to the Judges. We have every evidence that there will be very little for them to do, and that in itself will be an incentive to men to go from the Bar to the High Court Bench. The Judges of the Supreme Courts of the States have six times as much work as these Federal Judges will have to do.

Mr. WATSON.—How does the honorable member know that?

Mr. WILKS. — We know pretty well already the amount of work they will have to do. The honorable member is backing up the Attorney-General, who referred to the gambling that takes place in courts in Canada; but we know that so long as there is a higher court, they will gamble. I do not think the fact that the Judges will not be very highly paid will encourage gambling in law. I remind honorable members that the Prime Minister of this country receives a salary of £2,500 a year. He has no permanency, and no pension, and, in fact, occupies a very precarious position. He has to superintend the whole of the affairs of Australia, and although he will have the appointment of these High Court

Judges, he only gets £2,500. Once we introduce comparisons of this kind, honorable members will see how absurd the Government's proposal is. If the argument be sound that to get the best men of the legal profession to accept positions as Judges of the High Court, we should pay a salary of £3,500 a year, we should pay the Prime Minister of the Commonwealth £5,000 a year. The present Prime Minister is a well-known lawyer, and is regarded in the profession as a lawyer of high standing, but we find him working for £2,500, with no chance of a pension and no permanency.

Mr. McCAY.—We are told that it is a permanent position.

Mr. WILKS.—It is permanent until the election. I agree with those who ask for a reduction of the salaries proposed. The Attorney-General has not shown how the confidence of the profession, or of the general public, will be shaken by a reduction, but we know how the public will be shaken by an increase of the salaries. I should like to hear some argument against the proposal to fix the salary at £2,500 a year. We are told that younger men at the Bar, getting £8,000 or £10,000 a year, will not be attracted by the offer of a position on the High Court, but this is the age of economy, and we must not fix as current rates the rates which existed in the boom period.

Mr. DEAKIN.—If I understand that it is the wish generally of honorable members to consider clause 53 before clause 52, I shall now move the postponement of clause 52 until after we have considered clause 53. Before doing so I may take the opportunity of reading one short extract which I missed, and which I intended to have used relating to the effect of the salaries paid to the Canadian Judges—

A letter to the *Empire Review* for March points out that the names of many of the Judges appear on the directorates of trusts, finance, insurance, or other corporations.

Amendment, by leave, withdrawn.

Motion (by Mr. DEAKIN) agreed to—

That clause 52 be postponed until after the consideration of clause 53.

Clause 53—

1. A Justice of the High Court, if disabled by permanent infirmity from the performance of the duties of his office, shall be entitled to retire upon a pension to be continued during his life at a rate—

(a) equal to two-tenths of his actual salary at the date of his retirement if he has served for less than five years;

- (b) equal to three-tenths of that salary if he has served for five years;
- (c) equal to five-tenths of that salary if he has served for ten years;
- (d) equal to seven-tenths of that salary if he has served for fifteen years.

2. A Justice of the High Court who has served for fifteen years as a Justice of that court shall be entitled upon reaching the age of sixty-five years to retire upon a pension to be continued during his life at a rate equal to seven-tenths of his actual salary at the date of his retirement.

3. When any Justice of the High Court is entitled, by virtue of any right preserved by the Constitution, to any pension upon retirement, that pension shall be deemed to be in reduction, *pro tanto*, of the pension to which he is entitled under this Act.

Mr. MAUGER (Melbourne Ports). — I hope this clause will be struck out. It seems to me to be a great mistake at the commencement of the Commonwealth to recognise discriminating pensions. It has been said that it is rather remarkable that those who are in favour of old-age pensions should oppose a proposal of this kind.

Mr. WATKINS. — Old-age pensions apply to everybody.

Mr. MAUGER. — But this is a discriminating proposal to which I object, and which I hope will be struck out. We have just had an illustration of the pernicious character of it in Victoria. One of our very esteemed Judges has been drawing a very handsome salary for a very long time past, and he now retires on his pension, and goes away to some other country to spend it, while we have to pay it.

Mr. THOMAS. — The State has had services rendered for it.

Mr. MAUGER. — I do not think the services were rendered for the pension, and I think the salary paid was quite sufficient to enable the person receiving it to acquire an annuity for himself.

Mr. JOSEPH COOK. — The honorable member would be quite satisfied if the money were spent in this country.

Mr. MAUGER. — I should be very much more satisfied than I am now, because then some of it would be distributed amongst those who have to pay it. Under present circumstances, those who pay the pension get no benefit from it. However, I object to the principle altogether, and I hope it will not be acknowledged in any way in connexion with the Commonwealth. It seems to me that a man getting one of the highest salaries paid in the Commonwealth, even if the amount proposed be reduced to £3,000, will be sufficiently paid

to enable him to look after his own old age.

Mr. WINTER COOKE (Wannon). — I hope this clause will be allowed to remain. After all, what we have to consider is the end we are aiming at, and, unquestionably, we should desire to get the best men we can possibly get for the High Court Bench.

Mr. MAUGER. — Does the honorable member think that a pension will attract them?

Mr. WINTER COOKE. — Undoubtedly it will. We know, as a matter of fact, that we have not always been able to get, I will not say the best men, but the men earning the highest incomes at the Bar to accept positions on the States Benches at £3,000 or £3,500 a year. If, in addition to cutting down the salaries, it is further proposed to take away the pensions, we shall be still more in danger of limiting our choice. I shall speak again if I get an opportunity on the clause fixing the salaries to be paid, but I wish to emphasize the point that if the Committee decides that those who are to be offered positions on the High Court are not to receive pensions, we shall in all probability get inferior men, or at all events by no means the best men.

Mr. CROUCH (Corio). — My feeling is that this clause might be postponed until after the consideration of clause 52, because I cannot really vote fairly on the question of pensions until I know what the salary is going to be. I desire that the salary proposed shall be lowered, but I think that pensions are very necessary, not only to enable us to secure good men, but also in order to enable us to keep them, and to get rid of men who are incapable by physical or mental weakness. The great advantage of the pensions is that, when a man feels that his powers are failing, if a pension is provided he will know that upon retirement he will not have to live upon the small income to which his savings might reduce him. The honorable member for Melbourne Ports has previously contended that upon the abolition of pensions there should be a system of compulsory life assurance for all public servants. It is absolutely contrary to the principle of the law that public servants should be in want. There is a dignity attaching to the man who has served his country in the public service, which he should afterwards be able to retain.

Mr. HUME COOK. — We do not provide pensions for other public servants.

Mr. CROUCH.—Where we do not provide pensions for public servants, the honorable member for Melbourne Ports contends that compulsory assurance should be insisted upon.

Mr. MAUGER.—Surely a man in this position should know that he ought to provide for old age?

Mr. CROUCH.—I know that there have been men connected with the County Courts in Victoria who have been reduced to a very impecunious position. It is very unfortunate that a man whom one has had to address in terms of respect and deference should afterwards be coming round desiring to borrow a five-pound note. Any one who has moved in legal circles in Melbourne for fifteen or twenty years well know that some Judges have been reduced to that unfortunate position. Am I to understand that if the honorable member for Melbourne Ports can secure the omission of this clause he will propose the insertion of a provision requiring assurance?

Mr. MAUGER.—I think that a Judge should look after his own assurance.

Mr. CROUCH.—There must be a provision for a pension or for assurance if it is desired to carry out the policy which Parliament has always insisted upon, and which even the courts have from time to time recognised, that servants of the Commonwealth shall not have their salaries attached. A similar principle arises here, because men in these positions should retain the dignity previously attaching to them. I understand that the honorable member for Melbourne Ports referred to the case of a Judge who recently retired from the Victorian Bench, after a good many years service, because he found that his faculties were not as keen as they previously had been. There is another case of a Judge in another State who is said to be getting too old and too deaf. I shall not say in which State that case arises, but I have no doubt that such a Judge, if he had not his pension to fall back upon, would cling to his position far longer than he should.

Mr. MAUGER.—It appears he is still clinging to it notwithstanding the pension.

Mr. CROUCH.—If he does he is not in the pitiable position that he has to remain on the bench through fear of poverty. If we wish to get the best men to occupy these positions, and if we wish only to retain them so long as they are able to efficiently perform their duties, we

shall provide for a pension. I support the clause, and I trust the Committee will not accept the suggestion of the honorable member for Melbourne Ports.

Mr. BRUCE SMITH (Parker).—If the honorable and learned member who has just spoken would read the clause a little more carefully, he would see that it is distinctly in favour of the Commonwealth. It provides for a case in which a Judge is disabled by permanent infirmity from the performance of the duties of his office. The honorable and learned member for Corio will not contend for a moment that it is not in the interests of the Commonwealth that, when a Judge has developed some permanent infirmity which renders him incompetent to perform his functions as a Judge, some inducement should be offered to him to resign. We cannot provide in a Bill of this kind that a Judge shall occupy his position only so long as he is competent, in the estimation of the permanent law officers of the Crown, to discharge his duties, and therefore our only recourse is to provide that, when a Judge is afflicted with some permanent infirmity, a moderate pension shall be offered to him to retire and allow a more competent man to take his place. It is therefore proposed that—

A justice of the High Court, if disabled by permanent infirmity from the performance of the duties of his office, shall be entitled to retire upon a pension, to be continued during his life.

Then the rates are set forth. If the Judge has served for less than five years he is to be entitled to a pension equal to two-tenths of his salary. If he had been appointed at a salary of £3,000 a year, he would thus be entitled to a pension of £600 a year.

Mr. POYNTON.—How much would he get if he were outside?

Mr. BRUCE SMITH.—That is not the question. We are framing a Bill by which we hope to secure the services of, if not the very best, certainly some of the very best men in the community. We want men upon whom four millions of people can depend for the interpretation of the Constitution. It cannot be said that anybody will be good enough to act as a Judge of the High Court, and we may rely upon it that by reducing the salaries we shall also lessen our chances of securing the best men. Even moderate men would not be attracted to positions of this kind if they felt that, in the event of sudden illness overtaking

them, and rendering them unfit to longer continue their duties, they would be shelved, and left to take their chance in the hurly-burly of life. It will be to the interest of the Commonwealth to offer an inducement to Judges who may be thus disabled by permanent infirmity to give up their positions, and we may fairly give them a moderate recompense for the sacrifice they will in such a case be called upon to make. There is no parallel between the provisions of the clause and the case put by the honorable member for Melbourne Ports, in which a Judge of the Supreme Court of Victoria retired at the age of 60 upon a pension of £1,500. The Bill proposes that a Judge who has served fifteen years on the High Court Bench shall be entitled to retire upon a pension—but only when he has reached the age of 65. Although human life is said to be lengthening, 70 years is still about the average span for the most healthy among us, and, therefore, it is only reasonable to provide: that when a Judge has reached the age of 65 years he shall be entitled, if he has served fifteen years, to receive a pension equal to 7-10ths of his salary. We are not thus legislating so much in the interests of the Judges as in the interests of the Commonwealth, because if 70 years be taken to be the maximum age at which most men fail to retain their full faculties, it is not extravagant to provide that when a Judge is five years short of the end of his natural life he shall be allowed to retire on a pension. We do not want upon the Bench palsied men—men who are really not in the possession of their full faculties, and who are incompetent to do the very difficult work which will fall to their lot. Therefore, instead of looking at this clause from the point of view of the Judge, it should be regarded as a safety-valve which will enable the Commonwealth to clear the Bench of Judges who have become broken down by age or permanent infirmity. I would point out also to the honorable member for Melbourne Ports that, if no pensions were provided for, it would be open for any Judge to remain on the Bench long after he had become incompetent, through illness, to do his work faithfully and well.

Mr. ISAACS.—The Constitution provides for removal in such cases.

Mr. BRUCE SMITH.—Yes; but unless a Judge were grossly incompetent no Government would take the extreme step of removing him.

Mr. MAUGER.—Would not the same thing apply, even if pensions were provided for, if a Judge still desired to remain on the Bench?

Mr. BRUCE SMITH.—No; because Parliament would be much more ready to take steps to remove a Judge when they knew that a pension was provided for in case of his lacking ability, through illness, to properly perform his duties. I submit, therefore, that it is fair that Judges who have arrived at an age within five years of the recognised allotted span of life should be offered an inducement to retire from the Bench, and make way for younger men.

Mr. CRUICKSHANK (Gwydir).—This seems an opportune time to discuss the whole question of pensions, which is ever recurring in connexion with the discussion of Estimates. We should deal with this matter in the broadest possible spirit, and fix the salaries upon such a liberal scale that we shall encourage our best and youngest men to take up the positions of Judges. We should also endeavour to secure as Judges men of such an age that it will be possible to provide for them by way of insurance, instead of adding to the burdens of the taxpayers by granting pensions. We should not make the High Court Bench a place of refuge for barristers who desire to retire from the active practice of their profession. The honorable member for Melbourne Ports proposes that no provision shall be made for pensions, but I take a very liberal view of pensions in the case of Judges, because I feel that we must get the best men. I should, however, be in favour of offering the highest possible salary, fixing the amount of the pension in inverse ratio to the amount of the salary. Our Judges should be not only the best men, but the healthiest, and such as would most likely be able to render us good service for many years.

Mr. WILKS (Dalley).—I listened very attentively to the arguments of the honorable and learned member for Parkes in regard to the proposed pension arrangements, but I should like to know why, if a Judge is suffering from some permanent disablement—the palsy, or an enlarged liver, perhaps—the amount of pension paid to him should be in inverse ratio to the length of his service? The clause provides that if the Chief Justice of the High Court becomes disabled before five years' service he is to receive a pension of £700 a year, if after five years'

service, of £1,050 a year; if after ten years' service, of £1,750; and if after fifteen years' service, of £2,450. As a matter of fact, however, a Judge who becomes permanently disabled at 55, and thus wholly dependent upon his pension for support, has a longer life before him and will be worse off than a Judge who becomes permanently disabled at 65. It seems to me absurd that there should be any connexion between the salary and the pension.

Mr. DEAKIN.—The longer their services to the country the better their rewards.

Mr. WILKS.—Then am I to understand that their salaries alone are not to be regarded as paying for their services? If their salaries pay them for their services, we have no right in fixing their pensions to consider their length of service. I hope that the Committee is not prepared to abolish pensions altogether, but I would rather vote for their abolition than for a differential scheme like this.

Mr. O'MALLEY (Tasmania).—I should like clause 52 to be settled before we go further. If the scale of pensions allowed for is agreed to I shall certainly vote for much smaller salaries. I think that pensions of a certain amount should be provided, so that Judges who become incompetent by reason of physical or intellectual misfortunes may have something to support them. I should not like any of the Judges of the High Court to be placed in the position in which we saw an old warrior here in Victoria lately. They had a great battle to get anything for him, though he was one of the greatest democrats that Victoria ever produced. His case made every man who had any human sympathy in his soul blush with shame at the meanness and parsimony of this State. We must make such provision that we shall not have Judges who have made financial mistakes reduced in penury in their old age. It is easy to say that men in such a position should provide for their future, but, as a rule, Judges are not financiers. They are law-givers, not money-grabbers. They are not sharp enough for the money-grabbing business. Consequently they may lose all they have through some financial mistake on their own account, or to help their sons. But no one would like to see an old Judge of the High Court of this great Commonwealth going round bare-footed. I heard Holman, of Indiana, the watch-dog of the United States Treasury for 40 years, say

when he was bidding good-bye to his people, after a young lawyer had come to his district while he was away and put him out, that—paraphrasing Cardinal Wolsley—if he had served his family half as faithfully as he had served his electors, he would not have been indigent in his old age. I do not want our Judges to be indigent when they are old. I would not give large pensions, but I would give them as much as £500 a year. It is well known to every thinker that the great men, the intellectual giants of the world, are not those who make money. They have no time for that sort of thing, and do not know how to do it. They have not studied the methods of gathering in. But, before settling the pension question, I should like to deal with the question of salaries. If I knew that the three Judges were to get £3,000 a year each, without distinction, I would vote for a pension of £500 when a Judge had to retire by reason of intellectual or physical disability. That would enable him to live out in the country with his books, away from the stir and noise of city life.

Mr. L. E. GROOM (Darling Downs).—Honorable members have expressed the desire that the field of choice for the Judges of the High Court shall be made as wide as possible, although some have suggested that politicians shall not be permitted to occupy seats on the Bench. I draw attention, however, to the fact that under clause 53 pensions are payable to the Justices of the High Court at certain rates "if disabled by permanent infirmity." But it may be desirable to choose some one or more of the Judges of the States Courts.

Mr. O'MALLEY.—Certainly not. We can fill the High Court Bench out of this Chamber.

Mr. L. E. GROOM. — The Executive should have the right to choose a Judge of a State Court, if they thought him the most suitable appointment. I would point out, however, that the Judges of the States Courts have pensions secured to them after a period of fifteen years service, or upon disability. But the provisions in clause 53, would make it necessary for a man who was taken over while in full possession of his faculties, and before the completion of fifteen years of service, to abandon some of his existing rights, as, unless he has served fifteen years in the State, he has no right to a pension at all.

Mr. O'MALLEY.—We do not intend to take them over.

Mr. L. E. GROOM.—I desire to leave the Executive free to exercise an untrammelled choice.

Mr. POYNTON.—Will the honorable and learned member vote in favour of a proposal to give the State Judges the first refusal of the positions?

Mr. L. E. GROOM.—No. I believe in allowing the Executive to have a free hand in this matter. If we are to grant pensions to the Justices of the High Court we ought to make provision whereby Judges of the States Courts, if appointed to the Federal Bench, shall not be placed under any disadvantage. Sub-clause (3) of this clause reads—

When any Justice of the High Court is entitled, by virtue of any right preserved by the Constitution, to any pension upon retirement, that pension shall be deemed to be in reduction *pro tanto* of the pension to which he is entitled under this Act.

That means that we can practically only appoint to the High Court Bench Justices who have actually served fifteen years in the States Courts, and who have thus acquired a right to a pension. If we decide to grant pensions to the Justices of the High Court we ought to provide that State Judges shall not be placed under any disability by reason of their having undertaken to serve the Commonwealth in a higher capacity.

Mr. DEAKIN.—If the honorable and learned member for Darling Downs will carefully read the sub-clause in question he will find that the contingency which he has suggested has been anticipated.

Mr. L. E. GROOM.—But if he has not served nine years he will receive no pension.

Mr. DEAKIN.—The sub-clause provides that in the event of a State Court Judge being appointed to the High Court, and being entitled under the State law to a pension, such pension shall be deemed to be paid in reduction of the pension to which he may be entitled under this Bill?

Mr. ISAACS.—But that will apply only to Judges who are entitled to State pensions.

Mr. DEAKIN.—The last portion of section 84 of the Constitution says—

Any officer who is at the establishment of the Commonwealth in the public service of a State, and who is, by consent of the Governor of a State with the advice of the Executive Council thereof, transferred to the public service of the Commonwealth, shall have the same rights as if he had

been an officer of a department transferred to the Commonwealth, and were retained in the service of the Commonwealth.

Mr. ISAACS.—Can the Attorney-General say that a Judge is transferred by the consent of the Governor of a State?

Mr. DEAKIN.—He would require to be so transferred if he were appointed to the High Court Bench, in order that he might have preserved to him the rights conferred by the section I have quoted.

Mr. THOMSON.—The Department is not transferred by the State.

Mr. DEAKIN.—It is a general provision which, in my opinion, may be applied to any Judge of a State Bench.

Sir MALCOLM MCEACHARN (Melbourne).—I find myself in somewhat of a difficulty upon this matter, because the direction in which I shall vote upon the pensions proposals contained in this clause, depends entirely upon the salaries to be paid to the High Court Judges. Personally, I am opposed to the payment of pensions, but on the present occasion I am bound to vote in favour of these provisions, because I feel that the Committee are inclined to pay smaller salaries than I consider are adequate. I merely mention this fact in explanation of my vote.

Mr. THOMSON.—May I ask the Attorney-General, for the information of the Committee, to compare these provisions with similar pensions provisions elsewhere?

Mr. DEAKIN.—I find that in New South Wales a Judge upon his retirement, on account of permanent disability, or infirmity, or after fifteen years' service, receives seven-tenths of his actual salary.

Mr. HIGGINS.—There is no age limit fixed?

Mr. DEAKIN.—No. That constitutes much more liberal treatment than it is proposed to accord to the High Court Judges under this Bill. In Victoria the pensions are based upon the regulations of the Imperial Act. I believe they provide that after fifteen years' service, a Judge upon retirement shall receive half salary.

Mr. THOMSON.—And nothing before?

Mr. DEAKIN.—I think that if they retire before they have served fifteen years, they receive a proportionate amount of their salary. In Queensland, every Judge, after having served fifteen years, or on being disabled, is entitled to one-half of his actual salary. In Tasmania, a Chief Justice who has served fifteen years, and has

attained the age of 60 years, is entitled to a pension of £750 a year, and the other Judges to £650. If disabled by permanent infirmity they may receive a pension of £500 a year apparently at any time.

Mr. O'MALLEY.—What do they receive in South Australia?

Mr. DEAKIN.—I have not the retiring allowances for that State before me, but I am informed by the honorable member for South Australia, Sir Langdon Bonython, that puisne Judges received £1,300 a year upon their retirement. In Western Australia, after fifteen years' service, or upon attaining the age of 60 years, or being permanently incapacitated, the Judges receive a pension equal to one-half their salary.

Mr. GLYNN (South Australia).—Upon the whole, I do not think it would be wise to object to the pensions provisions of this clause, though perhaps some modifications might with advantage be made in them. I notice that in America the age at which the Justices retire on pension is fixed at 70 years. Something has been said about allowing the retiring of the High Court Judges on pension, out of consideration to them, at 65 years of age; but it seems to me that what we must chiefly regard is their capacity to satisfactorily discharge the duties of their office. In America, I repeat, that the age limit imposed is 70 years, and I ask the Attorney-General whether he could not base the right of the High Court Judges to a pension equivalent to seven-tenths of their salary upon a similar limitation. In England of recent years, complaints have frequently been made in the public press regarding in cases the senility of the Bench. It has been repeatedly urged that it is very advisable to afford its Justices an opportunity to retire. It is said that they sometimes get livery, impatient, and somewhat petulant in their declining years, and that owing to the fact that *pro rata* pensions had not been granted, Justices who ought to have retired have not done so.

Mr. JOSEPH COOK.—The honorable and learned member wishes to buy them off.

Mr. GLYNN.—There is no other means of getting rid of them except by both Houses of Parliament adopting an address declaring that they are incapable. It is very seldom, indeed, that Justices are got rid of in America by impeachment, or in England by the adoption of an address by

both Houses of Parliament. But here, in a case of established infirmity, some inducement is offered to a Judge whose waning faculties suggest that he ought to enjoy the remaining years of his life where he would not be obnoxious to suitors, to retire from the Bench. Under these circumstances, I think it is advisable to vote generally for the pension provisions of the Bill, whatever the Committee may decide in regard to clause 52.

Mr. WATSON (Bland).—I intend to vote for the proposal to grant pensions to the Justices of the High Court, because it seems to me that the reason which has been put forward by the Attorney-General and other honorable members who have spoken in support of it, are unanswerable, that it would not be wise for the Commonwealth to offer lower salaries or pensions than obtain in regard to the Judiciaries of the States. We desire to place the High Court of Australia upon such a footing that it will attract the best legal talent from the States. At the same time, I cannot quite agree with the details of this pensions proposal. In the first place, I do not think it is the proper thing to give a pension to a Judge who has served only two years. And with regard to the proposal to give a Judge, after fifteen years' service, a pension equal to seven-tenths of his salary, I think it is, if anything, offering an inducement to a Judge who may feel a little lazy to retire.

Mr. GLYNN.—We had better make the age 70 years, as in America.

Mr. WATSON.—I do not say what form the amendment should take, but there is a necessity to provide for some pensions. I think that the first step should be to move the omission of paragraph (a), which provides for a pension to a Judge who has served less than five years.

Sir MALCOLM McEACHARN.—Only after disablement or permanent infirmity.

Mr. WATSON.—I do not see at present the necessity for giving a pension to a Judge who has served only a year or two years.

Mr. WILKS.—Make it start from ten years' service.

Mr. WATSON.—I think it ought to be done in some such way, but I should like to hear the Attorney-General's reasons for proposing to give a pension for less than five years' service.

Mr. HUME COOK (Bourke).—I cannot understand the remark of the honorable member for Bland, that we should not offer lower salaries than are being offered in any of the States. The whole argument in the Prime Minister's replies to certain questions I put this afternoon was that we were able to get the best men at 25 per cent. less than is being paid in the several States. I have no doubt that in connexion with the High Court we shall be able to get men of very wide experience both in law and politics who will serve us admirably for the salaries which we are prepared to offer, and without the extra inducement of a pension. I am opposed to the payment of pensions. We did the right thing in the provision we embodied in the Public Service Act for life assurance. In this case, where we are likely to offer a handsome salary, and where the men will enter the service of the Commonwealth later in life, after they have probably had for years a lucrative practice, out of which they ought to have made some savings, it is hardly right to ask the Commonwealth to grant them pensions. That is not done for ordinary business men. It is not done for the managers of banks, of trustee companies, or of other great financial or trading institutions.

Mr. FOWLER.—Frequently bank managers get pensions when they retire from active work.

Mr. HUME COOK.—I believe it is so in connexion with some banking institutions, but in the generality of cases men have to make provision for themselves out of their salaries. For the most part the men who will be appointed to the High Court Bench will have had excellent practices at the bar, or if they are taken from the Benches of the States they will carry with them their rights to pensions, and consequently we shall not be under an obligation to create a pension list on their account. We are under no obligation to follow the example of the States and to offer salaries beyond what it is fair to give.

Mr. WATSON.—It is not a question of what it is fair to give, but of what we must give in order to get the class of men we require.

Mr. HUME COOK.—I believe that we shall get the best of men for the salaries which are likely to be voted here without the additional inducement of a pension.

Mr. WATSON.—The fact that we got civil servants is no criterion, because there was quite a large number of civil servants to select from.

Mr. HUME COOK.—I admit that the circumstances are entirely different. But it is my opinion that we shall get excellent men of proved legal capacity as well as perhaps ripe political experience to offer their services to the Commonwealth. The peculiarity of the present proposal is that a Judge will be induced to remain at his post as long as possible in order to get the higher pension. If a Judge meets with a paralytic stroke after he has served for three or four years he will endeavour to remain on the Bench for seven or eight years, because at the end of that time he will get a larger pension than if he had retired at the end of five years, and so on right through the piece. I think it is a mistake to differentiate in this way. In any case, if there is to be a pension granted I think it ought to be paid, not so much as a reward for services rendered, as a compensation for some infirmity which has suddenly rendered a Judge incapable of performing his duty. What ought to be done, I submit, is to create a fund out of which the compensation, gratuity, or retiring allowance should be paid in a case of proved incapacity, occasioned by a sudden paralytic stroke or some misfortune.

Mr. THOMSON.—Up to what amount?

Mr. HUME COOK.—I should say that up to one half of the salary would be a fair thing; but that is a matter for further discussion. Judges unlike most other persons are not called upon to take a very large part in social functions, and therefore are not under any great obligation to spend money in the way in which other persons are. On the other hand, they are subject to certain limitations in the way of business. They cannot take up directorships, or any positions of that kind; but the salaries which are likely to be voted will be more than proper compensation for the restrictions which they have to put upon themselves, and for the social pleasures which they have to forego. I think that the proposal in the Bill in respect to pensions ought not to be carried, and that some other proposal might be put forward to provide for a case of sudden misfortune occurring to a Judge whereby he could make provision for his own needs. With respect to the salaries, I consider that

it would be sufficient to give £3,000 to the Chief Justice, and £2,500 each to the other Judges.

Sir LANGDON BONYTHON (South Australia).—The Attorney-General correctly quoted me as saying that the pensions of the puisne Judges in South Australia had been fixed at £1,300 per annum, and I believe that that of the Chief Justice is £1,500 per annum. I should like to add that I believe an Act was passed about nine years ago abolishing pensions for future Judges in South Australia.

Mr. THOMSON (North Sydney).—The matter we are now discussing is of such importance that we cannot give it too careful attention. On the one hand, there is a natural desire, in which I fully sympathize, to prevent the system of pensions getting a footing in the Commonwealth service. On the other hand, there is a desire to keep British justice and Australian justice up to the high standard which it has hitherto maintained, and from which it would not be to the interests of the community to allow it to fall. In dealing with a question of this sort, we are more limited as to the manner of fixing remuneration than we should be in connexion with many positions in the public service of the Commonwealth. There are three ways in which remuneration is usually fixed. One way is to have regard to the importance of the work; and I am quite sure we cannot get more important work in the community than that of the administration of justice. When the lives and liberties of the people are at stake we have every reason to avoid the risks attaching to maladministration, even if in doing so we have to expend a little money. I do not say that the mere height of the salary would be sufficient to enable us to escape the evil of maladministration; but if we wish to get men in whom we have confidence—whom we believe will administer justice capably and honestly—we must be prepared to give what has been fixed in these States as the remuneration for such services. Another method of fixing a salary is to estimate it according to the rate which applicants will accept. If we adopt that method we can get the work done for nothing, because there are men, one or two of whom might even be acceptable, who would take the position for the simple honour attaching to it.

Mr. MAUGER.—A very bad principle.

Mr. THOMSON.—It would be a very unsafe principle to act on in connexion with our Judiciary.

Mr. MAUGER.—Either partially or wholly.

Mr. THOMSON.—Either partially or wholly; and no member of the Committee would for a moment consider the adoption of such a principle. Another way of estimating a salary is not to necessarily take the men who want the positions, but to offer a rate at which we can get the men we want. We have heard a great deal about the High Court. I was, and I am still, very desirous of limiting the expense of that court; but I would rather limit the expense by curtailing the jurisdiction and reducing the number on the Bench than by any cheese-paring in connexion with the salaries of the Judges. If this is to be a court which will command the respect that the Attorney-General expects it to command, we shall have to pay the salaries which the men we want will require. We cannot expect only wealthy men or philanthropists to be called to this court; we must expect men who are following their profession, and we may perhaps have to ask some of these to make a sacrifice when they take the position. If we say to the members of the Bar—"You are asked to do justice under all circumstances and all temptations, and we expect you to be so capable that the other Judges, from whose decisions there may be appeals to you, will never, whatever they may say of your judgments, venture to question your capacity," and if we further tell the members of the Bar that on their appointment to the Bench they must not occupy certain positions of profit outside their office, which are open to many other men, so that the Bench may be kept clear of any imputation of injustice, bias or prejudice, we must be prepared to pay liberal salaries. And in fixing what is liberal we must have regard to the salaries which are paid to the States Judges in Australia at the present time. Indeed, I do not see any other standard to guide us; and if the rate of remuneration were £2,000 in the States, I should be perfectly willing to adopt that sum for the Commonwealth, regarding it as an evidence of sufficiency to attract the best men.

Mr. JOSEPH COOK.—The salary is £2,000 in some of the States.

Mr. THOMSON.—In one of the States, which contains a tenth of the population of Australia, the salary is £2,000; but I do

not think that case affords any comparison.

Mr. WILKS.—Would the present rates be fixed in the other States to-day?

Mr. THOMSON.—It was in no boom year, but when things were worse in New South Wales than they are to-day, that some of the high salaries of Judges were fixed. It was in no boom time that a Bill was introduced in New South Wales to raise the salary of the Chief Justice to £3,500, as the only way of obtaining the man who was wanted.

Mr. WILKS.—That Chief Justice there is Lieutenant-Governor as well.

Mr. THOMSON.—He got additional pay as Lieutenant-Governor, and there is a provision for similar circumstances under this Bill.

Mr. WILKS.—That is more salary still.

Mr. THOMSON.—Some low rates have been quoted as prevailing in Canada and the United States, but if the Commonwealth Courts are to give no better satisfaction than do some of the Canadian Courts, and some of the subordinate courts of the United States, we should be a great deal better without a High Court, seeing that we could get more justice from our present Judiciary.

Mr. MAUGER.—There are always complaints about American justice.

Mr. THOMSON.—Those who suffer from it complain, and we know that the subordinate courts, at any rate, in the United States, where low judicial salaries are paid, are losing the country money owing to the class of men on the Bench. The honorable member for Bourke expressed the opinion that instead of providing in this way for pensions, we ought to have a fund devoted to paying, as allowances, any sums which Parliament might fix, though not more than half the salary. I do not agree with that idea for a moment.

Mr. WATSON.—It is practically a pension, in any case.

Mr. THOMSON.—It is a pension given in the most objectionable way. Some retiring Judges would get the allowance, perhaps through parliamentary influence, while other men, equally deserving, would be denied it through lack of influence. The granting of the pension might be a matter of the whim or prejudice of the moment. If we have pensions the amounts should be fixed. I agree with the honorable member for Bland that there might be some amendment of the

clause in regard to the rates of pensions. I would suggest that after a service of five years the rate should be low, certainly not more than two-tenths of the salary, though I should be satisfied with one-tenth. Then the pension after ten years' service might be increased to three-tenths, and after fifteen years' service to five-tenths. I do not think that we need go beyond half the salary, and the suggestions I have made would reasonably support a Judge to whom circumstances had proved unfavorable, at a period of life at which he was unable to earn an income. It would be a most disastrous thing if after the liberties and lives of the subjects of the Commonwealth had been safe in the hands of a Judge for many years, through misfortune or possibly through not being allowed to do things in connexion with business which other persons could do, disaster came upon him and he was reduced to penury. Therefore, while as a rule I oppose pensions in the Commonwealth service as strongly as other members do, in the present case, entirely in the interests of justice, I cannot see my way to abolish the system.

Mr. DEAKIN.—I hope that no honorable member will oppose this clause from a misunderstanding of the position. The clause contains a proposal which appears to the Government to be a proper one; but, of course, those who vote in favour of retaining it are not bound to accept the particular rates set forth. I thought that some of the suggestions of the honorable member who has just resumed his seat had a good deal to be said for them, and I am quite prepared to give consideration to such suggestions. If there are some honorable members who oppose the giving of any pensions whatever, of any kind, or of any amount no matter how small, we must, of course, have a division on the clause.

Mr. MAUGER.—Could we not have it on the first line?

Mr. DEAKIN.—We could; but I understood that practically the whole of the Committee were agreed upon some provision to meet possible contingencies that might arise. If that view be accepted, and it becomes a question of the amount and the time of the pension, I should be very glad to consider suggestions. Nothing definite has been proposed as yet. I desire also to remark that in drawing the Bill I took the words "permanent infirmity" as probably covering the whole ground intended to be covered by the Constitution.

But it has been suggested to me that it is safer to use the precise words of the Constitution. Those words are "proved misbehaviour or incapacity." Proved misbehaviour would be dealt with in another way; and I should propose to make the clause read "permanent incapacity" instead of "permanent infirmity."

Mr. GLYNN.—Ought we not to have both words?

Mr. DEAKIN.—We might have both, but it is decidedly desirable to include the words used in the Constitution. I therefore move—

That after the word "infirmity" the words "or by incapacity" be inserted.

Mr. CROUCH.—What is meant by "permanent incapacity?"

Mr. DEAKIN.—Well, a Judge might become incapacitated for a day.

Mr. CONROY (Werriwa).—I think it would be much better to use the words employed by the Constitution. The suggestion of the honorable and learned member for South Australia, Mr. Glynn, is a very sound one in view of the language used in sub-section (2) of section 72.

Mr. BATCHELOR (South Australia).—I am not quite clear as to what this sub-clause refers to.

Mr. DEAKIN.—It covers the language of the Constitution, sub-section (2), section 72—removal on the ground of "proved misbehaviour or incapacity." We had the word "infirmity" in the clause originally, and we proposed to add "incapacity."

Mr. BATCHELOR.—Would the sub-clause cover the giving of a pension on retirement on account of misbehaviour?

Mr. DEAKIN.—No; a Judge would lose his pension in case of misbehaviour.

Amendment agreed to.

Mr. THOMSON (North Sydney).—I move—

That paragraph (a) be omitted.

I move this amendment with the view of proposing subsequently that after a service of five years, a retiring Judge shall be entitled to a pension of two-tenths of the salary, after a service of ten years to three-tenths, and after service of fifteen years to five-tenths.

Mr. DEAKIN.—I shall not oppose that amendment.

Mr. HUME COOK (Bourke).—Some of us desire to test the question whether there shall be pensions or not.

Mr. DEAKIN.—That can be done by voting on the whole clause.

Mr. HUME COOK.—Would it not be better to test the point by cutting out the words "upon a pension"?

Mr. MAUGER (Melbourne Ports).—With due respect to the Attorney-General I prefer to test the question before the sub-clause is altered. We ought to have a clear and distinct understanding. If the clause is whittled down an amendment against pensions is likely to be defeated.

Amendment, by leave, withdrawn.

Mr. MAUGER (Melbourne Ports).—In order to test the question, I move—

That the words "upon a pension" be omitted.

Mr. WILKS (Dalley).—The temper of the Committee has undergone a considerable change within the last few minutes, and the Government are now prepared to compromise. The difference between those who do not believe in the payment of pensions and those who support the clause as it stands has been greatly altered. The amendment moved by the honorable member for North Sydney was put forward, because he considered that a money payment would prevent temptation. The honorable member argued that the lives and liberties of the public, which are in the hands of our Judges, would be better cared for if pensions were granted.

Mr. THOMSON.—I did not say that.

Mr. WILKS.—That was the purport of the honorable member's remarks. The argument put forward in regard to the question of salaries applies with equal force to the payment of pensions. The Prime Minister of the Commonwealth, for example, does not receive a pension, nor does any honorable member of the House receive one; but the lives and the liberties of the public are in our hands while we are here. The difference between the work of legislation and of administration is very slight. I contend, however, that neither salaries nor pensions can be said to be a material factor in protecting the affairs of the country. The poorest man that Australia ever had in public life was the late Sir Henry Parkes, and yet he was the most determined in looking after the interests of the people. He was a man who retired upon the slightest insult being offered to his Government.

Mr. PAGE.—He went out once too often.

Mr. WILKS.—The honorable member is scoffing at the memory of the greatest

public man who ever lived in Australia, and who, by the way, rose from the ranks of the workers.

Mr. PAGE.—That is a question.

Mr. THOMSON.—Members of Parliament are not prohibited from earning their living by following other occupations.

Mr. WILKS.—That may be so; but let us look for a moment at the position of officers in banking institutions. The honorable member for New England said that the managers of our banks receive very large salaries. We must not forget, however, that they have to provide for their own pensions out of their salaries.

Mr. BRUCE SMITH.—Not at all.

Mr. WILKS.—In the Bank of New South Wales and the Commercial Banking Corporation a deduction is made from the salary of every officer—from the general manager to the officer occupying the most subordinate position—to provide for his pension.

Mr. THOMSON.—But the management contribute to the fund.

Mr. WILKS.—It is proposed that a certain pension shall be paid to a Judge who becomes incapacitated by permanent infirmity, not less than five years after accepting office. But if a Judge suffers from some physical infirmity after two years service, should he not be entitled to equal consideration on the part of the public as is the man who after five years service becomes incapable of remaining on the Bench? I see no wisdom in saying that the pension shall start after five years service. If it is right that pensions should be granted, let them start from the time that they are actually required. I can understand the Government proposal. They provide that if a man becomes paralyzed, or suffers some other infirmity during the first year of office, he shall at once be entitled to a pension. But under the amendment which has been temporarily withdrawn, a Judge would be entitled to no such pension if he became incapacitated within five years of his appointment to the Bench. For these reasons, I hope that the honorable member for Melbourne Ports will adhere to his amendment.

Mr. BATCHELOR (South Australia).—I have not spoken during the debate on this Bill, but there are one or two phases relating to the payment of pensions to which I desire to make brief reference. When we were dealing with the Public Service Bill, we discussed at length the position of the civil service, but throughout that debate no

suggestion was made that we should give a pension to any class of our public servants. Notwithstanding what has been said during the discussion on this clause, I fail to see why any distinction should be made in the case of Judges of the High Court. As a matter of fact, when the Public Service Bill was before us, some honorable members went so far as to oppose a proposal that adults—married men—who had been in the service of the transferred departments for some years, should receive a bare living wage. They were opposed to the payment of a minimum wage, apart altogether from any question of making a retiring allowance to a civil servant suffering from physical infirmity. It would be a great mistake for Parliament to draw this distinction between one class of civil servants and another. I have every respect for the Judges of the States, and I am just as anxious that we should obtain the very best men available for the position of Judges of the High Court as is any honorable member; but I do not consider it necessary for us to hold out an incentive of this kind. If we offer adequate salaries our Judges, like other persons occupying prominent positions outside the service, will be in a position to purchase life annuities. We compel our public servants to insure their lives, and if in the case of our Judges some provision must be made for old age or physical infirmity, let us make it compulsory for them to purchase life annuities. Such a provision, however, need not necessarily be inserted in the Bill. I intend to protest as strongly as I can against the proposal that special treatment shall be meted out to one particular class of public servants.

Mr. CONROY (Werriwa).—I would remind the honorable member for South Australia, who has just spoken, that there is a great difference between a Judge and the other officers of the public service to whom he has referred, inasmuch as an ordinary member of the service can be dismissed straightway while a Judge cannot.

Mr. BATCHELOR.—That does not count against my argument.

Mr. CONROY.—Sometimes a Judge may become slightly deaf or suffer from some other infirmity which it is extremely difficult to prove, although it is injurious to his capacity on the Judicial Bench. In such a case it might be possible to induce him to retire by the offer of a fairly large

pension. If a man incapacitated in this way continues on the Bench, the cost to the community is infinitely more than would be the payment of a pension. That is one reason why we should grant pensions to our Judges. It is far better that a Judge suffering from deafness, or some other infirmity, should be able to retire voluntarily than that a Bill should be introduced setting one of the very worst precedents for the removal of a member of the Bench. In how many cases has this ever been required? When one listens to the objections raised against the proposal, one would think that we were dealing with vast sums of money, yet I find that under paragraph (a), the amount involved would be £600, under paragraph (b) £900, under paragraph (d) £1,500, and paragraph (e) £2,100, assuming that the proposals of the Government are carried into effect. If a Judge should develop some infirmity, it would surely be better to hold out some inducement to him to retire. I trust that the Government will be able to carry out their proposals in their entirety, or that they will at least be able to carry them with the modification which has been suggested.

Mr. SALMON (Laanecoorie).—I am rather astonished to find that there is any apologist for the perpetuation of a system which in the past has been condemned throughout the length and breadth of Australia. I am also surprised to find some honorable members who are opposed to pensions for certain branches of the public service advocating that they should be granted to the very highest paid officials of the State. I fail to see any consistency in that. I agree with the honorable and learned member for Werriwa that we are making precedents, and the Committee should establish a precedent in this case which the States could well follow. We can also set a precedent in the matter of salaries, because these, in my opinion, are fixed too high in the Bill, and I shall have something to say upon that when we reach the clause dealing with them. It is our bounden duty to remove altogether from the Federal public service any hope that its members, and especially those receiving high salaries, will have pensions paid to them when they leave the service, though in some of the States the pensions paid nearly equal in amount the salaries which the officers have been receiving when in full service.

It is the duty of those who are in receipt of regular and sufficient payment from the State to make provision for the time when they will not be receiving salary. We can set an example, which some of the States very much require to follow, by wiping out altogether from our annual charges the pension list which, in the past and at present, is in the States proving a terrible burden upon the taxpayers of Australia.

Mr. BRUCE SMITH (Parkes).—I should like the Committee to consider whether the position in which we find ourselves now is a fair one. The honorable member for Melbourne Ports is endeavouring to have a division taken upon this clause, without first trying whether it cannot be made acceptable to a majority of the Committee in the way suggested by the honorable member for North Sydney. The speeches made so far suggest that there is a very large number of honorable members who are disposed to accept this clause with some modifications, but the honorable member for Melbourne Ports has candidly said that he desires to take a division upon the clause as a whole, because he fears that, if the Committee has an opportunity of modifying it, it may be made acceptable, and he will lose his opportunity of strangling the proposal. The honorable member's suggestion is the same as if, upon the second reading of a measure, it were assumed that it would be unalterable, and that we should, therefore, take a division upon it in the condition in which it is first submitted to the House, and without the understanding that, in passing the second reading, we have an opportunity of making the measure acceptable in Committee. Why should we not modify this clause if there is some chance that it may be made acceptable to the Committee? It will be open to honorable members subsequently to express an opinion upon the whole clause after it has been modified.

Mr. A. McLEAN.—We do not go into Committee upon the Bill before we pass the second reading. We take the principle first, and then deal with the modifications.

Mr. BRUCE SMITH.—The honorable member for Melbourne Ports is trying now to put the cart before the horse. He is endeavoring to take a final division upon a clause with the expectation and the knowledge that we shall not have an opportunity of making it acceptable to the Committee. ~~Did we~~ We can safely agree to

the second reading of a Bill, as we have done in the case of the very Bill now under consideration, on the understanding that we can amend any part of it in Committee.

Mr. JOSEPH COOK.—Suppose the second reading is lost.

Mr. BRUCE SMITH.—If the second reading is lost there is no chance of amending the measure afterwards, but honorable members frequently vote for the second reading of a Bill with the full knowledge that they would not accept it finally in the condition in which it is submitted. If the suggestion of the honorable member for Melbourne Ports is agreed to, the whole clause will be negatived, although I have formed the opinion from the speeches which I have heard that many members of the Committee at the present time are willing to accept the principle if the conditions are modified in the way suggested by the honorable member for North Sydney. If there is not a majority willing to have the clause in a modified form we shall find that out very shortly, but if there is, by adopting the course proposed by the honorable member for Melbourne Ports, we shall be preventing a majority in the Committee accepting the principle in a modified form, merely because the honorable member has chosen to take the clause by the scruff of the neck, in order to kill it at the first stage of discussion. I submit that unless honorable members desire to do that in the face of the majority, an opportunity should be given to fashion the clause so as to make it acceptable.

Mr. A. PATERSON (Capricornia).—As I was one of the first to ring the pension note, I think I have a right to say a word on this question. As a matter of fact, I should like very much to see all Government pensions abolished with the exception of pensions to soldiers who have been crippled in battle. But I quite recognise that there is absolutely no hope of inducing the Committee to accept that policy in a case like this. From the remarks made by the honorable members for Bland and North Sydney, and the sympathy generally expressed by the Committee, I can see clearly that there would be no use in attempting to do away with these pensions. We could not expect capable gentlemen of the learning, attainments, and experience necessary to occupy such a position as that of Judge of the High Court without some such provision as this. I am strongly in

sympathy with the views expressed by the honorable member for North Sydney, and I have thought it well to explain my position in this respect.

Mr. EWING (Richmond).—I understand that if the principle of paying pensions be established, honorable members will be afforded an opportunity of voting on the amendment suggested by the honorable member for North Sydney, or some proposal in a similar direction.

Mr. DEAKIN.—Hear, hear.

Question.—That the words proposed to be omitted stand part of the clause—put. The Committee divided.

Ayes ...	...	20
Noes ...	...	29
Majority ...	...	9

AYES.

Barton, Sir E.	Paterson, A.
Chapman, A.	Sawers, W. B. S. C.
Conroy, A. H.	Skene, T.
Cooke, S. W.	Smith, B.
Crouch, R. A.	Thomson, D.
Cruickshank, G. A.	Watson, J. C.
Deakin, A.	Willis, H.
Forrest, Sir J.	
Fysh, Sir P. O.	<i>Tellers.</i>
Glynn, P. McM.	Ewing, T. T.
McEacharn, Sir M.	Groom, L. E.

NOES.

Batchelor, E. L.	McLean, A.
Bonython, Sir J. L.	O'Malley, K.
Cook, J.	Page, J.
Cook, J. H.	Poynton, A.
Edwards, G. B.	Quick, Sir J.
Fisher, A.	Ronald, J. B.
Fowler, J. M.	Solomon, E.
Hartnoll, W.	Solomon, V. L.
Isaacs, I. A.	Thomas, J.
Kennedy, T.	Tudor, F.
Kirwan, J. W.	Watkins, D.
Mahon, H.	Wilks, W. H.
Mauger, S.	<i>Tellers.</i>
McCay, J. W.	Fuller, G. W.
McDonald, C.	Salmon, C. C.

PAIRS.

<i>For.</i>	<i>Against.</i>
Clarke, F.	McLean, F. E.
Turner, Sir G.	McMillan, Sir W.
Wilkinson, J.	Cameron, D. N.
Harper, R.	Groom, A. C.
Hughes, W. M.	Brown, T.
Lyne, Sir W.	Braddon, Sir E.
Kingston, C. C.	Phillips, P.
Spence, W. G.	Bamford, F. W.
Higgins, H. B.	Smith, S.

Question so resolved in the negative.

Amendment agreed to.

Progress reported.

House adjourned at 10.57 p.m.

Senate.

Wednesday, 24 June, 1903.

The PRESIDENT took the chair at 2.30 p.m., and read prayers.

PETITION.

Senator STANFORTH SMITH presented a petition from the Chamber of Manufacturers of Western Australia, praying for the repeal of sub-section (8) of section 3, and of section 11 of the Immigration Restriction Act.

Petition received and read.

COMMONWEALTH POSTAGE STAMPS.

Senator PULSFORD.—I desire to ask the Postmaster-General, without notice, first, how the design for the new ninepenny postage stamp was arrived at, and secondly, seeing that the names of the six States are not arranged either in alphabetical order, or in accordance with their respective populations, what plan was adopted?

Senator LT.-COL. NEILD.—Nor are they arranged in accordance with the manner in which the States are named in the Constitution.

Senator PULSFORD.—I observe that New South Wales, the largest State in the union, is named last on the stamp.

Senator DRAKE.—The design was taken from a medal in my possession. It will be found that the name of the State which was founded earliest is placed nearest to mother earth. That is the order in which, I think, the stones in a building are generally placed.

Senator KEATING asked the Postmaster-General, *upon notice*—

1. Does he intend at an early date, as announced in the public press, to issue Commonwealth postal stamps to take the place of present State issues?

2. If so, will he call for competitive designs for such Commonwealth issue; and, if not, why not?

Senator DRAKE.—The answers to the honorable senator's questions are as follow:—

1. The Postmaster-General is issuing a postage stamp of a distinctly Commonwealth character. If such a stamp is adopted, it will eventually take the place of the existing State issues as they are exhausted.

2. He will wait the issue of stamps now in course of preparation to supplement those in use in two of the States before determining whether he will invite competitive designs for a new general issue.

STANDING ORDERS.

Senator PEARCE.—I wish to ask the Postmaster-General, without notice, whether, when the report of the Committee of the whole Senate is presented, the Government will have the standing orders reprinted, with the amendments, for the convenience of honorable senators?

Senator DRAKE.—I have no objection to the standing orders being reprinted as desired by the honorable senator. I presume that the matter will be attended to by the Standing Orders Committee.

GOVERNOR-GENERAL'S SPEECH:
ADDRESS IN REPLY.

The PRESIDENT.—I have the honour to inform the Senate that, on Friday last, accompanied by members of the Senate, I presented to His Excellency the Governor-General the address in reply to his speech, and received the following answer:—

MR. PRESIDENT AND GENTLEMEN OF THE SENATE—

I am gratified in receiving your address in reply to the Speech delivered by me on the occasion of the opening of the second session of the first Parliament of the Commonwealth.

I note with pleasure your assurances of continued loyalty to the Throne and Person of our Most Gracious Sovereign.

I earnestly hope that the result of your deliberations in Parliament will be beneficial to the people of Australia.

TENNYSON,
Governor-General.

19th June, 1903.

PAPERS.

Senator DRAKE laid upon the table the following papers:—

Correspondence relating to the Pacific Island Labourers Act.

Transfers approved by the Governor-General for the year 1902-3.

Regulations relating to Commonwealth Military Forces.

IMPORTATIONS OF TEA.

Senator BARRETT asked the Postmaster-General, *upon notice*—

1. Whether, since the passing of the Tariff making tea free, any systematic inspection has been made in the State of Victoria by the Customs Department?

2. What method is employed in obtaining samples for analysis?

3. Have any shipments been condemned, and how many?

4. Has any tea been re-shipped that has been refused entry into this State as being unfit for human consumption?

5. Has any shipment during the period referred to that the Customs have condemned been destroyed?

6. Does the Department find any difficulty in dealing with low grade and inferior tea because of the abolition of the duty?

Senator DRAKE.—The answers to the honorable senator's questions are as follows:—

1. A systematic inspection has been, and is made by the Customs Department of all lines of tea that are imported into the State of Victoria or any other State. Any tea imported into any State since the date of the imposition of the Federal Tariff can be transferred to another State without a second inspection, but all other tea is subject to examination.

2. Samples of all importations of tea are drawn from the bulk by the Tea Examiner, and tested before delivery can be obtained.

3. One shipment has been condemned by operation of law, and several are awaiting legal decision.

4. Two shipments of tea imported before date of making tea free were re-shipped to country of export.

5. No.

6. No. Exactly the same method of inspection has been carried out since the date of abolition of the duty as was in vogue prior to that event.

STATE GOVERNOR AND NAVAL SUBSIDY.

Senator DOBSON asked Senator Higgs, upon notice—

If he finds from a perusal of the paper on "The Navy and the Nation," read by His Excellency the Governor of Victoria, at the Fitzroy Town Hall, on the 11th June instant, that such paper expresses no opinion as to the desirability or otherwise of the Commonwealth paying an increased naval subsidy, will he still proceed with the motion of which he has given notice dealing with this subject and adhere to the language used in such motion?

Senator HIGGS. — In answer to the honorable and learned senator I have to say—

I have perused the paper read by His Excellency the Governor of Victoria, Sir George Sydenham Clarke, and I regret to find that I am confirmed in my opinion that the lecture was an incursion into the field of Federal politics. The title of the lecture, "The Navy and the Nation," is a misnomer. In a lecture on the navy, one would have expected to find some reference to and description of the type, names, &c., of the best warships now in use in the British navy, the number of war vessels, officers, men, &c. There is no such reference or description. The paper is a carefully-prepared document on naval defence, relating certain events in naval history, basing thereon certain ingenious arguments more or less sophistical, and deducing therefrom certain conclusions more or less romantic and exaggerated. It is singular that those arguments and conclusions oppose the case put by the supporters of Australian local

defence, and coincide in a striking manner with the views expressed by the advocates of an increased subsidy to the British War Department.

Senator DRAKE.—I rise to a point of order. I wish to ask whether the honorable senator is in order in what he is reading as an answer to a question? It appears to be a speech.

Senator MCGREGOR.—Is it not "sufficiently ambiguous"?

The PRESIDENT.—I will call the attention of Senator Higgs to Standing Orders 116 and 117—

In putting any such question—

That is, a question asking for information—

no argument or opinion shall be offered, nor any facts stated, except so far as may be necessary to explain such question.

In answering any such question, a member shall not debate the matter to which the same refers.

I confess that I was not listening very carefully, and I may be wrong; but it seems to me that Senator Higgs was debating the matter. I do not say that positively, because, as I have stated, I did not exactly hear what he was reading.

Senator PLAYFORD.—Does not that standing order relate to debate on the part of the member who asks the question?

The PRESIDENT.—No.

In answering any such question a member shall not debate the matter.

That is to say, he shall answer the question and shall not debate the matter in reference to which the question has been asked.

Senator DOBSON.—On the point of order, I submit that the honorable senator ought to confine himself to answering the question that has been put to him. He should submit his written answer to you, sir, and let you decide whether it is in order.

The PRESIDENT.—I will ask Senator Higgs to start afresh.

Senator HIGGS.—I will do so—

I have perused the paper read by His Excellency the Governor of Victoria, Sir George Sydenham Clarke, and I regret to find that I am confirmed in my opinion that the lecture was an incursion into the field of Federal politics. The title of the lecture, "The Navy and the Nation," is a misnomer.

Senator DOBSON.—I rise to order—that is not an answer to the question.

The PRESIDENT.—I cannot say that the honorable senator is debating the question, so far.

Senator DOBSON.—He is not answering the question

Senator HIGGS.—I regret that the honorable and learned senator, who was so anxious for information, does not like it now he is getting it.

The PRESIDENT.—I do not think that the honorable senator has infringed the standing order so far.

Senator HIGGS.—

In a lecture on the navy one might have expected to find some reference to and description of the type, names, &c., of the best war-ships now in use in the British navy, the number of war vessels, officers and men, &c. There is no such reference or description.

The PRESIDENT.—I think that is debatable matter. It relates to what, in Senator Higgs' opinion, should or should not form the subject-matter of the lecture.

Senator HIGGS.—Touching the point of order, I wish to say that Senator Dobson, in asking me this question, has placed me in a somewhat ambiguous position before the public. I was anxious in making my reply to give some explanation as to why I placed my notice of motion upon the business-paper.

The PRESIDENT.—If the honorable senator will follow the example set by Ministers of the Crown in answering the numerous questions which have been put to them during the last few years, I think he will be in order.

Senator HIGGS.—I saw the other day that, in answer to a question put by one of the members of the House of Representatives, the reply given by a Minister occupied about two-thirds of a column of the *Argus*. In preparing this lengthy reply I have evidently followed a bad example. But I propose to proceed until you call me to order. These interruptions are unseemly, especially on the part of an ex-Chairman of Committees. I state further—

The paper is a carefully-prepared document on naval defence, relating to certain events in naval history, basing thereon certain ingenious arguments more or less sophistical.

The PRESIDENT.—I think the honorable senator is now proceeding to argue the matter. He will see for himself that he is proceeding beyond an answer to the question which has been put to him. Certain standing orders have been adopted by the Senate, and I have to carry them out. Whether they are right or wrong is not a question for me to determine. As I have to carry them out, I will ask the honorable senator to aid me in doing so.

Senator Dobson.—Is Senator Higgs going to persist in his motion? That is the question.

The PRESIDENT.—The only question is, it seems to me—Does Senator Higgs intend to proceed with his motion?

Senator HIGGS.—Yes, Mr. President. I have read the type-written copy of the lecture of the Governor of Victoria, and I find that it is a paper on naval defence, supporting views which, to my mind, are the views of those who approve of the proposed new naval agreement.

Senator DOBSON.—The honorable senator is arguing now.

Senator HIGGS.—That is the reason why I propose to continue with my motion. I find that the paper supports the views of certain political parties.

The PRESIDENT.—I think the honorable senator can say that, and I ask him not to say any more.

Senator HIGGS.—

In regard to the language of the motion I beg to say that, in carrying out what I conceive to be a public duty—

The PRESIDENT.—I do not think the honorable senator can argue as to the language of his motion. He is asked whether he is going to proceed with it.

Senator DOBSON.—I have questioned Senator Higgs as to the language of his motion.

The PRESIDENT.—I beg pardon; I am wrong.

Senator HIGGS.—

—I have no wish to unnecessarily wound the feelings of any one. My desire is to assist in upholding the undoubted rights and privileges of Parliament. Those rights and privileges were defined for us in 1688, at the time of the great English revolution, when the people expelled King James II. from the throne, and elected another in his stead. Amongst those undoubted rights is the right of Parliament to rule. The King now never makes a public utterance on a matter of public policy unless instructed to do so by a Ministry responsible to Parliament.

The PRESIDENT.—Does not the honorable senator himself think that he is out of order? I must ask the honorable senator's assistance in carrying out the standing orders. I put it to him: does he not think he is arguing the matter?

Senator HIGGS.—I do not think so. I am not dealing now with the lecture of the Governor of Victoria, but with the language of my motion. I wish to state my position and the reason for the language I have adopted; because I consider

The PRESIDENT.—I have put it to the honorable senator several times that he should aid me in carrying out the standing orders, and I must now rule that the only questions which he can answer are—whether he intends to proceed with the motion of which he has given notice, dealing with the speech of the Governor of Victoria, and whether he will adhere to the language of it? He has already given reasons at great length, and he now proceeds to argue the question. Whether he is wrong or right as to his motion, I do not think he can do that under the standing orders.

Senator HIGGS.—Then I shall have to postpone the greater portion of my reply until my motion comes before the Senate. I only desire to add that—

I am not wedded to the terms of the resolution, and if there is a sufficiently unanimous expression of opinion on the part of members of the Senate confirming the constitutional practice that State Governors shall not throw the weight of their vice-regal position and influence into the scale either for or against the supporters of any political views, I shall be willing, on leave being given, to make the terms of the resolution somewhat less pronounced.

Senator DOBSON.—The honorable senator should do it of his own accord.

Senator HIGGS.—The honorable and learned senator should not have asked me a question if he did not want to hear the reply.

POST AND TELEGRAPH ACT AMENDMENT BILL.

Resolved (on motion by Senator DOBSON)—

That leave be given to introduce a Bill for an Act to repeal the 16th section of the Post and Telegraph Act 1901.

LEAVE OF ABSENCE.

Resolved (on motion by Senator DRAKE)—

That leave of absence for three weeks be granted to Senator O'Connor on account of urgent private business.

METRIC SYSTEM.

The PRESIDENT reported the receipt of the following message:—

Message No. 4.

MR. PRESIDENT,

The House of Representatives requests the concurrence of the Senate in the following resolutions, which were agreed to by the House of Representatives on the 19th instant, viz.:—

1. That, in the opinion of this House, it is desirable that the metric system of weights and measures should be adopted, with the least possible delay, for use within the Empire.

2. That the most convenient method of attaining the object stated in Resolution 1, is the passage of a law by the Imperial Parliament rendering the use of the metric system compulsory for the United Kingdom, and for all other parts of the Empire whose Legislatures have expressed, or may thereafter express, their willingness to adopt that system.

3. That these resolutions be communicated by address to His Excellency the Governor-General for transmission to the Secretary of State for the Colonies.

F. W. HOLDER, Speaker.

House of Representatives,
Melbourne, 24th June, 1903.

PUBLIC SERVICE: TEMPORARY EMPLOYÉS.

Senator GLASSEY asked the Postmaster-General, *upon notice*—

Seeing that a number of persons have been employed for a considerable length of time in the postal and other branches of the public service of the Commonwealth as temporary hands, and seeing that such persons will, in accordance with section 40 of the Public Service Act, shortly be thrown out of employment, has any recommendation been made by the Public Service Commissioner with a view of employing these persons permanently?

Senator DRAKE.—The answer to the honorable senator's question is as follows:—

No such recommendation has been made by the Commissioner. There is no power under the Act to transfer temporary employés to the permanent staff. Under the provisions of section 40 of the Public Service Act, the services of temporary employés cannot be retained for a longer period than six months, or nine months in special cases where, in the public interest, such a course is necessary.

COLOURED ALIENS.

Ordered (on motion by Senator HIGGS)—

That there be laid on the table of the Senate a detailed return showing the estimated number of Chinese, Japanese, Hindoos, South Sea Islanders, and other coloured aliens in each State of the Commonwealth.

NATURALIZATION BILL.

Resolved (on motion by Senator DRAKE)—

That leave be given to introduce a Bill for an Act relating to Naturalization.

Bill presented and read a first time.

SUGAR BONUS BILL.

SECOND READING.

Debate resumed from 18th June (*vide* page 1093), on motion by Senator DRAKE—

That the Bill be now read a second time.

Senator Sir JOHN DOWNER (South Australia).—I have read the debates which have taken place on this Bill, and I am entirely opposed to it. I think it is unnecessary, and most unjust in its incidence. After reading the speech delivered by the Postmaster-General, in moving the second reading of the Bill, it appeared to me that its object was to make those States, which up to the present time have used no locally-produced sugar, pay for it as if they really had consumed it. It was admitted that the supply of locally-grown sugar last year was insufficient for the requirements of the Commonwealth; it was admitted—and in this connexion I am referring to the debates in both Houses of Parliament—that if the supply were sufficient to meet the requirements of all the Australian States, there would be no necessity to resort to any legislation of this kind. But it was urged that because the production of sugar in the Commonwealth was at present only sufficient to supply the needs of New South Wales and Queensland—presumably at a lower rate than the other States have to pay—the remaining States which have obtained no benefit from this industry should pay a contribution to the highly benefited States of Queensland and New South Wales. Those are the two more favoured States, for Australian-grown sugar is chiefly produced in Queensland, whilst its next door neighbour carries on a huge industry in refining it. The strong argument that was used—and of all the meretricious arguments I have ever heard, it is the worst—was that South Australia, for example, derived great benefit from the fact that the Commonwealth had imposed upon the inhabitants of that State a duty of £6 per ton on imported sugar, instead of the duty of £3 per ton which previously existed. That is the immense benefit which South Australia has received; an extra £3 per ton is taken out of the pockets of the lieges there! It is true that in the palmy days of the industry in Queensland, and at a time when there was no law prohibiting the employment of black labour, South Australia found that a duty of £3 per ton was quite sufficient. When everything was halcyon that duty was found to be sufficient to preserve the revenue of South Australia. The duty was increased to £6 per ton—certainly not to assist Victoria and South Australia, but wholly

for the purpose of aiding the industry by a tax which it was thought would be practically prohibitive. It is said that it is well to impose this heavy burden upon the people in order that we may gain the ultimate benefit that we expect to result from it. But instead of tending to the enrichment of South Australia, the duty of £6 per ton on imported sugar is really an impoverishment, because it has to come out of the pockets of the people before it can reach the coffers of the State. The State receives the money, but from whom does it obtain it? It takes it from the pockets of the people. Notwithstanding this fact, however, it is urged that South Australia is receiving a benefit from this increased duty, and we may expect to find that our wealth will be measured, not according to the moneys we receive, but according to the amounts that we have to pay away. Of all the ingenious juvenile arguments I have heard, this is about the worst. It is meretricious and futile on the face of it, but it is what the supporters of the Bill are driven to. It is practically the only argument they can use, because they admit that when the supply of sugar produced in Queensland becomes sufficient to satisfy the requirements of all Australia the existing law will work fairly and justly and that there will be no cause for complaint. I can conceive of no argument more strongly in favour of the present law than that. The States are to contribute their share of the £4 per ton, on a population basis, in respect of the locally produced white-grown sugar consumed throughout Australia, but very little of which comes to any of them at present, except Queensland and New South Wales. They have to wait until the industry has advanced sufficiently to enable the proposal to work on a fair basis, and they are to pay not only for being supplied, but to be supplied as well. New South Wales has been thrown into this proposal owing to the difficulty of discriminating between the sugar-producing States, and the impossibility under the Constitution of providing for a bounty unless its operation be general throughout the Commonwealth. This is the only way in which the proposal can be carried out, and because it is the only way it should not be done. If the only way to carry out this proposal is to work a monstrous injustice against one State, and in favour of another, that fact affords the strongest argument against the adoption of the course proposed. Until

some better scheme is discovered we should not resort to what must be a palpable injustice. Why has this proposal been made? My honorable friends of the Opposition say that Victoria and South Australia are being legitimately punished in this way for having lent their support to the abolition of coloured labour. It is asserted that because South Australia and Victoria induced the Commonwealth to adopt the policy of a white Australia they must take with the adoption of that policy the responsibility of compensating those that have been injured by this new freak of legislation. That was the line of argument adopted by Senator Walker and one or two other honorable senators of the Opposition. I do not propose at this stage to discuss the policy of a white Australia. I have always thought that we have been far too hasty, and that we have done at the beginning of the Commonwealth what might have been left to be carried out some years hence. I have been against the policy from the first; but still it is the law and I am bound to accept it. Treating it as the law, I wish to see what right Queensland and New South Wales have to this special treatment. In what way have we so legislated as to give them a claim upon the Commonwealth for compensation in respect of the non-employment of black labour in this industry. Neither State has a tittle of a claim for more consideration than has been shown to them. New South Wales has admittedly none. Last year it produced one-fifth of the sugar grown in the Commonwealth, and it produced nearly the whole of it by white labour. Therefore that State has not been a victim to what has been described as the insane legislation which we have adopted in regard to the policy of a white Australia. Is Queensland a victim? Not in the slightest degree. When we passed legislation providing for a white Australia, we took care to enable Queensland to carry out all its existing contracts; to continue to import coloured labour up to the end of this year, and to employ that labour together with that which they had already at hand until the year 1907. Whether that legislation was right or not, what more could Queensland have asked? That legislation having been passed and that line of policy having been adopted, what right has Queensland to ask for more? It might have been more convenient for the planters to continue the employment of coloured labour, but numerous laws that we pass are

more or less restrictive in effect. Laws relating to labour are notably so, for they tend to diminish the profits of those who employ it. But when an Act dealing with a great public question—dealing with the true policy of the State—is passed who ever thinks of making a demand for compensation for every man, woman, and child who, by reason of that legislation, will not derive such profits as they obtained before? If such a demand could be made, legislation could not be passed. The business of the Government could not be carried on. The claims upon the State would be intolerable. We always assume, in every instance in which an existing practice is varied to the detriment of any individuals, that those individuals have no claim for compensation. When the Act for the abolition of slavery was passed the position was different. Slaves were property and could be vended. I am dealing only with the matter from the point of view of the liability of a State to make compensation. Having deprived people of their property the Government granted the compensation which they thought they ought to give. But in this case we have deprived the Queensland planters of nothing. No man has a right to assume that all the conditions of labour which exist to-day will exist for all time, and to speculate on the assumption that the existing condition of affairs will never be altered. New laws are being passed every day interfering with the relations of capital and labour in every form, and I say that government would be intolerable if it were handicapped by having responsibilities thrown upon it in this way.

Senator DAWSON.—Surely the honorable and learned senator would keep the bargain until the time our notice expires.

Senator Sir JOHN DOWNER.—In 1907?

Senator DAWSON.—And we allow the importation of kanakas up to the end of this year.

Senator Sir JOHN DOWNER.—I am dealing with the law as it is, and I say that the sugar planters have been treated with great liberality so far as it is concerned, and that they have no reason to claim any compensation. They have had no injury done them by this Commonwealth which, in my opinion, is a subject for compensation at all. The policy is one thing, but, admitting the policy, I think

the administration has been kind and considerate in allowing the sugar planters to import *kanakas* during this year.

Senator MCGREGOR.—That is a part of the policy.

Senator Sir JOHN DOWNER.—It is a part of the policy if the honorable senator pleases. That is the policy we have adopted, and so far as one part of the policy is concerned, though disagreeing with and opposed to it I accept it, and, in respect of the major portion of the policy, I say that it has been kind and considerate. What claim have the sugar planters got? None whatever. Why is this provision made? To compensate them, because we have deprived them of that to which they were not entitled, or to which they were entitled only on the terms previously agreed upon.

Senator MCGREGOR.—We do not deprive them of black labour for four years more.

Senator Sir JOHN DOWNER.—Exactly; that is what I am saying, and I thought I made myself clear. We declared for a policy of a white Australia, but considering that Queensland had a number of persons under contracts which would not expire for some time, and considering further that it might be harsh to put the law into force immediately, we, out of consideration for the planters, and in order to avoid doing them any injustice, allowed them not only to continue in employment those whom they had engaged until 1907, but also to introduce fresh *kanakas* during this year so long as they were all cleared out in 1907. I say that in doing that we exhausted their claim to consideration. The rest became a question of State policy on quite other grounds—the advisability of by some method or another promoting a native industry.

Senator DRAKE.—Does the honorable and learned senator understand that Queensland would have to pay more under this Bill in 1902–3?

Senator Sir JOHN DOWNER.—I do not see why she should have to pay more.

Senator DRAKE.—But she will, and the honorable and learned senator seems to argue as though Queensland under this Bill were receiving some relief.

Senator Sir JOHN DOWNER.—I have no doubt that the better knowledge of the Bill possessed by the Postmaster-General would enable him to point out endless anomalies and monstrosities which I have

not been able to detect. If this Bill will put Queensland in a worse position than she is in now, I am against it on that ground. Queensland, at the present time, is in quite a fair position. She gets a protection of £3 per ton for black-grown sugar, and a protection of £5 per ton for white-grown sugar, and surely that ought to be enough if the industry is any good.

Senator DAWSON.—That is a bad protectionist argument. The honorable and learned senator should cast his mind back to the Tariff debate.

Senator Sir JOHN DOWNER.—What I understood the Postmaster-General to say was that Queensland will not have as much protection under this Bill as she has now.

Senator DRAKE.—I say that under this Bill in 1902–3 Queensland would be in a slightly worse position, because she would have to pay rather more on the population basis than she would have to pay on the basis of consumption.

Senator STYLES.—How much? Only a few hundred pounds.

Senator DRAKE.—But Senator Downer is arguing on the supposition that Queensland is to derive some great benefit from the Bill.

Senator Sir JOHN DOWNER.—I can understand the confusing and confused interruptions that necessarily occur, because, as Senator Dobson has truly said, the matter is one of inexplicable difficulty. The puzzle, to my mind, is to find out why on earth the Government have introduced this Bill. The only explanation I can find is the fact that South Australia is paying £106,500 in customs and excise duties, and is not liable for any portion of the amount paid or payable in rebates. Victoria is much in the same position, but it has consumed white-grown sugar to the value of £1,250. I wish to know why the present rebate provisions of the Tariff Act should be unworkable? I find that it is said that we cannot possibly separate sugar grown by white labour from sugar grown by black labour. Why can we not? It appears to me that it should be merely a matter of supervision, and that it is quite practicable. I should think that the ingenuity of a clever Government might have found some way out of that difficulty without resorting to a subterfuge like this, which on the face of it works the injustice of giving New South Wales £4 per ton on

a large quantity of sugar which she produces by white labour. One would think that the ingenuity of the Government would have been exerted to its utmost before they introduced a Bill in order to make two States who do not get more sugar from the producing States—because they cannot get it as the producing States use up all their sugar—pay for the disadvantage. They are to be punished for the failure of the producing States to supply them, and that in addition to the punishment which the Commonwealth inflicted upon them, by compelling their people to pay an exorbitant duty of £6 per ton on imported sugar, instead of a duty of £3 per ton which they paid previously. The reproach is all on the other side, and not upon Victoria or South Australia. The production of the other States has not been sufficient, though it was represented that it would be, and we hope it will be. I do not know how long it will take, but the circumstances at present are admittedly not as favorable as they were. We, in South Australia, now have to pay £6,000 a year, roughly, for the “benefit” of not being supplied with sugar produced in the Commonwealth. We may have to pay £12,000 a year, because, if last year's production were doubled, it would not be much more than enough to supply the requirements of Queensland and New South Wales. We may therefore have to pay that £12,000 a year to assist an industry which does not benefit us by one penny, and assists only the States in which it is carried on. When the production had reached such a stage as to be sufficient to supply the requirements of all the States we are told that the rebate provisions of the Tariff Act would work very well. The Tariff Act works very well now, and the difficulty arises simply and solely because the producing States do not produce enough sugar to supply the Commonwealth consumption. More illogical and unjust legislation than that which is now proposed I have scarcely ever heard of. It proceeds from no disposition to remedy any wrong to Queensland, because she has suffered none; from no reason to complain of existing legislation, because it is good if properly and carefully administered; but it proceeds simply from a paltry jealousy of the States who do not take sugar produced in the Commonwealth, because they cannot get it, and a disposition to make those States pay for what they cannot get, and for what

they will not be able to get for many a long day. But this Bill does not end there. There is another feature of it which is slightly unusual in fiscal legislation. This Bill is made retrospective. The revenue under the Tariff Act has meanwhile been collected in the ordinary course by the Commonwealth, and it ought to have been paid over from month to month, according to the Constitution, to the States entitled to it. It has not been paid over, but has been retained for somewhere about eighteen months. Now, at the end of that period, it is proposed to confiscate it by retrospective legislation. That is now proposed, though in the meantime Victoria and South Australia have proceeded with their legislation, on the understanding that this money was theirs under the combined effect of the law we have passed and the Constitution, and would come to them in the ordinary course. They have made their business arrangement on the understanding that this money is part of their revenue, just as much as if it were in their own Treasuries, and yet eighteen months later a Bill is coolly introduced to devote that money to some other purpose altogether. I do not say that we have not power to do this, because there are not many limits to our powers within our ambit of legislation. It is, however, an extraordinary proposal. I do not remember anything of the kind in my experience, nor have I read of such a proposal. We are asked to take money, illegally detained for eighteen months, away from the States to whom it ought to have been paid, after they have made their financial arrangements, and to say to them—“We intend to appropriate it for another purpose altogether.” We should hesitate long before we pass retrospective legislation of this kind operating upon funds that do not belong to us, and we should rather be prepared to endure a large loss than to lay down an important and dangerous constitutional precedent, which may lead in the future to even greater abuse. One word more as to the right of Queensland to complain. Queensland, the Northern Territory, and parts of Western Australia, are the only tropical portions of the Commonwealth. Let us see what the opinion of the people controlling those portions was when they legislated upon the subject. It is instructive to us who represent the States together to know what the States separately

thought was the proper course to adopt, when legislating in their own behalf. I begin with Queensland.

Senator DAWSON.—The action taken in Queensland is very misleading.

Senator Sir JOHN DOWNER.—It is ; it has misled me. In Queensland in 1885 an Act was passed for the abolition of black labour from the year 1890, but that Act did not contain a single word about making any compensation to the planters. The Queensland Legislature in passing legislation dealing with their own planters, deprived them of the right to use black labour after 1890, but proposed to give them no compensation whatever for taking away their assumed right. That is very instructive, as showing the opinion of Queensland. The Act was repealed in 1892, two years after it was passed, but the repeal had no relation to that part of it. It was repealed on the ground that it was thought advisable to go back to black labour, and for no other reason. So much for the Queensland precedent. When South Australia started, it intended to work the Northern Territory with black labour. Country was taken up rather greedily by a number of persons, who were quite prepared to use black labour.

Senator MCGREGOR.—Who never intended to work at all.

Senator Sir JOHN DOWNER.—Some of them did, but others did not. With some it was a mere speculation, but with others it was a *bona fide* intended settlement. Later on came this wave of feeling against black labour, and it was so strong that one of the Ministers, who is not 100 miles from the chamber, said he would rather have the territory an uninhabited waste than see any black people there. Quite regardless of the circumstances in which persons acquired property or anything else, legislation was passed to prevent the employment of any further black labour. No compensation was ever thought of. These are the only two instances in Australia in which there has been any legislation of this description, and in both instances it was recognised, quite properly, that except to the extent of putting persons in the same position as they were in before—that was, to get rid of persons they had to send back or to fulfil obligations for which they were liable and which they did not wish to repudiate—no claim could be made by anybody against the State merely because it passed legislation to prevent the employment of

any particular kind of labour in the future. I know that in the Senate there is a strong feeling in favour of the Bill from different points of view. Some honorable senators desire to see it passed for the purpose of punishing States—and promiscuously the innocent with the guilty—that went in for white labour only ; and others because it will benefit their own States. We are all very apt unduly to look through rather a golden medium at anything which will benefit our own State. It is also hard to look in quite a friendly way at what is antagonistic to one's State. There are so many States interested in the Bill that I suppose it will be carried, but I wish to enter my solemn protest against it. I say that it will do a gross injustice to both Victoria and South Australia. Even at this last moment I hope that honorable senators who came here with a disposition to vote for the Bill will carefully reconsider the matter, and say whether, after all, the present Act is not adequate, and whether we should resort to the extreme step of passing a Bill of this kind for the purpose of helping Queensland—although, according to Senator Drake, it will not this year be helped at all—and of helping New South Wales—a State which is not entitled to help—and of punishing Victoria and South Australia simply because they have been compelled by the law of the Commonwealth to pay taxation, and by that means have got their Treasuries a little fuller than they would have been otherwise. I sincerely hope that, even at this late stage, the Senate will not carry the second reading, or, if it is carried, that the Bill will be so modified in Committee that many of its objectionable elements will be removed.

Senator DELARGIE (Western Australia).—I thought that after the very lengthy debate last session we had pretty well got rid of the question of fiscalism in this Parliament ; but evidently it is quite as green a subject as ever. We know that it has always been prolific of much discussion ; and the longer Parliament sits, the more prolific the discussion seems to become. I have heard some novel ideas advanced in the debate on this Bill. I have heard honorable senators affirm quite solemnly that rebate and bonus are practically synonymous terms. I cannot understand how any one who has given any thought to the matter can speak in that way. It must be obvious that instead of the excise being a bonus it is a tax on the sugar industry.

Any assistance which is given to the sugar industry has, first of all, to be collected in the shape of an excise duty. It is erroneous to say that we are giving any advantage to the industry when we give a preference to white-grown sugar over black-grown sugar. The industry has "to pay the piper," so to speak, no matter what else may be done for it in the shape of a protectionist duty. There can be no two opinions about the question that it is the industry alone which has to pay for any difference we make between one kind of labour and the other. I think that the address of Senator Downer was an extremely selfish one. It exhibited very little of the broad sentiment that he so often expressed when we were legislating for a white Australia. At that time he, quite as much as any one else, lauded the principle of a white Australia. But to-day, because his State has to pay a very small trifle, he looks at the question from quite a different stand-point. If legislation is to be passed in such a spirit, then it is good-bye to the higher sentiments which should actuate us. Senator Smith has said that the arguments of Senator Downer were not in accordance with protection. Of course, Senator Smith may be following the lead of Mr. Chamberlain, but he made a statement the other night that certainly was not in accord with the principles which he has enunciated here. I find that he has changed his opinions on fiscalism very considerably since he entered the Chamber. I do not know what the people of Western Australia will think of that change, more particularly the members of the Free-trade Association, of which he is president. When he spoke to the second reading of the Bill last week, he said—

It will thus be seen that, instead of any injustice being inflicted upon any State by reason of the imposition of this excise duty, a very great benefit is being conferred upon the States among whom the revenue so obtained is distributed. The imposition of the duty has been a distinct advantage to the various States.

Senator STANFORTH SMITH.—From the financial point of view.

Senator DE LARGIE.—If that is the honorable senator's idea of the advantage to the States from the financial stand-point, I cannot understand the position which he has so often taken up here.

Senator STANFORTH SMITH.—I was speaking purely from the stand-point of the State Treasury.

Senator DE LARGIE.—No doubt the honorable senator, perceiving his inconsistency, wishes to improve his position somewhat in the eyes of the members of the Free-trade Association. He may think that they will have to look out for another president if this sort of thing goes on, and no doubt he is trying to improve his position with them.

Senator STANFORTH SMITH.—The honorable senator is barking up the wrong tree.

Senator DE LARGIE.—I may have been barking up the wrong tree when I said that the honorable senator had changed his opinions on fiscalism, but I certainly think that the words I have quoted from his speech show that his position to-day is not consistent with the attitude which he has so often taken up here. The subject-matter of the Bill ought to be approached in a broad and generous manner. If the sugar industry is to be conducted by white labour, then some modification of the measure is certainly an essential. I am pleased to see that Senator Glassey has given notice of an amendment which I believe will make the measure more acceptable to the majority of honorable senators. If it is inserted, and white labour is used in the production of sugar for twelve months the sugar planters will be entitled to the bonus. Senator Downer has referred to the incidence of the tax. I hold that it is in no way altered by the Bill. It alters the method of collecting the duty, but that does not necessarily mean that there is any alteration in the incidence of the tax. I hold that, in view of the emphatic demand for a white Australia by the people at the general elections, they will have very little hesitancy in agreeing to any little price which they may be asked to pay for the fulfilment of that great ideal. The little expenditure which has been necessitated in order to provide a way of supplanting black labour with white labour is so trifling that he must have a very small soul indeed who would offer any objection. I know of no country which has got rid of, or is likely to get rid of, black labour at such a small cost. When we remember the millions that England had to pay to get rid of slavery in the Empire, and the millions that the United States had to spend in order to get rid of slavery in the Southern States, we may congratulate ourselves upon the fact that we are getting rid of black labour at a very small cost.

indeed. In his speech Senator Dobson exhibited an amount of sympathy for white labour that was rather startling to hear coming from his lips. It was quite unusual; and I am inclined to think that it was the kind of sympathy that is generally called "crocodile" sympathy. It was, I think, shown for the time being, merely as an argument, without any real sympathy being behind it. The same old wheeze was trotted out when the subsidy paid to steamship companies for the carriage of mails between Australia and Europe was being discussed. I take it that Senator Dobson's sympathetic remarks regarding the hardships imposed upon the white labourer in inducing him to work in the sugar industry were merely caused by the cost of white labour. I can assure him that if he wishes to do away with the disadvantages in connexion with any of the industries of Australia under which white workers labour, he will have plenty of opportunities. Indeed, he has had many opportunities of doing so in his own State. He was a Minister for a long time in Tasmania, but I am quite unaware of anything that he ever did during his occupancy of office to justify us in believing that he has any great sympathy for the white labourer, or to justify him in expressing such sympathy. However, if he will assist the labour party in this Chamber, I can promise him numberless opportunities for the purpose. Senator Neild has also expressed what I take to have been crocodile sympathy for the white workers. He referred to the wives and children of the sugar-growers in Queensland having to participate in the very laborious work of sugar production. But we know that the wives and children of farmers all over the world occasionally lend their assistance in the fields. I do not see anything startling in the fact that the farmers of Queensland, to some extent, adopt the same practice as is pursued elsewhere.

Senator Lt.-Col. NEILD.—There is no other country in the world where women and children work in the sugar-cane fields.

Senator DE LARGIE.—I do not see a bit of difference between farmers engaged in the sugar industry and those engaged in growing wheat or any other kind of produce.

Senator O'KEEFE.—Or in digging potatoes.

Senator Lt.-Col. NEILD.—There is no comparison.

Senator DE LARGIE.—It is the same kind of laborious work. Queensland may be a bit hotter than other parts of Australia, but there are farmers in Queensland producing other crops than sugar. If we are to extend our sympathy to the one kind of producers I do not see why we should not sympathize all round. If, however, Senator Neild wishes to put an end to this kind of labour, he will have his opportunity of assisting the labour party to do so, not only in Queensland, but in other parts of Australia also. I hold that to provide a safeguard which will prevent black-grown sugar being smuggled through the Customs as sugar produced by white labour, we may very well agree to the provisions of this Bill. I feel quite certain that if we do nothing to lessen the amount of black labour in Queensland we shall, at the end of the stipulated time, have quite as much black labour engaged in the sugar industry in Queensland as there is now. We wish to see the employment of black labour lessened as much as possible. Unless we give the planters who have employed black labour some encouragement to employ white men instead, we shall have a very unsatisfactory state of affairs prevailing at the end of the term when we expect to see the kanakas decreased in number. The proposal of Senator Glassey will have the effect of giving an extra amount of assistance to the planters, while all other honorable senators should be willing to give to them.

Senator DAWSON (Queensland).—Senator Downer, in opening the discussion this afternoon, broke entirely new ground. I do not intend to follow him to a large extent, inasmuch as he absolutely denounced both the proposal of the Government and the suggested amendment upon their proposal. He set himself rather a vain task in attempting to prove that neither the one nor the other is necessary. I believe that the mind of the Senate is made up, that either the proposal of the Government or that of Senator Glassey—or, as a further alternative, that of Senator Millen—must be accepted. It is agreed that something must be done to relieve the present situation; and what we have to set ourselves to decide upon is either that we shall adopt the proposal of the Government or one of the two suggested alternatives. But I should

like to remind Senator Downer and one or two of our other protectionist friends—particularly the protectionists from South Australia—that when they so heartily cheered Senator Downer when he complained that the £6 per ton on sugar is a protection to the sugar-growers in Queensland and New South Wales, and, therefore, a burden on the South Australian taxpayers, for which they receive no corresponding benefit, they forgot that, during the whole of the Tariff discussions which took place last session, it was time after time drummed into our ears that the Queensland and New South Wales senators who happened to be free-traders, and also representatives of the sugar-growing districts, should consider the interests of the other parts of Australia in return for the benefits that were to be conferred upon the growers of cane in the two States I have mentioned. When it was proposed to impose a high duty to benefit the Victorian iron foundries—a duty of 25 per cent. on mining machinery—and a high duty for the benefit of the growers of wheat and the producers of salt in South Australia, and also when so much was said about the claims of the Tasmanian hop-growers for consideration, an appeal was made to the New South Wales and Queensland senators. It was said that in these matters there should be reciprocity. But now Senator Downer says that, because sugar is not produced in South Australia, therefore the imposition of £6 per ton duty on foreign sugar is a tax and a punishment—he had the audacity to say that it was a punishment—imposed upon the poor, unfortunate taxpayers of South Australia. He forgot that last session he and the other protectionists reminded us, when they wanted duties on wheat, salt, mining machinery, and other commodities, that we should impose these duties for the benefit of Victorian and South Australian producers and manufacturers, in consideration of the duty on sugar which they were willing to support. I well remember Senator Styles making a personal appeal to me, as a free-trader representing a State where sugar is produced, that this £6 per ton duty carried with it an obligation to protect the industries of Victoria and other States. I did respond to that appeal, only I objected to the amount of reciprocity which they wanted. They wanted about ten times more than I thought they ought to get. But still I was willing

to give them a fair thing. It is just as well to confront those senators with each other, and to bring before them the shadow of last session, now that Senator Downer urges that this £6 per ton duty is a burden on South Australia. It is also just as well to remind him and other enthusiastic protectionists that, when protectionists proposed to foster local industries, it was even urged that if the proposed protection was not sufficient it should be increased, in order that the protection might be such as to compel the public to purchase from the local manufacturer. I reply now, in Senator Downer's own words, that if this £6 per ton on sugar is not sufficient to make South Australian consumers buy sugar produced from cane grown in Australia, the duty ought to be £12 per ton.

Senator PLAYFORD.—We could not get it.

Senator DAWSON.—Senator Playford interjects that we could not get so high a duty. What was the great protectionist argument that was used last session? It was that, until you give a sufficient encouragement to the local producer, and make your Tariff barrier so high that the foreigner cannot possibly creep in at all, people will not risk their capital and their enterprise in local industries.

Senator BEST.—The honorable senator is talking of prohibition, not of protection.

Senator DAWSON.—What is the difference between them? I know that there is a difference in the science of economics between protection and prohibition, but I have failed to find that difference realized here. I have failed to find any marked difference between the protectionist party and the prohibition party in the Senate. I refer to these matters not as having any particular bearing on the question under discussion, but to remind honorable senators opposite that the ghost of the past rises up to confound them. In discussing this Bill I propose to offer some criticism on the statements which have been made upon the experience we have so far had of the white Australia policy. Honorable senators have taken advantage of the Bill to speak in general terms. As one representing the State that is most concerned in this matter I think that I shall not be intruding upon the time and patience of the Senate in giving an answer to those criticisms. It is astonishing to me what a mean and miserable opinion some

honorable senators have of their fellow Australians. There are white men who, on every opportunity which presents itself—in fact, if a convenient one does not present itself they exhaust their ingenuity in manufacturing one—condemn absolutely and cast reflections upon either the character or the stamina of the white working men of the Commonwealth of Australia. That view is echoed and re-echoed in this Chamber on every opportunity which is provided. The discussion of this measure has not been lost sight of. Further advantage has been taken of it.

Senator Sir WILLIAM ZEAL.—Who said that?

Senator DAWSON.—There are a number of honorable senators here who truly represent and freely express the opinion which is held and expressed outside the Senate. They hold the most mean and miserable opinions of the character and stamina of the white working men of this country.

Senator FRASER.—Nonsense.

Senator DAWSON.—I repeat that it is so, and for proof of my assertion I rely on the utterances and persistent actions of the particular men to whom I refer.

Senator Sir WILLIAM ZEAL.—Prove it.

Senator DAWSON.—In all probability I shall individualize before I resume my seat. I was proceeding to point out, when I was interrupted, that I could understand this line of conduct on the part of one or two classes of persons. Some people have a particular personal purpose to serve. As long as they can reap large profits from the employment of an inferior alien race, the love of greed will induce them to do so, even though the employment of that race may mean the degradation of their fellow Australians who occupy a lower position in the social and industrial scale than they do. There is another class of people who condemn the white workers on general principles—who condemn them out of an unholy spirit of sympathy with those who say that any ambition on the part of the white working man is undesirable, and should be suppressed. There are others again who, in connexion with the sugar question, make bold statements denying the ability and stability of the white workers. They do so, not from pecuniary motives, or because they have any sympathy

with those who are eternally opposed to the white workers and would like to crush them, but from pure ignorance. It is absolutely useless for honorable senators to say that persons who are utterly opposed on general principles to any ambition on the part of the white workers do not exist in the Commonwealth, and that they fail to find a voice and representation in the Senate.

Senator FRASER.—Rubbish.

Senator DAWSON.—I would remind the honorable senator that the experiences of every-day life prove my assertion. Our daily press, our *Herald*, and the official records of every State Parliament of Australia prove it. It is useless to deny the existence of these classes. They do exist, and unfortunately those who hold this mean and miserable opinion of their fellow white colonists get into power, while the great majority of the white working men of Australia fail to reciprocate their feelings. If they did, these men would not exercise the authority and power that they do at present. There is another class to which Senator Neild, who made some very wild statements during his speech on the second reading of this Bill, belongs. I refer to the class who make assertions from sheer ignorance of the facts. I am very sorry that Senator Neild is not present. I intimated to him that I intended to speak during the second-reading debate, and if he were here he might be willing to withdraw certain statements made by him, and thus probably save the time of the Senate by rendering it unnecessary for me to deal with them. The honorable senator repeated the old cry, which has been heard times out of number, that the white man cannot, or, if he can, will not work in the cane-fields of Queensland. I believe that Senator Dobson has given expression to precisely the same opinion. Those who hold this view say that the experience of the policy of a white Australia has proved that, at any rate in Queensland, white men will not or cannot work in the cane-fields. When Senator Neild was speaking I endeavoured, by way of interjection, to ascertain the particular case in which he said white men had failed to work, under fair conditions, in the cane-fields. I did not succeed in obtaining a reply to my query, and therefore, I have been compelled to look up the information for myself.

Senator Neild said, in reply to an interjection, that the experience of the Mossman Mill Company went to prove his assertions. He based his charge as to the failure of the white Australia policy, and his accusation against the character and stamina of the white workers of Queensland, on what he alleged were the true facts of the Mossman Mill incident, as published in a pamphlet signed by the manager and secretary.

Senator FRASER.—Were the statements in that pamphlet true?

Senator DAWSON.—They were absolutely untrue.

Senator FRASER.—It is easy to say that.

Senator DAWSON.—It is very easy for a man to make an accusation, and it is equally easy for another to give a denial to the charge, but I intend to furnish proof of my denial. When an honorable senator makes an accusation against a body of men, he should particularize in such a way as to render it possible to get at the facts, so that a reply may be made to his charge.

Senator FRASER.—The facts were given in that case.

Senator DAWSON.—Senator Neild made a general accusation against the white workers of Queensland, but refused to particularize. Upon being pressed for more details, he said that he was referring to the Mossman Mill case in particular, and that the experience of the directors of that company was that of many others. That was a very unfair statement to make, because if the honorable senator knew of other cases which were equally bad, he should have furnished the details so as to enable a reply to be made to his charges. It happens that the Mossman Mill Company published a pamphlet which they distributed very widely throughout Australia. I believe they sent a copy of it to every honorable senator, except those who constitute the labour party.

Senator BARRETT.—I received a copy.

Senator DAWSON.—Then the honorable senator is a most favoured individual. It is alleged that the Mossman Mill Company made an honest effort to adopt the white Australia policy; that they did all they could to encourage their farmers to harvest their cane by white labour; that one man who took a contract to cut cane by white labour was unable to fulfil it, and that he absconded and forfeited his deposit of £50.

Then it is said that another man, named George Taylor, undertook to complete the contract; that he lodged a deposit of £50 on the understanding that if he completed the contract the deposit lodged by him would not only be returned, but that he would also receive the £50 deposited by the first contractor. Senator Neild said that in spite of that additional inducement Taylor and his men failed to complete the work, and thus forfeited £100. There are a number of other matters relating to this case, but I wish to point out that Mr. Taylor has replied in the public press of Australia to the statements made in the pamphlet issued by the Mossman Mill Company. Further than that, he handed a sworn affidavit setting out the details to the Minister for Trade and Customs, who, after investigating the facts by every means within his power, stood on the public platforms, from one end of Queensland to the other, and refuted the statements made by the Mossman Mill Company. That fact has been allowed to pass unnoticed, while this wretched pamphlet, which has not a tittle of fact to support it, has been trotted out by Senator Neild, who made no attempt to learn the other side.

Senator FRASER.—Did the man complete his work?

Senator DAWSON.—I shall refer to the whole of the circumstances surrounding this case. Dealing first of all with the question of forfeiture I would point out that Taylor's gang of cane-cutters undertook by contract to cut what was alleged to be 6,600 tons of cane, more or less, and to supply it to the mill at the rate of 40 tons a day. They went to work and found that the cane was what is known as "grubby" cane. Any honorable senator who is at all familiar with the subject will know what grubby cane is, and it is singular that the very first cane that these men were called upon to cut was of that description. Grubby cane is very dry and hard, and as a rule it seldom pays for cutting. However, the men set to work, and after they had cut 1,200 tons it was discovered by the Mossman Mill Company that there were still some 7,600 tons cane left. They asked for a fresh agreement, and Taylor then contracted to supply the mill with 70 tons of cane per day. At that time labour was plentiful, and Taylor increased his gang to 35 men in order to supply the mill at the rate named. He continued to cut the cane up to the end

of October, but suddenly he received the following letter from Mr. Harry S. W. C. Roberts :—

Mossman Central Mill Company Limited.
Mossman, *via* Port Douglas,
24th October, 1902.

MR. GEO. TAYLOR, —

Mossman,

Dear Sir,—It being now necessary to reduce your cane deliveries to forty (40) tons per day, I am instructed to give you one (1) week's notice to do so, as specified in the agreement between yourself and this company.

Thus, after Taylor had been cutting cane at the rate of 70 tons a day, he received one week's notice, in accordance with one of the provisions of the agreement, to reduce the supply to 40 tons daily. He naturally reduced his staff, and went on supplying the mill at the lower rate. After going on under that arrangement for a time, he suddenly got a letter from another individual, dated 26th December.

Senator FRASER.—Who is that other individual?

Senator DAWSON.—The letter is signed "C. J. Cress, for the secretary." The secretary to the Mossman Mill would appear to be a very peculiar person, because the person signing the pamphlet is a Mr. O'Gorman, a Mr. Roberts signs the note giving notice of reduction as secretary to the Mossman Mill Company, and in this final letter we have a Mr. Cress signing for the secretary.

Senator GLASSEY.—The late secretary, Mr. Roberts, is now no more; he is dead.

Senator DAWSON.—Well, he has left his hand behind him, and I have the imprint of it here. In this particular document we are introduced to another secretary. It says—

MR. GEORGE TAYLOR, Mossman.

Dear Sir,—I am instructed to inform you that, according to cane deliveries for some considerable time past, which have only averaged 38½ tons per day, it is impossible for you to harvest all the white rebate cane as per your agreement before the termination of the present crushing season, thus causing the growers and the company a great loss. Owing to the average daily supply not coming near the amount of your contract, this company is reluctantly compelled to, notify you that your contract is cancelled through non-performance of the conditions contained therein; therefore you are to discontinue work on Saturday afternoon, the 27th inst.

Yours faithfully,

C. J. CRESS, *Pro* Secretary.

Mr. Taylor goes on to point out that they finished their cutting and loading, and then knocked off. I want honorable senators to

understand that they loaded their 40 tons a day, and then 70 tons a day. Then they received the intimation that they must reduce the quantity, and on the top of that, without any prior intimation, they are told that their contract must be broken because they are only supplying 38½ tons per day. This is in the face of the fact that out of the 6,600 tons of cane they originally contracted to trash and cut, over 6,000 tons had been dealt with up to this time, because the intimation they received was given three weeks before the end of the crushing season, when, according to the mill's own statement, there were only 591 tons of cane left. At the very time these men were told to knock off, they were cutting, according to the Customs receipts, 251 tons a week. Hindoos were employed to deal with the 591 tons that were left. The Customs returns supplied are very significant. I find in a document headed "His Majesty's Customs—Memorandum for George Taylor," returns for December 22, 23, 24, 25, 26, and 27, giving the number of trucks, their weight, and so on, and from the 22nd to the 27th December it appears that they supplied 209 trucks of cane, weighing 251 tons 4 cwt.

Senator PEARCE.—Or more than 40 tons per day.

Senator DAWSON.—That shows that the plea that they were not supplying the necessary amount of cane was all moonshine. Now, as to the forfeiture: When the company deliberately and designedly broke the contract Taylor went down to Cairns to get legal advice, and he followed that up by sending an intimation to Mr. Buchanan that if he did not within fourteen days return the £100 deposit, a writ would be issued for its recovery. In the meantime, all the men concerned in the contract with Taylor were anxious to get their money and get away to do some other work. They desired to come to some compromise, and finally the result was that Mr. Buchanan drew up a letter and said that if Taylor would sign it he would give them the £100, but if not, he would fight the issue of the writ. This was a proposal made to men whose money was in Mr. Buchanan's hands, and who desired to get away with it and make the best use of it they could. What was more natural than that they should say to the man representing them—"Take the money,

accept the terms, and let us go about our business." Taylor then went to Buchanan and said—"I will accept the terms, and I will sign that letter on condition that it is not to be used for any political purpose." On that stipulation Taylor signed the letter, with the result that he got the £100, and the letter was no sooner signed than Buchanan published it broadcast throughout the length and breadth of the Commonwealth. Those are the leading facts concerning this matter, and I say that they show that it was a pure trick from beginning to end on the part of the company, in order to try and discredit the white Australia policy which had been adopted by the Federal Parliament. It does not redound to the credit of any honorable senator when he has these facts within his grasp to make use of his position to put forward one side of the case which is so manifestly unfair, without giving due credit to what may be said on the other. It is in that way that I view the statements made by Senator Neild.

Senator FRASER.—Has the honorable senator got the letter to which he refers?

Senator DAWSON.—The full letter is here, and I have in my possession the sworn affidavit of Taylor, which was afterwards confirmed by the investigations of Mr. Kingston's officers, and which Mr. Kingston was so satisfied about that he used it publicly on platforms in Queensland, when addressing the people of that State. In the most open way, every publicity has been given to the categorical denial made by Mr. George Taylor. Let me mention a circumstance to show the unfair methods which have been used. Mr. Kingston referred to this matter on the platform in Cairns—the very place where the incident is supposed to have occurred—when speaking to one of the largest public meetings ever held in that town, where, if what he said had not been correct, it would have been promptly contradicted. In making the contract with the farmers growing sugar—I think this was at the Mulgrave Mill—the farmers asked if they had the permission of the mill-owners to adopt the white Australia policy. They were told that they would receive the permission of the mill-owners on condition that they employed a gang of not less than thirty men. As Mr. Kingston said, that was a grossly unfair condition, because they should have been allowed to manage their own affairs, and they should have been

allowed to say whether they required a large or a small gang. But that is not the worst of it. Another condition was that, while employing white labour, they must agree to pay for the keep and expenses of the kanakas in the meantime. So that, to carry out the white Australia policy, the conditions imposed upon these men were that they should employ white labour in large gangs, and should also keep the black labourers on the plantation at the time, without doing any work at all.

Senator O'KEEFE.—Were these statements by Mr. Kingston denied?

Senator DAWSON.—They were made by Mr. Kingston on the public platform in Cairns, and they were not denied. I should say that the statements were also made by Mr. Kingston when the planters sought to trap him at a dinner out at the Mulgrave Mill. When there by himself in the midst of them, he repeated the statements, and they had no answer to make to them. The right honorable gentleman also told a deputation of the Chambers of Commerce, and many representatives of the sugar districts who waited on him in Brisbane on his return from the north, that from 14 to 15 per cent. of the farmers in the Mackay district had already come under the white Australia provisions, and that he had their assurance that not less than another 50 per cent. were quite willing to come under them during the next year. In the face of startling facts of this description is it not absurd that an honorable senator representing a big State like New South Wales should try by making one-sided statements in this Senate to convince the outside public, who may listen to and heed his remarks, that the white Australia policy has been an absolute failure? Mr. Frank Kenna, who, at the present time, is the Queensland State member for the Bowen district, was down here not long ago, and he informed me that so well satisfied were the sugar farmers in the Proserpine district of the value of the white Australia policy that the few who had gone in for it did not intend to go back upon it, and that at the very least 60 per cent. of the farmers in that district would adopt the policy. Is it to be imagined that these men will go in for that policy if they cannot rely upon getting white men to do their work? I intended to say something with regard to the "fearful and dreadful" condition of health in which the adoption of the white Australia policy is likely to leave the white-working people

of Queensland, but I shall only make this remark upon it. When honorable senators speak about the fearful conditions of climate and soil in North Queensland, they only cause a smile of contempt to cross the lips of people who have lived and worked in North Queensland. I was born there, and I have worked there all my life, and I never suffered so much in health as when I came down to the "beautiful" climate of Melbourne; I never suffered so much discomfort as I did during the time of Melbourne's "glorious" winter, such as we are experiencing at the present time.

Senator Sir WILLIAM ZEAL.—The honorable senator looks a great deal better than when he came down.

Senator DAWSON.—If that be so, it is due to the fact that the stamina which the climate of North Queensland puts into a man enables him to withstand even the Melbourne climate.

Senator DOBSON.—If the honorable senator goes back to Cairns he will be dead in a month.

Senator DAWSON.—I do not think so. I lived in the North nearly all my life, and it is an absurdity to say that white men cannot stand the North Queensland climate. I have no objection to Senator Dobson, or any other senator, saying that he is such a weak, puny, putty individual that he could not stand the climate of North Queensland, but I absolutely deny his right to say that because he is a weak, puny, and putty individual, therefore no other white man could stand the climate.

Senator FRASER.—The climate of Cairns is worse than that of Mauritius—in the cane fields.

Senator DAWSON.—I could wish with all my heart that honorable senators when speaking about North Queensland would speak with some knowledge, or, if they have no personal knowledge, that before they give utterance to wild statements such as that which Senator Fraser has just made, they would make themselves acquainted with the facts by some other means. There are any number of men in Victoria with whom Senator Fraser must be familiar who have been in the district of Cairns, and who can tell him otherwise. I may say that, as a matter of fact, I believe there is no spot in the whole of the Commonwealth of Australia which receives more money from tourists seeking for health and comfort

in relief from business as does the little port of Cairns.

Senator FRASER.—It is, no doubt, a nice place for a trip in winter.

Senator DAWSON.—The honorable senator surely would not dream of making a trip into the seventh circle of the Inferno, and he would, no doubt, try to get as near heaven as he could.

Senator O'KEEFE.—I have found it hotter in November in Melbourne than in Cairns.

Senator DAWSON.—There is another statement here from a cane-grower in the Mackay district named Shannon. I do not wish to say very much more upon this matter, but there are one or two striking paragraphs in a statement he made in an interview given to a representative of the *Brisbane Courier*, and republished in the *Toowoomba Chronicle*. I consider that the people of Australia are greatly indebted to both the *Brisbane Courier* and the *Toowoomba Chronicle* for their efforts to put the statements of each party before their readers. Of course we claim the *Toowoomba Chronicle* as a very sterling advocate of the white Australia policy. We do not claim the *Brisbane Courier* as an advocate of that policy, but we cannot help commending that journal for its fairness, because while it publishes statements to suit its own view, it spares no pains to publish statements from the opposite stand-point. It sent a representative to see Mr. Shannon when he went to Brisbane from the Mackay district, and to ascertain his opinion on the employment of white labour. From that interview I quote the following passages:—

What has been your experience with white labour? was the first question asked.—It turned out better than I expected, was the reply. I intend to make a success of it, if possible, and a good many others had the same desire. Putting it briefly, it worked well. It cost me about 4s. per ton for the harvesting right through, and that figure must be taken in connexion with the fact that it was a bad crop to harvest, as the cane was comparatively light, and a man had to cut a lot of cane to make up a ton of weight, and the weather was very distressing in October, there being bush fires about.

What white labour did you employ?—The best men we had were young Queenslanders, farmers' sons from the Brisbane and Logan districts. They worked remarkably well, were a sober lot, and spent no money. They took their cheques home. We had also some men of the class usually found on railway works—a really fine lot. Of course the work of keeping the cane clean was distressing, but the men stuck to it splendidly.

Was there any scarcity of labour?—No. For every man we wanted in December we could have got ten.

And about wages?—Well, I paid wages, and did not let any contracts. I went upon the principle of getting good men, giving them good wages, and expecting good work from them. I may say, broadly, that the men in the district cleared about 30s. per week each after paying for their food. The matter of the food comes in here. And this is what I consider an economic principle; good food and a good cook are cheaper than low fare and a bad cook.

Mr. Shannon a successful grower acts on the principle of feeding his men well and paying them good wages, with the result that they are thoroughly satisfied. He carried out the intention of this Parliament, made a good profit, and got good men to do his work. Senator Neild has stated that he intends to move an amendment to prevent applicants claiming the rebate who have sweated their wives and children. When he was pressed, by interjection, he refused to state who were the sweaters. He would make no definite statement which could be followed up, either to be confirmed or to be contradicted if untrue. That method of argument can only be characterized by a term which would be unparliamentary. He did say—and, in making this statement, he went too far the other way, unless he was prepared to go the whole way—that the sweating of the women and children on the cane-fields occurred in North Queensland, and that the only result we had achieved was doing away with the sweating of the kanaka, and sweating the wives and children of the sugar farmers instead. It was a most cruel statement to make, and, in my opinion, it was absolutely unwarranted. He made the charge, but he refused even to indicate the district where this state of affairs is supposed to exist, although I pressed him so often by interjection to do so that I must have nearly exhausted your patience, sir. The sugar districts in North Queensland are the Mackay, Proserpine, and Cairns districts. In the limited time at my disposal since the charge was made by Senator Neild, I have failed to find that there exists in any district the state of affairs which he alleged to exist. I give a point-blank denial to his assertions in that regard. It does not reflect credit on the honorable senator that he should make a statement of that kind, branding a class who have no opportunity of defending themselves. To say that it would not tend to the good character of the debate, if he gave the names

was a most unworthy evasion of the subject, if it was not a deliberate shuffle from the position. He was not asked to give the names, but to indicate the districts, and that he declined to do. He went on further in his denunciations, which to some extent took the character of ravings, to say that he spoke from information gathered on the spot. On what spot? He would not give the slightest indication of what spot it was. I not only deny that the sweating of women and children goes on in Northern Queensland, but I deny that it goes on in any portion of that State, either in the sugar districts, or in any of the other agricultural districts. The honorable senator made a singular admission in his speech. In common with Senator Fraser and a few others, he holds that the white man cannot cultivate sugar cane in Queensland, because the work is too laborious and the climate is too trying. Now, before he resumed his seat the other day, he said that the farmers' wives and children cultivate the sugar-cane in that State. That is, the men cannot do it; but the women and children are doing it. Surely it is not necessary for me to point out the moral of an address of that description.

Senator FRASER.—I have always said that white men cannot do it in Cairns and the North. I maintain the accuracy of that statement until it is proved to be wrong. A year or two will tell whose opinion is right.

Senator DAWSON.—That is a plain candid statement. There was a time when the honorable senator was perfectly justified in making that statement; but now he is not justified in adhering to the statement, because white men are growing cane, are harvesting cane, and are successful in the industry; where a coloured labourer does not touch the cane from the time the ground is ploughed until the sugar is sent to the refinery.

Senator FRASER.—My answer is that only 15 per cent. of the Queensland planters now grow cane by white labour.

Senator DAWSON.—That is no answer to my statement. There are 15 per cent. of the men who had an opportunity of coming under the white Australia policy last year. But there is a very large percentage of the growers who have not been provided with an opportunity to do so, and there is also a large percentage who are either gifted or cursed—it is not my province

to say which—with a type of mind similar to Senator Fraser's, and who are convinced that nigger labour is the only possible labour to make sugar growing pay. These men would never in any circumstances get clear of their dearly beloved nigger in order to give their fellow-colonists a decent show to make an honest living. We shall always, I presume, have with us these unconvinced and stubborn people. But, because they stubbornly refuse to do what is obviously the right thing, that is no argument against the wisdom of the policy which Parliament thought fit to adopt. Leaving that portion of the subject, I come more particularly to what we shall have to decide, I presume, by division. The Bill provides that, after the 28th February of this year, every grower who has employed black labour in the planting of his cane shall not be able at any time to reap the benefits of the bonus. Notwithstanding what he may do after that date in the shape of trying to honestly carry out the policy of a white Australia, the mere fact that a coloured alien has had a hand in the planting of the cane will prevent him from reaping the full advantage of the bonus. The reason advanced by Senator Drake, and others who have agreed to support the Bill, is that they make the date arbitrary in order to further that policy—as it were to compel the planters to immediately adopt the policy, and at the same time to inflict a punishment on those growers who have up to the present defied or flouted the will of this Parliament. I venture to say that the provision will have absolutely the contrary effect. I desire precisely what they desire—that every encouragement shall be given to the sugar-growers to adopt the policy, but I claim that when you stipulate that after the 28th February of this year everybody who has not adopted the policy at that date shall not be entitled to get the bonus, you cut away all the encouragement and inducement which the Parliament intended to hold out to the growers. There will be absolutely no encouragement or inducement to any farmer, be he large or small, to embrace the policy and employ white men. It is perfectly absurd to say that the provision is framed in the interests of that policy, while at the same time the Bill says that the planter may import, until the end of this year, kanakas to any number, subject to any restriction in the Queensland Act, and

also enter into a three years' agreement. The Federal Act says to the planter—"Up to the end of this year you can employ kanakas to work your plantation for a term of three years, with the option of a renewal for six months," and then this Bill says—"We shall punish you for employing the kanakas you import." If it was the intention of the Government to say that the white Australia policy should commence on every sugar-field on the 28th February of this year, why did they not provide in their law that no further importation should take place after that date under a three years' engagement, with the right of renewal for six months. The thing appears to me to be perfectly absurd. Why, the Government are endeavouring by this very provision to do with the sugar farmers what Mr. Kingston himself so scathingly denounced at Cairns with regard to the Mulgrave Mill. He denounced the contract of the mill-owners which provided that the farmers must employ white men and keep the nigger in idleness. The Government by this Bill are making precisely the same provision—that the sugar planter must, after the 28th February of this year, employ white men, and keep their kanakas with whom they have engagements. The thing is absurd; it is nonsensical. Another matter to which I wish to refer—and I ask honorable senators to think of this very seriously—is that in reading the debates which took place in the House of Representatives, and in listening carefully to what was said in this Chamber, it seemed to me that the arguments revealed a misconception of the very nature of sugar-growing. The Minister for Trade and Customs himself repeatedly pointed out—and was followed in the statement by a large number of other members—that it was in the planting of the cane particularly that the employment of white labour should be encouraged, because, it was said, the planting was the most important and laborious portion of sugar-cane production. It was urged that the benefits of the white Australia policy would be felt more particularly in regard to the planting. Changes were rung upon that idea in a great many ways. The idea is absurd. A contrast between planting and harvesting may easily be drawn. In growing wheat you plant for one year only; but in growing sugar-cane you plant one year and may reap up to ten crops from the one planting. The general average throughout Queensland is six crops from one planting.

Senator PEARCE.—Does that mean in six years?

Senator DAWSON.—Yes; six crops in six years. In other words, from one planting you can, on an average, get one crop and five ratoons; but in the Mackay district I myself saw a crop being cut from the ninth ratoon. That crop returned 21 tons to the acre; and they grow ratoons in Queensland which only yield 15 tons to the acre. As a matter of fact the cane that was crushed at the Mossman mill, about which there has been so much talk, only averaged about 15 tons to the acre. The statement that the planting is the most important portion of sugar-cane production is an evidence that those who make it do not know much about cane-growing. The Postmaster-General cannot call to mind one contention of the opponents of the white Australia policy to the effect that a white man could not plough the ground and plant the cane. The argument has always been that it is after the cane is mature and ready for the mill, so far as nature can make it ready—that it is in the harvesting, the trashing, and cutting of the cane—that the presence of the kanaka is necessary. It was only then that the white man was alleged to be unable to work in the cane-fields. All along it has been recognised by all parties in Queensland that the great difficulty to get over is what the Minister for Trade and Customs was pleased to call the harvesting of the cane. The rebate which has been allowed was granted for the express purpose of enabling the sugar-grower to employ white labour to trash and cut the cane. Therefore, the contrast attempted to be drawn between the planting and harvesting of the cane is a most misleading one.

Senator CHARLESTON.—Still the Minister for Trade and Customs has been all through the sugar country.

Senator DAWSON.—He has never seen a cane cutting. I should like Senator Charleston to understand distinctly that it does not matter whether the Minister for Trade and Customs, or the whole of the Federal Government, have been through the sugar districts of Queensland every cutting season for the last twenty years; if they came back and said at the end of that time that the planting of the cane was the most important process, they would be saying something that was not correct. It simply is not so. If they fail to understand the

true position it does not matter how many times they go there. My objection is that they do not go often enough to enable them to understand the process of cane production.

Senator DRAKE.—The members of the Government did not say that, they did? The critics of this Bill said that we were proposing to pay bonuses for sugar not grown by white labour.

Senator DAWSON.—I have looked up the debates, and the statement I have criticised was not only made by Mr. Kingston, but by many who supported him in the contention that the bonus was to be given for the planting of the cane, because they thought that was the most important portion of sugar-growing. The thing was so startling to me that I could not help making a note of it.

Senator DRAKE.—Was that in the House of Representatives?

Senator DAWSON.—Yes; and it is reported in *Hansard*. It was pointed out that under this particular provision, if the grower planted his cane with black labour and in the very next year he registered with the intention of continuing to grow his cane with white labour, he could not receive the bonus because kanakas had assisted in the planting. Mr. Kingston, by way of interjection, said—"No; unless he re-planted." What does that mean? Mr. Kingston said that the grower could come in under this particular provision provided he was ready to dig up his roots and re-plant.

Senator FRASER.—That would be a nice state of things!

Senator DAWSON.—I should say that it would be! These ideas can only arise in the mind of the Minister because of his misconception of the true position. He was evidently arguing from the stand-point that the growing of sugar is like the growing of wheat, where you plough and harrow your land every year and sow a fresh crop; whereas, as a matter of fact, the sugar-grower gets on an average six crops from one planting.

Senator CHARLESTON.—It is evidently a profitable business.

Senator DAWSON.—I have always said that I could not see, considering the price of cane and the amount paid for labour in the growth of it, how it was that the grower of cane by white labour required such a terrific amount of assistance to keep his head above water, while the wheat-grower

can do without it. I have never expressed any other opinion, and do not desire to do so now. But I should like to draw the attention of the Postmaster-General to this point—that when he himself was in Queensland during the last recess, he and Mr. Kingston on the public platform both expressed the pleasure they felt at the success of the white Australia policy as formulated by the Government and adopted by this Parliament. They quoted from every platform where they spoke, the amount of money that had been paid in rebates, and they gave the number of farmers in different districts who had accepted the white Australia policy. They quoted with approval and joy the number who intended to come in under this policy. I know that it gave them much satisfaction to know that the small sugar farmers in Queensland looked upon the Federal Government as their saviour during the severe trouble that came over them last year, when this very rebate or bonus saved many of them from dire distress. It was a pleasant thing for the Government to know that they had been able to do so much good, and that they had created a feeling of gratitude in the minds of the sugar growers. The members of the Government made the most of this point at the meetings they addressed. They were entitled to do so. But did the sugar growers get that benefit under such provisions as are contained in this Bill? No; nearly every one of the farmers who came in under the policy we have inaugurated had planted his cane with *kanaka* labour. If, in the first instance it had been stipulated that no sugar grower in Queensland could reap any benefit from the white Australia policy if his cane had been planted by black labour, there would be very few farmers claiming rebate in Queensland or New South Wales. The very provision which the Government are trying to induce the Senate to accept in this Bill would have defeated their own policy, and would have prevented them from having the extreme pleasure of receiving the heartfelt gratitude of the sugar growers of Queensland. I sincerely trust that honorable senators will defeat the Government proposal in this respect, and accord their support to Senator Glassey's amendment, which meets the case fairly and squarely. Before sitting down I would point out two little matters in connexion with this subject, which should appeal to those honorable senators who are wavering

Senator Dawson.

upon the question, or who have not made up their minds one way or the other. Throughout the whole of this much debated issue of growing sugar cane successfully with white labour, many solutions have been offered, not the least of which—in fact I believe the one which should receive most acceptance—is that if you break up the large plantations and convert them into small sugar farms, managed by families, you will go a long way towards settling the labour difficulty and promoting the successful growth of sugar by white labour. That view has been held for many years. Arrangements were made by the Queensland Government on several occasions to induce planters to give up their large holdings, which they did not work successfully, and convert them into small farms. With that object in view, the present Chief Justice of Queensland, when a member of the State Parliament, erected two central mills in the Mackay district as an experiment. The result was that he demonstrated to the holders of large plantations in that district that a small farmer, with an up-to-date mill, could produce sugar under conditions more favorable to those employed by him, while, at the same time, reaping a larger profit than under the old system. These two central mills led the way to the action of the Queensland Parliament in erecting central mills in different districts, and that action was supported both by Senator Drake and myself. The mills were erected in order to encourage the farmers to take up small farms, and thus subdivide the large plantations. But how will the Government proposal operate in regard to the large plantations? The Government provide in this Bill that if the *kanaka* has once touched the cane no bonus shall be given in respect of the sugar produced from it, no matter how many times the land may have changed hands, and irrespective of what the holdings may be. If the holder of a large plantation, believing firmly as many of them do, that white men cannot successfully grow sugar, hangs on to his coloured labour to the last, and a number of farmers then take up portions of his holding and proceed to grow sugar according to the policy of a white Australia, what will be the result? The very measure we are now discussing will not enable those farmers to obtain any portion of the bonus, because of the fact that the prior holder of their plantations has employed *kanakas*

to plant the cane. That is not the way to encourage the cutting up of large plantations. We shall really put an obstacle in the way of the adoption of that course.

Senator DRAKE.—The honorable senator is presuming that the planted cane will go over with the farm?

Senator DAWSON.—Exactly. If that were not done we should have to go back to the ridiculous proposition of the Minister for Trade and Customs, that all cane grown by coloured labour shall be dug up and replanted. There are many farmers holding small plantations who assert that they cannot grow cane successfully without the aid of coloured labour, while there are many others who desire to give white labour a chance. But if a farmer who decides to grow sugar by white labour buys a farm from a man who has planted with black labour he will not be allowed a fair opportunity to test the true value of the policy of a white Australia, because of the fact that the previous holder employed kanaka labour in putting in the cane. I trust that honorable senators who, like Senator Downer, object to the Bill altogether, will realize that either the proposal submitted by the Government or one or other of the amendments suggested by Senator Glassey and Senator Millen must be accepted, and that it is well that we should wait until the Bill gets into Committee before determining which of these we should accept.

Senator STYLES (Victoria).—I should like to make a passing reference to the words which fell from the lips of Senator Dawson in regard to myself. It is true that when the Tariff was before the Senate I appealed to him to help us to save the machinery industry of Victoria.

Senator BARRETT.—And all that we obtained was a duty of $12\frac{1}{2}$ per cent. instead of 10 per cent.

Senator STYLES.—Yes. The result was that instead of helping us to fix the duty at 25 per cent, as we desired, the honorable senator supported a reduction of the duty to $7\frac{1}{2}$ per cent.

Senator DAWSON.—I was in favour of machinery coming in free.

Senator STYLES.—That is the way in which the honorable senator responded to my appeal. I did not meet him in the same spirit when the sugar duties were under consideration. I voted and spoke in favour

of a duty of £6 per ton on imported sugar, which was equal to 50 per cent. of the cost of the article, so that I was a consistent protectionist throughout. I did not hesitate to support that measure of protection, although Senator Dawson failed to respond to what he has described as my eloquent appeal on behalf of the machinery manufacturers of Victoria. Much has been said about the proposed rebate to be allowed those who grow sugar by white labour. These people, however, have not been ruined by the adoption of the policy of a white Australia. They have not suffered as some of the manufacturers of Victoria have suffered by the reduction of our duties. I desire to know when a Bill will be introduced to recompense the Victorian manufacturers for the loss they have sustained?

Senator PEARCE.—They are able to export machinery to America.

Senator STYLES.—I am not referring specially to patented machinery. It is true that we are exporting patent machinery to South America, but it consists of a special line of harvesters invented in Victoria, whence most good things come. I believe that Senator Dawson is thoroughly conversant with the sugar question. He has opened my eyes this afternoon to the real position, and I begin to wonder whether this Bill is necessary. He has proved that white men can and will work in the cane-fields of Queensland, and he asserts that they can do any of the work that the coloured races can perform. That being so, let the planters employ white men or give up their cane-fields. Why should we give them any assistance of this kind?

Senator PULSFORD.—Is not the honorable senator a protectionist?

Senator STYLES.—I can readily account for the attitude adopted by honorable senators who come from New South Wales—a State which will receive the lion's share of the benefit to be conferred by this Bill. If I had not known something to the contrary, I should have thought that this Bill had been framed by the Government of New South Wales rather than by the Government of the Commonwealth. I can well understand the silence of the Government of New South Wales, and of the usually noisy Mr. Philp. They have seen this Bill, and are perfectly satisfied. Senator De Largie brought forward the question of Federal sentiment. That is a

good old "gag" to trot out when you desire to obtain something from the people of certain States, and do not intend to give anything in return. It appears to me, however, that we must regard this matter from the stand-point of the hard cash to be paid by those who derive no direct benefit from the Australian sugar industry.

Senator PEARCE.—Western Australia does not derive any benefit from it.

Senator STYLES.—I know that is so, but when one looks into the figures which have been furnished by the Postmaster-General he is somewhat staggered. It is proposed that the excise duty shall be distributed upon a consumption basis, while the rebate shall be paid *per capita*. Let me show what a nice little arrangement this is: Under this proposition New South Wales, which has grown sugar by white labour for the last 30 years, will receive, on the consumption basis, £168,000 excise in respect of the 56,000 tons of Australian sugar she consumes, while she will contribute £21,642 towards the rebate. Contrast these figures with the treatment to be meted out to Victoria. Victoria will receive £24,000 for the 8,000 tons of Australian sugar she consumes, while she will pay on a population basis £18,786 towards the rebate.

Senator PEARCE.—What will she derive through the Customs duty on sugar?

Senator STYLES.—I shall come to that point presently. In other words, New South Wales on a consumption basis—and I am not grumbling at that—will receive seven times the amount that Victoria obtains in the form of the excise duty.

Senator PULSFORD.—The honorable senator means that the consumers pay that amount?

Senator STYLES.—I admit that such is the case, but the money passes through the Commonwealth Department into the coffers of New South Wales. That State will receive seven times the amount that Victoria will obtain, while she will pay only £3,000 more by way of rebate—that is the Government proposition.

Senator DRAKE.—Where does the honorable senator find those figures?

Senator STYLES.—I have taken them from the printed statement circulated by the Postmaster-General. On page 3 of that statement it is set forth that £168,000 is the estimated excise duty received by New Wales on 56,000 tons of Australian

sugar consumed there during the year 1902-3. It seems to me that Senator De Largie hit the nail upon the head, although he did so perhaps unwittingly, when he said that the consumption basis was the proper one to adopt. No doubt it is. If we are going to allocate the excise to each State in proportion to the consumption of Australian-grown sugar—and this is a fair way of looking at the matter—why should we not allocate the rebate according to the consumption of white Australian-grown sugar in each State? The position would then be altered.

Senator DRAKE.—It would alter from year to year.

Senator STYLES.—It must alter under the Government proposal. Surely the Postmaster-General does not suppose that the quantities which have been named are fixed?

Senator DRAKE.—They will vary very slightly.

Senator STYLES.—We are told that the Government scheme will work out all right by-and-by; that when sufficient sugar is produced in New South Wales and Queensland to supply the requirements of Australia, there will be no bother. It is natural to suppose that there will not be any trouble, because all the other States will do the paying under this arrangement; but are we to wait until that time arrives for fair play and justice to be dealt out to us? I have never heard of a more outrageous or unfair division. It is natural that honorable senators from New South Wales should smile, for that State will enjoy the lion's share of the benefit of this proposal. Let us see what it is according to Senator De Largie's idea. These amounts should be arrived at on a consumption basis. That seems fair, and I believe that it would be the correct thing to do, seeing that the Constitution provides that the customs and excise duties shall be allocated in that way. The excise calculated in that way would amount for New South Wales to £168,000, but that State would have to pay £44,400 rebate, instead of £21,642 as proposed by this Bill. In the case of Victoria the excise on the consumption basis would amount to £24,000, and the rebate upon the same basis would be only £2,500, instead of £18,786 as proposed under this Bill. Now as to the duty. Of course we get the import duty, but who pays it? It is the people of Victoria, South Australia,

or Tasmania, as the case may be. In the case of Victoria the import duty is paid into the Treasury here, but the money does not come out of the pockets of the people of Western Australia; it comes out of the pockets of the people of Victoria.

Senator PEARCE.—Who pays the excise duty in New South Wales? Is it not the people?

Senator STYLES.—The people pay the excise duty, but it is their share of the rebate under this Bill that I am complaining about.

Senator Sir JOHN DOWNER.—And in any case the excise duty is much less than the import duty.

Senator STYLES.—It is only one-half of the import duty. There is another consideration which presents itself to a protectionist mind, and which I have not heard touched upon yet. According to the tables with which we have been supplied, we in Victoria must have sent something like £700,000 out of this State for sugar; while in Queensland they have kept the whole of their money paid for sugar in the State, and have also received money from other States. It is a matter for consideration whether this is not worth thinking about. Was it not one of the arguments in support of the imposition of a duty of £6 per ton upon sugar that we should keep the money in the country and give employment to our own people? Queensland and New South Wales have had all the advantage of the arrangement, whilst the people of Victoria have sent £700,000 to Mauritius or some other country for sugar, and they had to pay £6 per ton duty upon it when it was landed here. That has been the position of all the States with the exception of New South Wales and Queensland. In those States the difference between the revenue and excise duty, some £5 per ton, has acted as a protective duty. I do not grumble at that, nor, as one of the representatives of Victoria, do I grumble at contributing something towards the rebate proposed, but I do complain of the method of payment, and of the amount which it is proposed that each State shall pay. New South Wales produced 85 per cent. of her total production of sugar by white labour, and we are told that she has been doing that for many years, yet she has to pay between £21,000 and £22,000, or only £3,000 more than Victoria, and, whilst we only get £24,000 from the excise duty, New South Wales gets

£168,000. I shall certainly oppose the proposed distribution of the rebate, and, speaking on behalf of my own State, I think the proposal of the Bill is most outrageous and unjust. The condition of things in South Australia is worse than in Victoria, only in a smaller way. In the case of South Australia there is an absolute loss, because that State got no excise duty at all. I should like to put two or three figures before the Senate to show the relative position of the States if different ways of dealing with the question were adopted. On a population basis, after paying the rebate, New South Wales would have £76,968 and on a consumption basis £123,600, whilst under this Bill it is proposed that she shall have £146,358 after paying her share of the rebate, as set forth in the schedule of this Bill. On a population basis Victoria would have £67,133, that is net, after deducting the rebate from the excise. On a consumption basis she would have only £21,500. I think that is the fairest way, but under this Bill she would only have £5,214. The difference between the excise she would receive on the 8,000 tons of Australian sugar she consumed and her share of the rebate would only be £5,214, whilst the difference in the case of New South Wales would be £146,358. I do not know that I can add anything to what I have already said.

Senator MCGREGOR. — The honorable senator has made out a very good one-sided case.

Senator STYLES.—If the case I have made out is half as much one-sided as the proposal in the schedule to this Bill, I must have done something out of the ordinary run of things. It appears to me that New South Wales, employing nearly all white labour, is to take the lion's share of the rebate, or as much as all the other States put together, and to do about one-third of the paying. New South Wales will under this proposal pay £22,000, which is about 36 per cent. of the total amount. That will be her share of the paying under this Bill. I complain that it is not fair to adopt the consumption basis in the apportionment of the excise to each State, and then to adopt a population basis for the allocation of the rebate. Either a population or a consumption basis should be adopted for both. I am not complaining that Victoria should be asked to pay a share of the rebate, but I say that she should not be penalized in the way proposed by the Government. If the

schedule attached to this Bill was not prepared by the New South Wales Ministers it ought to have been.

Senator PLAYFORD (South Australia).—I wish only to say a very few words on this question, which has been very fully debated. I should like to remind honorable senators that this Bill has nothing to do with the question of a white Australia or with the question of free-trade and protection, both of which have been dragged into the debate. In the course of the remarks I may make I may tread upon the corns of some of the white Australia gentlemen, but it will be absolutely unintentional, because I have done something in my own State towards securing a white Australia, and at a conference held in Sydney I did what I could to induce the whole of the States to adopt uniform legislation to keep out black and yellow labour. I was one of those who assisted in that matter, though whether I took a principal part in it or not I do not know. My views on the question of a white Australia have been known for a great many years, and I have never seen occasion to alter them. But this not a question of a white Australia at all; it is a question of common fairness. We decided last year that we would give a rebate of £2 per ton to those persons who grew sugar from either beet-root or sugar-cane by white labour. That is absolutely the law in this country; but we are asked by the present Bill to say that we shall not give the amount by way of rebate, but as a bonus, which is quite a different thing, and which causes the incidence of the tax to fall differently upon the different States, and inflicts, as I contend, hardship and unfairness upon certain of the States, whilst it benefits unmistakably the State of New South Wales, which really ought not to get any benefit under the circumstances, to a greater extent than any other State in the Commonwealth, not even excepting Queensland. But what has taken place in the interval? Not only did we pass a law last session that this money should be paid by way of rebate, but we are under a Constitution which distinctly provides in the latter part of section 89 that—

The Commonwealth shall pay to each State, month by month, the balance in favour of the State.

What has taken place in the interval? The Government have not only disregarded the

law we passed last year with regard to the rebate, but they have acted in contravention of the Constitution, and instead of dividing this money month by month as directed by the Constitution, they have kept it in a suspense account. They have, I believe, given a small portion away to Queensland, and a little to another State, but they have practically kept the whole of the amount in a suspense account, and they now ask us to deal with it in a manner quite different to that upon which we agreed last year. They are further proposing to make this Bill retrospective in its character, so as to deal with something which we settled last year. The Ministry have absolutely defied the Constitution, and they are asking us by this Bill to say—"We shall not call you to account for it, but we shall agree that what you did was right in the peculiar circumstances of the case." I contend that they did wrong all through the piece. They had no right to keep that money in the suspense account when the Constitution distinctly directs that they shall divide it month by month among the various States.

Senator PEARCE.—How long have they kept it?

Senator PLAYFORD.—It does not matter how long. It would not matter if they had kept it only for a day; but, as a matter of fact, they have kept it for many months.

Senator MCGREGOR.—Each State got the one-fourth the Constitution allowed it.

Senator PLAYFORD.—I say that they had no right to do what they have done in defiance of the wishes of Parliament, as expressed in the legislation of last session, and in defiance of the Constitution.

Senator MCGREGOR.—Did not each State get the one-fourth which had to be returned?

Senator PLAYFORD.—Senator McGregor does not appear to understand the position. Section 89 of the Constitution provides that—

Until the imposition of uniform duties of customs—

1. The Commonwealth shall credit to each State the revenues collected therein by the Commonwealth.

It is then provided that the Commonwealth shall debit to each State the expenditure therein of the Commonwealth incurred solely for the maintenance or continuance as at the

time of transfer of any Department transferred from the States to the Commonwealth. And then under paragraph (b) it is provided that the Commonwealth shall debit to each State—

The proportion of the State according to the number of its people in the other expenditure of the Commonwealth.

Having debited all the expenditure, the Commonwealth has then to give the balance to the various States, and the question of the one-fourth has nothing to do with this matter. The one-fourth is the limit of the amount that the Commonwealth can expend, and has nothing whatever to do with this case. Then the third sub-section of section 89 provides—

The Commonwealth shall pay to each State month by month the balance (if any) in favour of the State.

I have stated the position we are in, and I say that many Ministries have been turned out of office for less playing with the Constitution than that. Yet the Government coolly ask us to make this Bill retrospective. They should have divided the money received from excise amongst the States month by month long before this. If they considered that the arrangement for the payment of a rebate was not a good one, and that a bonus would be a more just and a fairer principle to adopt, they could then have introduced this Bill, but they should certainly not have made it retrospective. I have stated the position we have to face. If the Senate should consider a bonus fairer than a rebate it should say to the Ministry—"You ought to have acted in accordance with our instructions and the directions of the Constitution Act, and we shall not, under any circumstances, make this Bill retrospective in its operations." Coming to the question of a bonus or a rebate, the growth of sugar is confined to two States. The article having been grown in these States, and the expenditure having been incurred there for their benefit, surely the States which gain the benefit to be derived from the bonus ought to bear the burden? Why should we who gain no benefit pay under this bonus system? Look at the position of South Australia, which consumes no Australian-grown sugar. This year it will have to pay to the Treasurer £5,000 odd on account of this alteration of the law under which we understood that the rebate was to be paid by the States that grew or consumed the article.

We had not the slightest anticipation that South Australia would be called upon this year to provide this money. The Bill is wrong in principle. The Government ought not to have paid into a suspense account the moneys which they received from the excise duty. The Bill should not be retrospective in its effects. Let me now refer to two or three statements which have been made. When honorable senators are on their feet, they let out things which, I believe in their saner moments, they would not utter. I suppose that there is no man who would more strongly support this bonus system than Senator Dawson. Arguing not so much in favour of the bonus or rebate, as against certain statements by Senator Neild, and also on other points which are not affected by the Bill, he had finally to admit that they did not want the bonus. He considered that the poor wheat-growers in the various States who were struggling against adverse circumstances, and who were so hard up, were just as much entitled to the bonus as the sugar-growers in Queensland or New South Wales. Here we have an admission—made in an unguarded moment, I believe—that a bonus is not wanted for the sugar-growers. Senator De Largie has said that there is no difference between a rebate and a bonus. Evidently he has not read the excellent return which has been laid upon the table.

Senator PEARCE.—He said that there was a difference; and he added that he could not understand those who said there was no difference.

Senator PLAYFORD.—I am very sorry if I misunderstood the honorable senator. It is the contention of Senator Millen, who is supported to a very considerable extent by Senator Dawson, that we should not fix a time when cane-growers can no longer come under the operation of the Bill—that it should operate right on from the 28th February until it is exhausted. Their argument is certainly a very strong one. In the first place it is that in ninety-nine cases out of one hundred the growers who have come under the Sugar Rebate Act originally planted their cane with black labour, and were precisely in the same position as those who may come under the law next year, having, in the meantime, dispensed with black labour. Their cane was, however, originally planted with black labour. They argue—and it appears to be a very strong argument—that if we give the bonus to the men who

happen to come under the Bill on or before the 28th February last, we ought, in common fairness and justice, to give it to men who are willing to dispense with black labour after that date. If the object is to encourage the production of cane by white labour, we certainly ought to give the bonus to men who, through being under contract with kanakas, are not in a position to get rid of them until the lapse of twelve months, or eighteen months, or two years, or more. I do not know what the Minister will be able to say in reply to the case which has been put, but it appears to me to be absolutely unanswerable. I cannot see any difference between one class of planters and the other. If the object is to encourage the substitution of white labour for black labour, we ought to allow one class to come under the Act precisely as we allow others, because there is practically no difference in their position, having all planted their cane with black labour. If we do not take that course the planters who have been under contract with kanakas will not try to employ white labour in any circumstances, and the bigger estates will be worked instead of being cut up into small lots which a man could manage with the assistance of his family and a few labourers. On big estates the planters will undoubtedly use kanaka labour as long as they can. If the object is to extend the growth of sugar by white labour, and to ease down the trouble that may be occasioned at a time when nearly the whole of the kanakas will have to leave, we ought to simply say that the cultivation of the land for twelve months by white labour shall enable the planter to get the bonus or rebate, whichever may be agreed upon. In the interests of South Australia and Victoria, as well as for other reasons, I hold that it would be a great deal better to adhere to the rebate system than to adopt this entirely new system in the very peculiar circumstances in which it is proposed. I can hardly forgive the Ministry for a change of front for which I can see no possible reason, unless it is to placate a number of persons in the mother State.

Senator PEARCE (Western Australia).—Like Senator Playford, I feel that senators representing other States than Queensland and New South Wales can hardly view the measure with any great satisfaction, seeing that the payments which originally came from two States have to be debited against all the States. I suppose

that the Government have good reasons for proposing this change. They have certainly given us a very good reason in this respect, that had Queensland kept out of the Commonwealth, probably she would not have interfered for some years with this labour question. We must remember that it was the votes of other States as well as the votes of Queensland which practically settled the question, and that had the representatives of Queensland in the Senate and the other House all been opposed to the adoption of the white labour principle on the cane-fields, the representatives of the other States would have got up an agitation until it was carried out. In Western Australia we were all pledged to the abolition of kanaka labour in Queensland, irrespective of what its desire in that respect might be. We must feel that, to a certain extent, we have brought this trouble on our own head. The people of Western Australia brought it on themselves by demanding the use of white labour on the cane-fields.

Senator PLAYFORD.—Why should it be a bonus instead of a rebate? Queensland will lose £862 under the bonus system.

Senator PEARCE.—Because the rebate would fall primarily upon two States. Queensland will not sacrifice so much under the bonus system as she did under the rebate system. The honorable senator took some exception to the remark of Senator Dawson that he did not look upon the measure as being entirely necessary. He pointed out that, when he compared the wheat-growing industry with the sugar-growing industry, the latter seemed to him to be the more profitable; and Senator Playford seemed to draw the inference that the proposed bonus is not necessary.

Senator PLAYFORD.—Senator Dawson was on his free-trade fad at that particular moment.

Senator PEARCE. — The honorable senator must remember—and I feel sure that Senator Dawson intended to point out—that those of us who voted for the rebate last session, as we shall vote for the bonus this session, did not vote in that way because we thought it was necessary in order to establish the sugar industry in Australia. If it were a question of establishing a new industry I should not vote for this Bill, because I believe that it could be established without the assistance of a bonus. It was established in Queensland, and

worked under certain conditions—the presence and the use of a large quantity of cheap servile labour. The Commonwealth comes into existence, and at one fell swoop it cuts off vested interests, and says to the planters—“Within a certain number of years we shall abolish the use of cheap servile labour, and compel you to fall back on white, independent, and reliable labour. We recognise that in the displacement of coloured labour by white labour there will be an interference with the vested interests which have been recognised by the law of your State. In order to ease the blow, and compensate them for their vested interest in cheap labour, we propose to grant them a bonus. That is how I regard this Bill, and how I am sure Senator Dawson looks upon it. My view is borne out by the fact that the Bill is only a temporary measure, and that the rebate of excise originally proposed was only a temporary expedient intended to last till 1907, running concurrently with the Pacific Islands Labourers Act, which provides that the kanakas shall be deported from Queensland before that date.

Senator CHARLESTON.—We have kept them out of other States without such provisions.

Senator PEARCE.—In the State of Western Australia we have not required to keep out any kanakas by legislation. No attempts have been made to implant the sugar industry in the State I represent, but if any planters like to try the experiment in the north-western portion, they will be able to take advantage of the provisions of this Bill.

Senator FRASER.—The sugar industry in Queensland was started without any of these advantages.

Senator PEARCE.—The planters had the right to employ cheap servile labour, and also had the advantage of £5 per ton import duty on sugar. I take exception to some of the remarks that fell from Senator De Largie, but on quite different grounds from those which appeal to Senator Playford. I understood Senator De Largie to say that some people believe that a bonus and a rebate of excise are synonymous, and that he supported that statement. I am of opinion that they are synonymous in operation, but different in their incidence. The incidence of taxation is all we are altering now.

Senator Sir JOHN DOWNER.—Making the wrong man pay!

Senator PEARCE.—Whether it is the right or the wrong man who pays is a matter of opinion; but at any rate attempts were made to compel the consumers of sugar grown by white labour to pay for the transition from black labour to white in Queensland. Now we propose to make the whole population pay, whether they consume white-grown or black-grown sugar. That is the position.

Senator Sir JOHN DOWNER.—What the honorable senator calls payment, I call allowance.

Senator PEARCE.—It is a matter of payment so far as the taxpayer is concerned. The difference is that instead of those States which consume Australian grown sugar bearing the burden, the whole Commonwealth has to bear it, irrespective of the incidence of consumption. One statement which I should like to make in connexion with this Bill is that it does not seem to have struck the Queensland senators that this new arrangement places them in a more disadvantageous position than the old one did in one respect. This is a question which, undoubtedly, will be raised in 1907, with regard to the continuance of this kind of legislation. Under the old system, the parties to the continuance of the present policy—the parties who are most interested—were New South Wales and Queensland. But under this Bill greater opposition will be aroused to the continuance of the bonus, because of the fact that the whole of the States of the Commonwealth will have to bear the burden. This fact must ultimately affect the question of the continuance of the bonus, and must, therefore, be of great interest to Queensland. The representatives of Queensland should bear in mind that they are bringing that opposition into the scale against them whenever they come—if they do come—to ask for the continuance of the bonus. They will now have the interest of four States against them, whereas under the former arrangement no such opposition would have been aroused. Now, I wish to say a word with regard to Senator Glassey's amendment. That amendment is a natural consequence of such a Bill as this. But there is one contingency which will arise that I should like Senator Glassey to contemplate. We will suppose that a grower is registered as being entitled to the bonus, because for twelve months he has cultivated his plantation with white labour. We will suppose, also,

that this is the last year for the profitable cultivation of his rattoons, and that next year he contemplates replanting. It may easily happen that the grower may say—"For twelve months I will cultivate with white labour, and so secure the bonus," but when it came to replanting, he might use coloured labour after having secured the bonus on his last crop. Then, having replanted with coloured labour, he might work his plantation for twelve months with white labour and claim the bonus again. Then he might say, "I will dispense with my kanakas or Hindoos"—because he need not necessarily employ kanakas; he could employ Hindoos without having any agreement with them—and might register for the bonus for the next twelve months. It seems to me that we might allow a man by that clever bit of manœuvring to take advantage of this bonus for two years, at any rate, out of the four years, although he employed coloured labour during part of that time. That is a contingency which we should provide against. We should insert some such provision as that, after having registered as a grower by white labour, if a planter goes back to black labour, he should be disqualified from the bonus.

Senator FRASER.—If he returns to black labour, because he cannot help himself—what then?

Senator PEARCE.—I should say that, under no circumstances, if a planter returns to black labour, should he be allowed to secure the bonus.

Senator GLASSEY.—I do not want to encourage the perpetuation of coloured labour.

Senator PEARCE.—It seems to me that there are two years to be looked after—the year when the grower simply cultivates and gathers his crop, and the year when he not only cultivates and gathers, but plants his crop. It seems to be reasonable to suppose that in the year when the planter plants, harvests, and cultivates his crop he must employ far more labour than in the year when he cultivates and harvests his crop.

Senator STEWART.—He does not plant and harvest in the one year.

Senator PEARCE.—I know that. Sometimes, as we have been told, one planting will last for six years. The planter plants in one year, and harvests his crop, say, after twelve months.

Senator DAWSON.—Sometimes.

Senator STEWART.—Generally after about eighteen months.

Senator PEARCE.—Even if he could not harvest in the same year as he planted, what could he do? He could say—"In this year I have to plant and shall not get a crop. Therefore I shall not be able to obtain the bonus and shall go in for coloured labour." He will not harvest any crop that year, and therefore there is no inducement to plant with white labour. Indeed, the inducement would be to plant with coloured labour. Having done so, the planter could continue for twelve or six months, as the case might be, employing Hindoos or Chinamen, whom he would not need to engage under agreements.

Senator STEWART.—He would be disqualified for two years.

Senator PEARCE.—Having harvested the last crop which could profitably be taken off his plants, he could say—"I shall have to plant fresh cane this year, and will engage Hindoos or Chinese to do the planting." Having done so, he could dispense with them and employ white men. Having employed the white men for twelve months, he would be eligible for the bonus. I contend that we should provide against such a contingency by a clause to the effect that if, after having registered as a grower by white labour, a planter subsequently reverts to the employment of coloured labour, so defeating the meaning of this Bill, he shall be disqualified from the further benefits of the bonus. I would suggest either that a new sub-clause be added to Senator Glassey's amendment, or a fresh clause inserted altogether. Some such words as the following might be used:—

Provided that such bonus shall not be paid in the case of a grower who having previously registered under the Excise Act of 1901, or under this Act, as a grower of sugar by white labour, subsequently becomes a grower of sugar by black labour.

Perhaps Senator Glassey will look into the matter, with a view of seeing whether it is desirable to add my proposal to his amendment. I now want to take exception to the remark of Senator Playford, deprecating any allusion to the policy of a white Australia in dealing with this question.

Senator PLAYFORD.—We have settled that question.

Senator PEARCE.—I thought so, too; but seeing that Senator Walker, Senator Dobson, and Senator Fraser last week in speaking on this Bill made a vigorous

onslaught on the policy of a white Australia, and Senator Playford did not protest, but remained silent, it was only appropriate that a reply should be made.

Senator FRASER.—I merely said that the kanakas had nothing to do with the question of a white Australia.

Senator PEARCE.—Senator Fraser made a most vigorous attack on the principle of the white Australia policy, as contained in this Bill, and other senators who have supported this kind of legislation had the right to rebut that attack.

Senator FRASER.—It is a blunder from beginning to end.

Senator PEARCE.—No more thorough rebuttal has been made of any statement than that made by Senator Dawson this afternoon. If his speech needed amplification—and it does not—I have here an affidavit signed by Mr. Taylor bearing out Senator Dawson's statement. Mr. Taylor has published it in the newspaper from which Senator Dawson has quoted. He refers to specific statements in the pamphlet which has been alluded to. I put it to honorable senators who care to look into the matter that this pamphlet bears upon the face of it the imprint of a trick to defeat the white Australia policy. It was a most audacious trick. I am surprised that any reputable firm, or that the president and secretary of any association, should have identified themselves with such a pamphlet as this when they knew that the means of refuting it were available in Queensland.

Senator WALKER.—Why did Mr. Taylor sign that letter?

Senator PEARCE.—I will read to the honorable senator what Mr. Taylor says—

I asked for the deposit money, £100. I was sure of getting the money for the cane, and I asked the general manager for the deposit. He said he had nothing to do with it; it was in the hands of the directors. This was after I had seen Buchanan. I went and saw the acting secretary, Mr. Crees, and he said the directors had left it all to the chairman of directors, Mr. Buchanan. I asked Buchanan for the deposit money, and he asked me to sign a document, to the effect that we had not fulfilled the conditions, and that we were getting it by the grace of the directors. I saw the men and they would not sign it. They were shareholders with me in the deposit. I went back and told Buchanan, and said that I did not understand the word "grace." The men advised me to go to Cairns and get advice on the matter. I got advice, and from Cairns sent a letter. When I came back to the Mossman the men were all in a hurry

to get away, and told me to make the best arrangements I could, but get the money. I then saw Buchanan, and he told me the conditions were the same as before. He wrote out a letter for me to copy, and I objected to several things, which he modified. One thing was "by the grace of the directors." He substituted "favour" for it. There was something else, but I cannot remember what it was. That is what I meant by "a much worse letter." I asked him what he wanted the letter for, and he said he only wanted to justify himself with the shareholders; he wanted to make no use of it whatever outside the mill company. He said he would make no political use of it. He told me that distinctly. There is no doubt about this. I am quite positive. I would not have signed the letter of 8th January had I known it was to be put in a pamphlet and issued.

I ask honorable senators to bear that fact in mind.

Senator FRASER.—When was that statement made?

Senator PEARCE.—No date is given.

Senator FRASER.—If it was written only a week ago it would be impossible for a reply to be available now.

Senator DAWSON.—I assure the honorable senator that the paper from which Senator Pearce is reading is the Minister for Trade and Customs' copy of the affidavit.

Senator PEARCE.—The affidavit continues—

The only thing I was sorry for was that I did not have the £100 myself, and I would have chanced it.

I ask honorable senators to consider the situation in which this man was placed. He was representing a syndicate consisting of some twenty men, who were all clamouring for their money in order that they might get away and add to their earnings elsewhere. With the distinct pledge of the manager of the company that he only wanted this letter to justify himself with the shareholders, and that he would not make any political use of it, is it a matter for surprise that this man, in order to avoid any trouble, should have signed that letter?

Senator WALKER.—Does the honorable senator justify the signing of such a letter?

Senator PEARCE.—I say that having regard to these distinct pledges and to the pressure of his fellow workmen who desired to get away, Taylor was quite justified in signing the letter. He continues in his affidavit—

I never wrote that letter of my own free will. He (Buchanan) is not telling the truth in saying I did. He wrote the letter and I copied it, and he said, "Those are the terms, and the terms only."

He goes on to say* that—

During the time the men were cutting, I think they averaged about 7s. 2d. per day.

In order to show how worthy of credence the pamphlet issued by the Mossman Mill Company is, let me draw the attention of honorable senators to the statement made at page 4, that—

The average number of tons of cane delivered per day up to the 3rd September, was 35·78, and, with the combined gang, 52·8, although in the latter case the contractor agreed to deliver not less than 70 tons per day.

There is a very ingenious piece of sophistry associated with that statement. The agreement for the delivery of 70 tons per day was not made until after the 3rd September, but that fact is not mentioned. The statement which appears in the affidavit, and in the letter to the press, that the gang was supplying more than 40 tons per day, is borne out by the Customs returns. Surely it cannot be contended that this man, who was a sub-contractor to a planter, had means of faking the Customs returns so as to cause them to agree with his own figures? The returns show that 250 tons a week were delivered, and that gives an average of over 40 tons a day.

Senator DAWSON.—That took place after the contractor had received a letter requesting him to decrease the daily supply.

Senator PEARCE.—Yes. The trap was very well laid. First of all, Taylor and his party were told that they must cut 40 tons a day. They did so. Then they were instructed to supply 70 tons a day. They carried out that instruction, and suddenly they received an intimation that they were to reduce the supply to 40 tons daily. Taylor then recognised that he would not require so many hands, and after he had allowed a number of his men to scatter to the four winds of the earth, he was called upon within a few days to increase his output. Was that fair treatment?

Senator FRASER.—If that statement is true it was very unfair.

Senator PEARCE.—I was satisfied that the honorable senator's spirit of fair play would lead him to look upon the matter in that light.

Senator FRASER.—I repeat that if the statement is true the treatment was very unfair.

Senator PEARCE.—Taylor has made an affidavit, and if the statements contained in

it are untrue he can be prosecuted for perjury. He has also written a similar letter to the Queensland press. The other side have also had an opportunity to refute his statements in the public press, but they have not attempted to avail themselves of either course. I should like to point out that this incident occurred in connexion with a mill further north than any other in Australia.

Senator WALKER.—There used to be a mill further north than the Mossman mill.

Senator PEARCE.—It is now further north than is any other mill in Australia, and 6,000 tons of sugar-cane were cut and harvested there by white men in the heat of December. We might well say that this mill, instead of being called the Mossman Sugar Mill, should be known as the "Mossman Lie Factory." Such a term would properly designate its character. Before I resume my seat, I wish briefly to refer to what I regard as a very amusing paragraph which has appeared in the press relative to the rebate on sugar. I find that those who desire to make out a case for Federal extravagance, have set down the amount expended by way of rebate on sugar as new expenditure by the Commonwealth. In that way they have sought to bolster up their case for Federal extravagance. That statement has been made not only in the press, but by the Law Institute, while the supporters of what is known as "the reform movement" have made the same assertion on the public platform. In order to make up a total expenditure of £600,000 per annum, these people have included the £60,000, which represents the rebate on sugar, in their estimate.

Senator STEWART (Queensland).—I intend to support the second reading of this measure, for I think it is absolutely necessary in order that a very serious misconception may be removed. When the Bill providing for the rebate on sugar grown by white labour was passed, I was under the impression—and I believe that impression was shared by every member of the Parliament—that the cost of cleansing Australia of the *kanaka* and other coloured labour was to be borne, *pro rata*, by the people of Australia. It was discovered subsequently, however, that under the Act, that distribution could not be made. I must say that I was very seriously disappointed with the anti-Federal speeches which were delivered this afternoon in the Senate. It

would almost appear as if the Federal spirit having leapt up to the heavens, so to speak, has collapsed, and is crawling wretchedly across the surface of the earth. We have no Federal spirit. We have honorable senator after honorable senator declaiming against the States which they represent being called upon to pay any portion of the cost of a white Australia.

Senator MCGREGOR.—They do not represent the opinions of their constituents.

Senator STEWART.—That belief is the only pleasing feature in connexion with the debate. I do not believe that those who spoke in that strain represented the views of their constituents. Does Senator Downer tell me that the people of South Australia object to pay their share of this cleansing operation?

Senator Sir JOHN DOWNER.—The honorable senator may gather from my speech what they object to.

Senator STEWART.—It is one of those matters which I cannot understand. It is impossible to believe that the people of Australia, having come deliberately to the decision that the kanakas must be sent out of the country at any cost, and having made up their minds to bear a portion of that cost, are now anxious to avail themselves of some legal quibble, and crawl out of their responsibility. I was especially surprised to hear Senator Playford express the hope that this Bill would not be made retrospective. Does the honorable senator desire that Queensland and New South Wales shall pay the whole cost of this policy? If Port Adelaide were being strongly fortified, it would be just as reasonable for me to contend that South Australia should pay the whole cost of such fortification. The bringing about of a white Australia is just as much a national concern, and the cost of it ought to be borne by the whole community, just as is the defence of South Australia. That is the position I wish to submit. Australia is not to be made white in the interests of Queensland. This policy is to be carried out in the interests of the whole continent, and that being the case, the entire continent should be called upon to bear a share of the expense. I was very sorry to hear Senator Pearce give expression, in a faint way, to the anti-Federal spirit. He said that the people of Queensland might find in the end that this Bill would injuriously affect the

industry, if the proposal were made to extend the period during which the bonus would be paid. That is a matter for the future. Let us do justice for the present, though the heavens fall. The consumption of sugar has really nothing to do with this question. What we are dealing with is the cleansing of this continent from the kanaka. The whole continent has taken the business in hand, and the whole of the people of Australia should pay the cost. I intend to support the amendment of which notice has been given by Senator Glassey, for I think it is much fairer than the proposal in the Bill. In view of the fact that our object is to bring about a white Australia I think we ought to give every encouragement to all those engaged in the industry to employ white labour. That is why I intend to support Senator Glassey's amendment. I trust that the majority of the Senate will also vote for it, because I believe that in that way we shall be promoting the interests of a white Australia much more powerfully than if we agree to the Bill as it stands. I intended to have something to say with regard to the utterances of Senator Neild and Senator Fraser, but after the complete and scathing exposure by Senator Dawson, I think that will be altogether unnecessary. There is, however, one matter to which Senator Neild referred, upon which I should like to say a word or two. The honorable senator told us that in some of the districts cane-growers were qualifying for the rebate by sweating their wives and children, by working them in the cane-fields. I met a number of women in the Mackay district, who, before the rebate was ever heard of, were in the habit of working in the cane-fields, and with their children also. We know that it would be impossible to carry on any kind of agriculture in Australia without the aid of women and children. If we are to pass laws prohibiting women and children from engaging in agricultural occupations, so far as this continent is concerned, we might as well shut up shop. For my part, I believe that work in the fields is a great deal better for the physical health, the comfort and happiness of women and children, than is employment in the slums of the city. I would much rather see them working in cane-fields, orchards, conducting poultry farms and operations of that character, than I would see them behind counters, sitting at sewing machines, or in the various occupations which they follow in

our large cities. I may tell the honorable and gallant Senator Lt.-Col. Neild that, at one place in the Mackay district, where Mr. Bamford and I spoke, a unique honour was conferred upon us. After we had addressed a meeting, one lady got up and moved a vote of thanks to us. In doing so, she said that she had cut, planted, and loaded cane, and that she had also trashed cane. I can assure honorable senators that she did not look a bit the worse for it. I was a good deal surprised to hear that, but I was very much more surprised when another lady got up to second the motion, and explained that she also had cut, loaded and trashed cane, and had hoed it. I was assured that a number of women in the Mackay district had done this work, and some of them had gone into the fields, I am proud to say, rather than employ kanakas. I do not think it is desirable to continue the discussion on this Bill. I am very glad that the Government have introduced it, but I hope that the Postmaster-General, as the representative of the Government, will agree to the modification to be proposed by Senator Glassey, which, I think, is in the right direction.

Senator MACFARLANE (Tasmania).—I do not intend to say very much upon this Bill. It seems to me that the necessity for it arises from mal-administration. It was clearly understood when the Excise Tariff Bill was before us that the receipts from the excise duties were to go to the State of consumption. We are told now that the results arising from that arrangement are unfair. Another difficulty that is raised is that sugar grown by white labour cannot be traced to cane grown by white labour. That I think is the contention of the Postmaster-General.

Senator DRAKE.—That is so.

Senator MACFARLANE.—I have heard that, but I am not sure that it has been proved. If that is proved, a necessity for this Bill will have been shown, but, if that cannot be proved, there is no necessity for this measure. There is, I admit, a difficulty in paying £2 per ton to the cultivator of the cane before the excise duty of £3 per ton is collected upon the sugar. That is a difficulty which must be surmounted by administration if this Bill is not passed. Some honorable senators are complaining of a loss of revenue to their States. In my opinion that arises in the first place from

the free-trade policy within the Commonwealth, and secondly, from the retention of the excise. I do not approve of this Bill, and I hardly think it is necessary; but I do recognise that the Commonwealth Parliament having passed the Alien Immigration Restriction Act and the Pacific Island Labourers Act, in equity the cost involved should be borne by the Commonwealth, and should be borne proportionately by the States of the Commonwealth. In my opinion nothing could be fairer than the proposal that the payment should be on the population basis. I do not agree with Senator Walker that this is richly deserved assistance to the State of New South Wales. I do not think the assistance is richly deserved, nor do I quite agree with other honorable senators that there ought to be any differential treatment of Queensland and New South Wales. That I think is impossible.

Senator DOBSON.—It is impossible under this Bill, but it would be just if we could carry it out.

Senator MACFARLANE.—It would be just, but I think it is impossible to give effect to it. At present I do not feel justified in voting against the second reading of this Bill, because I am not certain that the Postmaster-General is in error in the statement he makes as to the difficulty of tracing sugar grown by white labour. I hope that in Committee the bonus proposed will be reduced, as I think it is too high. I think also that we should provide that twelve months' cultivation by white labour should be sufficient to secure the bonus to the grower. Those are amendments which might well be made upon the Bill.

Senator PULSFORD (New South Wales).

—Some of the Ministerial chickens are coming home to roost, and they do not appear to be very pretty birds. I listened this afternoon with a good deal of interest, and a sarcastic sort of pleasure, to statements made by eminent lights in the protectionist world, like Senators Playford, Styles, and two or three others, who do not seem to be quite happy. They are very much like a cockroach that has been spinning round on a pin, the pin being protection. They have got into trouble, and they do not know how to get out of it. Three or four years ago, before federation was consummated, the question of the finances of federation engaged a good deal of attention,

and I pointed out the desirability of putting a good round tax on a limited number of items, so that the great mass of the trade of the Commonwealth might go free. I mentioned sugar as one of the few articles which might fairly be subjected to a heavy tax, and I said that a tax of £7 per ton would produce a sum considerably exceeding £1,000,000, and that with a Customs duty of £7 and an excise duty of £7 per ton, every penny paid by the people would go into the Treasury, and be there for the use of the Commonwealth. No sooner had I made these statements than Sir Edmund Barton went through the Commonwealth addressing various public meetings, and, with every hair on end, he represented what a fearful thing it was that I was proposing—that there should be a tax of £7 per ton on the poor people who consume sugar. He tried to terrify them with the immensity of the exaction which I proposed to make on the pockets of the consuming public; but he did not say I proposed that every penny the people paid should go into the Treasury. What did the Government do when they submitted their Tariff? They proposed not a duty of £7 a ton on sugar, but a duty of £6 a ton, the bulk of which ultimately—sooner or later—was to go anywhere but into the Treasury. That was the position, and to-day we have evidence that this is bringing about already a state of affairs which is causing State to rise against State, and interest against interest, and creating anything but that brotherly sort of feeling which, I think, we senators wherever we sit, desire to exist. Something has been said about the price of sugar. I believe there are some honorable senators who hold that, although a duty of £6 has been imposed, the people are not paying £6 a ton extra. I believe it has been openly said by several speakers in this debate that although the Customs duty is £6 a ton, yet sugar is not really enhanced in price thereby.

Senator HIGGS.—Not to the consumer.

Senator PULSFORD.—I am very glad to hear that statement made. It appears to me that a reasonable business man, or even a political man, before he committed himself to a statement such as that, would wish to know a little about the prices of sugar, not only in Australia, but in the great market of the world, and find out whether, if our Tariff had not been in existence, sugar would have been cheaper than it has been. The market which I suppose above

all others controls the price of sugar in the world and indicates its value everywhere is the market for German beet sugar. In the year 1900, 88 per cent. beet sugar, which is used mainly for refining, was worth f.o.b. at Hamburg 10s. 11d. a cwt., and last year it fell to 6s. 4d. a cwt.; a fall of 4s. 7d. a cwt., or more than £4 a ton, which placed sugar at a price unprecedented in the history of the world. What is known as first mark granulated sugar—like that which we are accustomed to use of Australian make—was selling in 1900 at 12s. 6d. a cwt., and last year it fell in Hamburg to 7s. 9d. a cwt.; a fall of no less than 4s. 9d. a cwt. or £4 15s. a ton. If £4 be put on to a price and £3 be taken off, the addition made by the increase in price in these States can be very easily hidden. Again, in Queensland the price of sugar had been uninfluenced by any Tariff up to the date of the imposition of the Federal Tariff, but a reference to Queensland prices will show that the mere rumour of the imposition of a duty caused a gradual rise, and that, on the day after the Tariff was brought into the House of Representatives, the price was raised an additional amount, bringing it up to more than it had been two or three weeks before, of £6 a ton.

Senator HIGGS.—Is that wholesale or retail?

Senator PULSFORD.—I am dealing with wholesale prices, and everybody, I suppose, has common sense to know that wholesale prices are ultimately the basis of retail prices. If sugar rises in value £5 per ton, the retailers do not take half-a-penny a pound off their price. That is not the course of business, and it is of no use to discuss things which do not and cannot take place. A little confusion in the price of sugar may arise in one way. There has been a great deal of sugar imported into Victoria owing to the shortage in Australia, and in the port of Melbourne the Colonial Sugar Company are apt to cut their prices, in consequence of the competition with the imported article, rather more than they do in some of the other ports; but this does not amount to much. In Tasmania the duty had been £6 a ton, and it is £6 a ton to-day. In South Australia the duty had been £3 a ton, and it is double that amount now. It appears to me that the comparative failure of the Queensland crop has proved more or less of a blessing to several of the

State Treasuries, and in this way has demonstrated the folly of the system which has been adopted by the Commonwealth Government. I should like to draw attention to their original estimates of the yield from the sugar duties, and it will at once, I think, make it quite evident, even to Senator Playford, that the position he has taken up is not a justifiable one. In their original estimate the Government anticipated that South Australia would receive £35,000 from the excise duty, and £12,000 from the Customs duty. Instead of £47,000 it has received this year £97,000, being more than double the original estimate. Surely in the circumstances it is rather an unseemly thing for that State to object to a settlement of this rebate payment on the new plan proposed. There has been a disposition on the part of some honorable senators rather to pooh-pooh New South Wales, and to suggest that it is wanting to get this, that, and the other, and not to pay anything. I find that in New South Wales, which has consumed 67,000 tons of sugar, the consumers have used so much sugar this year that they will have paid £400,000. That is a very large sum; but the State Treasury has only been enriched so far to the amount of £234,000, and if the rebate be deducted from that it will only then have received £188,000. Surely that is a very extraordinary state of things. Senator Styles is an adept in the art of putting things. I dare say that some honorable senators, especially Scotchmen, read some years ago a very interesting article by a Scotchman, under the *nom de plume* of A.K.H.B., on "the Art of Putting Things"—of making things look in a very different light from what they ought to do. There is the art of putting a thing, and there is also the plain way of putting a thing. I would suggest that Senator Styles has been adopting the A.K.H.B. style, and practising the art of putting things. I prefer to tell a plain tale. The plain record would be not a division, and a sort of comical comment on the duty which has been collected under one head, the excise, but the aggregate that has been collected from customs and excise duties. If my honorable friend had done that, all the force would have been taken out of the comments he made; in fact, he would not have been able to make them. I will take the case of Victoria. I should be very glad, if Senator Best is going to

Senator Pulsford.

speak upon the matter, if he will look at the figures I am about to quote. I have turned up the original papers which the Government laid upon the table in introducing the Tariff. They estimated that Victoria would receive in sugar excise £114,000 and from imported sugar £60,000, or a total of £174,000. Owing to the comparative failure of the Queensland sugar crop, Queensland sugar has not been available for consumption in Victoria. Victoria, being geographically comparatively remote from Queensland, has been a large centre for importing sugar. The result is that Victoria has received a very large amount of revenue—more than £300,000.

Senator STYLES.—Who paid it?

Senator PULSFORD.—Who paid it? Have I not been showing that the consumers pay the duty? The consumers of Victoria paid £300,000 odd, and that sum has gone into the Victorian Treasury. If there had not been a protective duty in operation, hundreds of thousands of pounds more would have been secured. Cannot Senator Styles see that he is only furthering my argument? It appears that Victoria has received £130,000 more than in ordinary years the Federal Government anticipated that she would receive. I might say that that is a state of things which ought not to be allowed; that I claimed as a citizen of Australia that New South Wales should share in this large revenue obtained by Victoria. Mind, New South Wales would be sharing if the whole revenues of Australia were pooled; but they are not pooled. The consequence has been that Victoria has received this money, and New South Wales has not. That is obvious. New South Wales is paying a great deal more than any other State, because her population is greater. But it is Victoria that is getting this large sum of money into her Treasury. Whilst we say that we do not ask for a penny of the amount of £3 extra per ton from customs, we do say that it is a very fair and proper thing that the £2 per ton bonus which is going to be given for retiring the *kanaka* from Australia shall be divided over Australia. I am a little bit surprised that Senator Drake did not draw attention to the fact which I am going to mention. The original estimate laid upon the table of the Senate by the Government showed that they themselves anticipated that this charge would be distributed over Australia. But it was

not so distributed. What have the Government done? It is their duty to administer the law; but I submit that it is also the duty of the Government to break the law—to break any law—when justice requires it.

Senator Sir JOHN DOWNER.—That is rather dangerous.

Senator PULSFORD.—I admit that it is dangerous. This is a reason why, in selecting men to fill high offices of State, we ought to be very careful. There never was a Ministry formed that had not, some time or other, to take into consideration the question whether circumstances had not arisen requiring the suspension of a certain law. None can deny that under the Constitution the excise collected ought to have been distributed. But circumstances arose which made it necessary that the Government, if they were to carry out the intention of Parliament, should hold the money until Parliament itself could say what was to be done. In breaking the law in that way the Government obeyed the law more than they would have done by paying the money away in the manner in which certain people say they should have done. I do not wish to debate the measure any further. I am prepared to support the second reading, and in Committee to assist in improving the Bill in one or two directions in which it is capable of improvement.

Senator BEST (Victoria).—My honorable friend who has just resumed his seat, or some extraordinary reason or other seemed to take what he called a “sarcastic delight” in observing what he regarded as some agitation on the Ministerial side of the Senate in connexion with the measure before us. I fear he is indebted to his fertile imagination for such an idea. Then — “still harping on my laughter”—he proceeded to give us the benefit of a learned dissertation on the fiscal question in general, and on the sophistries of free-trade; after which he went on—it was totally irrelevant, I admit—to indicate to us what were the prognostications of the Government some time ago as regards revenue. He wound up by inviting the Senate, by reason of the fact that some other States have benefited so far as revenue is concerned by the results of the legislation which has been passed, to believe that New South Wales had a right to share in the customs revenue of Victoria.

Senator PULSFORD.—Oh, no!

Senator BEST.—That is what my honorable friend said.

Senator PULSFORD.—Excuse me. The honorable and learned senator has misunderstood me. What I said was that the Victorian Government had received a great deal of money, but that I did not make any claim to the increased revenue that had come to them from imported sugar. With the protective incidence of the tax I did not interfere. I said that if we were so foolish as to agree to it we must bear the consequences. But I said that the £2 per ton rebate or bonus was a different matter; that it affected all Australia, and that it ought to be divided on a population basis.

Senator BEST.—Of course, I gladly accept what the honorable senator says by way of explanation. I can only assure him that I noted the fact that he stated that Victoria was sufficiently fortunate in having secured an additional revenue of £130,000 beyond what was originally anticipated, and then he went on to say that he claimed the right to share in that revenue on behalf of New South Wales. That is what honorable senators on this side of the chamber understood him to say; but I am obliged to accept the explanation of the honorable senator, and of course I gladly do so. But while he quotes as against Victoria this additional revenue that she has been receiving, he fails altogether to recognise certain facts—first of all that there is within the limits of New South Wales one of the most important and valuable industries of that State; an industry involving the employment of a large number of people, and a considerable expenditure of money; an industry which we should gladly welcome in our midst under the same conditions; and that that industry receives the benefit of the excise on sugar. The honorable senator, following out his system of logic, says that because Victoria has received an additional revenue of £130,000, or, in other words, because she has received a total revenue of £300,000, therefore her people should pay an additional £19,000 to New South Wales, that being the amount, upon a population basis, which, according to the Bill before us, Victoria will be called upon to pay. This Bill, as we have learnt, meets with the hearty and cordial support of my honorable friend.

Senator PULSFORD.—That £19,000 is not additional to the £300,000; it is out of that sum.

Senator BEST.—Both sums would come out of the pockets of the Victorian people. I am just showing the reasoning of my honorable friend. He argues that because we have received £130,000 in revenue from sugar more than was originally anticipated, we should therefore be called upon, against our inclination and our will, to disgorge £19,000 upon the extraordinary basis set out in this Bill.

Senator PULSFORD.—That is not correct; I did not say that “therefore” Victoria should do so.

Senator BEST.—That is the honorable senator's reasoning as I understood it. Were I to attempt to follow him in other directions, and particularly in regard to his remarks as to the effects of the protectionist Tariff recently passed—in alluding to which he seemed to take such a “sarcastic delight”—he should take an equally “sarcastic delight” in the fact that numerous industries have been established under this very Tariff in New South Wales; and further “sarcastic delight” in the fact that in leading lines New South Wales is now paying considerably less for her goods than she paid under the former free-trade Tariff of that State. These are matters to which I would ask him to turn his attention for the purpose of enjoying “sarcastic delight” if he desires to amuse himself in that way. Turning from the irrelevant matter into which Senator Pulsford's speech has drawn me, I should like to make a remark or two in connexion with the measure before us. The matter has been put with such force by my honorable and learned friend Senator Downer and my honorable friend Senator Styles, and the contrasts presented in the figures quoted by Senator Styles have been so striking, that I would ask the Government to consider the extraordinarily contorted results which the Bill is likely to bring about. In this connexion I admit at once the unfairness of introducing the question of a white Australia.

Senator GLASSEY.—That is the whole point.

Senator BEST.—According to my view, the question of a white Australia had no right to be introduced into the present discussion.

Senator DAWSON.—Who introduced the white Australia question into the debate?

Senator BEST.—I do not pause to inquire, but I am certain that the honorable senator had much to say upon the point.

Senator DAWSON.—In reply.

Senator BEST.—That may be so. The point I desire to make is that according to the figures which have been circulated, the white Australia policy costs the Commonwealth something like £60,000 per annum; that represents the rebate of £2 per ton on something like 30,000 tons of sugar grown by white labour in the Commonwealth. I consider the purchase of a white Australia is cheap at that price. I most cordially support that policy in every way; but the only question now involved is the basis or method upon which this £60,000 is to be paid. That is the question to which we are obliged, I submit, to confine our attention. The point is whether that amount should be paid by the States upon a consumption or a population basis. I venture to think that we may be equally earnest for a white Australia, and hold that it should be paid for by either process. When a measure of this kind comes before us we are justified in inquiring how it will affect the States we represent, and anything we can bring before the Senate, as the States' House, with a view of indicating that the operation of the Bill will have an unjust incidence so far as the several States are concerned, should be stated in order that that possibility may be avoided. I admit that the question is very complicated, and that the figures which have been circulated require the most careful and thoughtful consideration. In my judgment the only fair system upon which to pay this £60,000 is the consumption basis. According to the Constitution the excise itself is payable upon a consumption basis. The Constitution therefore lays down the principle upon which assessments of this kind should be made, in addition to which the present law provides for the payment of the rebates on the same principle. We have the advantage of a statement showing the distribution of the rebate upon a population basis as well as upon the basis of consumption. On the consumption basis, New South Wales, which possesses this enormous industry, receives by way of revenue an excise of £168,000 per annum. Upon the same basis—the rebate, of course, being actually part and parcel of the excise—she pays £44,400 by way of rebate. In this Bill,

however, it is proposed that she should be relieved of a portion of what she calls a burden, and that she should be called upon to pay upon a population basis a rebate of only £21,642 per annum, notwithstanding that she is the producer of this sugar, and that the rebate is in connexion with the very excise which forms part and parcel of her revenue. In other words, by this Bill we are asked to make New South Wales a present of £22,758. It is true that in Victoria we receive £282,000 by way of duty on imported sugar, and that we consume only some 1,250 tons of sugar produced by white labour in the Commonwealth.

Senator MCGREGOR.—8,000 tons.

Senator BEST.—I admit that we consume a total of 8,000 tons of Australian sugar grown by black and white labour, but the Australian sugar grown by white labour which we consume is only 1,250 tons. Upon a consumption basis, therefore, we should only pay £2,500; but, according to the terms of this Bill, we are actually asked to pay an additional sum of £16,286. In other words, we are called upon to pay, upon a population basis, a total sum of £18,786. Victoria, who benefits least from this policy—although I do not strongly urge that point—is called upon to make this enormous contribution. It has been suggested that the distribution of the cost of the policy of a white Australia upon a population basis is the fairer one, and it has been urged that Victoria receives this additional revenue amounting to something like £130,000 in excess of former estimates. But the duty on imported sugar, from which we have received the sum of £282,000, is, to all intents and purposes, a revenue one, and protectionists never contend that revenue duties are not paid by the consumers. The people of Victoria have already paid £6 per ton customs duty for their sugar, amounting to this sum of £282,000 out of their own pockets, and they are also to be penalized to the further extent of £16,286. Because we have paid a duty of £6 per ton for our sugar in Victoria, while Queensland has paid only £3 per ton on some and £1 per ton on other sugar consumed by her, is it not rather unfair to say to the people of this State—“You did not consume Australian sugar, grown by white labour, but you should have done so; and although you have already paid £282,000 on imported sugar,

we are going to penalize you to this additional extent.” I admit that, year after year, the revenue received from this particular item will vary, and may, perhaps, be more or less accidental. I agree that, two or three years hence, we may receive large consignments of Australian sugar grown by white labour, and, in that event, we shall be quite prepared to pay the rebate of £2 per ton upon it. But, in moving the second reading of the Bill the Postmaster-General stated that, if the production was equal to the whole consumption of sugar in Australia, these matters would be equitably adjusted, and that there could be no ground of complaint if we adopted the consumption basis.

Senator DRAKE.—I said “probably.”

Senator BEST.—Let us for a moment consider that contingency. As the result of the consummation of the policy of a white Australia—and I hope that we shall have it at an early date—Victoria would receive the excise of £3 per ton upon the 55,000 tons per annum consumed by her, or, in other words, a sum of £165,000 would be the excise that we should collect.

Senator DRAKE.—Does the honorable and learned member reckon £3 per ton upon the whole quantity?

Senator BEST.—I am assuming, by way of illustration, that the white Australian policy has been duly consummated, and that, as the result, the people of Victoria are being supplied with Australian sugar produced by white labour to the extent of our present consumption of 55,000 tons per annum. In that event we should collect an excise of £3 per ton. Upon a consumption basis, however, we should pay £2 per ton, or a total rebate of £110,000, while on the basis proposed in the Bill we should only rebate something like £18,786, or, say, £19,000.

Senator DRAKE.—It would be more than that.

Senator BEST.—It might be a little more than that, but I am only speaking generally for the purpose of argument. I would ask the Postmaster-General whether he, or any other honorable senator representing Queensland, would then insist upon the payment of this rebate according to a population basis.

Senator STYLES.—No fear.

Senator BEST.—They would do nothing of the kind.

Senator DRAKE.—The Bill substitutes the population basis, and a bonus is to be given.

Senator BEST.—I am aware of that fact; but it is because of the existing exigencies that the Bill has been introduced. I am seeking to show how ultimately it must seriously work against Queensland, and the unreasonableness therefore of a suggestion of this kind. I am urging with Senator Styles that the payment of the rebate upon a consumption basis would be fair and reasonable. I desire to show how, with the development of the policy of a white Australia, the payment of the rebate upon a consumption basis will prove to be fair and reasonable, and far better than the contorted suggestion that the contribution towards the rebate shall be upon the basis of population. The whole scheme of the Bill is unreasonable and unfair. I would moreover urge this aspect of the question: That the policy of a white Australia was really not devised for the benefit of New South Wales. It was Queensland that we had in view.

Senator MCGREGOR.—We had Australia in view.

Senator BEST.—I admit that from the broader national aspect we had Australia in view, but we had immediately in our minds the kanakas who were labouring, not in Victoria nor New South Wales, but in Queensland. The point I am making is that we are asked by this Bill to present New South Wales with something like £22,000 a year as the result of a measure which was never devised for the benefit of that State, but was chiefly passed for the benefit of Queensland. That we should be called upon to make a contribution of that kind is most unreasonable. There are one or two of these figures which I find some little difficulty in following. I notice that in the memorandum circulated by the Treasurer of the Commonwealth regarding the payment of the rebate allowed upon Australian sugar grown by white labour, the net collections of excise, after deduction of drawbacks, is stated as £224,428? Then I learn that the rebates already paid amount to £61,267.

Senator DRAKE.—That is the bonus to the growers, paid as they bring their cane to the mill.

Senator BEST.—Then I have misunderstood the matter to some extent. I understood that there had been no payments of rebate, but that the money was being accumulated in a trust fund. I observe, therefore, now that the balance in the

trust fund, after providing for the deduction of £61,267, is £163,161. That sum is at present held by the Treasurer, but it should have been distributed in the ordinary course month by month, in accordance with the terms of the Constitution. I agree with Senator Downer that it is most unfair that this legislation should have a retrospective effect, and that the sum of £163,161 at present held by the Treasurer, and to which the States are entitled upon a consumption basis, should be distributed upon the basis of population.

Senator MCGREGOR.—The honorable senator did not know before that it was not paid over?

Senator BEST.—I did not know of it until I saw it stated in the papers circulated.

Senator MCGREGOR.—The honorable senator thought it had been paid over in rebates?

Senator BEST.—We were justified in thinking that it had been distributed amongst the States according to the terms of the Constitution and the existing law.

Senator Sir JOHN DOWNER.—It is no excuse for stealing that you have not been found out.

Senator BEST.—I am not unduly complaining, but I am urging that this sum of £163,161 which the Treasurer has at present in hand and which he seeks to make retrospectively subject to the terms of this Bill, ought not to be distributed in that way, but should be distributed upon the consumption basis. Even if the principle of this Bill is to apply to the distribution of the bonus in the future, I do not think that we have any right to confiscate this money in the way now suggested.

Senator DRAKE.—The Treasurer gives his reasons for not having distributed the fund.

Senator BEST.—That is so; but at the same time he indicates his desire that it should be distributed according to the population basis under the scheme now propounded in the Bill.

Senator DRAKE.—Because the other arrangement was unworkable.

Senator BEST.—I think that would be very unreasonable, indeed. If the Senate sees fit to pass the second reading of this measure, in all fairness it should not be permitted to operate upon the sum of £163,161 to which I have referred.

Senator KEATING (Tasmania).—I must admit that I find myself at a loss to follow Senator Best throughout his argument. I cannot understand how the honorable and learned senator should deprecate in such strong terms as he has used, the introduction into the debate upon the second reading of this Bill of the policy of a white Australia.

Senator MCGREGOR.—It is the basis of it.

Senator KEATING.—It is the basis of it. The attitude which Senator Best then assumed was well expressed by an interjection from Senator Pulsford that the honorable senator wished to have the play of "Hamlet" without the Prince of Denmark. The whole basis of this legislation rests upon the policy affirmed by the people of Australia at the first Federal elections, which has been adopted by the Federal Legislature, and which we are giving effect to now by endeavouring to establish within the confines of the Commonwealth, a white Australia. I did hope that honorable senators, in applying themselves to the consideration of this Bill, would be motivated by the consideration of the policy for the whole of Australia, and not for any one particular State, whether it be the particular State which an honorable senator represents or not. We have established by our legislation that in the sugar industry of the Commonwealth there shall not be employed after a certain time a certain class of labour. Those who opposed the establishment of that policy told us most eloquently that it would be impossible for the sugar industry to stand in Australia unless those who had vested interests in it were enabled to employ the cheap South Pacific labour. As a set off against that, in arranging the sugar duties we put an import duty of £6 per ton upon sugar coming into the Commonwealth, we put an excise duty of £3 per ton upon all sugar grown or produced within the Commonwealth, and to mark the distinction between sugar produced by white labour and sugar produced by black labour, it was arranged that those who employed only white labour in the production of sugar should get from the £3 per ton excise duty which they were called upon to pay a return of £2 per ton. I wish to know if honorable senators think that was a desirable principle to establish—the remission of £2 out of the £3 per ton excise upon Australian sugar grown only by white labour? If honorable senators admit that

that policy and principle are correct the whole question resolves itself into this—Who is to bear the brunt? Who is to pay the £2 per ton? Experience since this policy was adopted has shown that, in the case of three of the States only, Queensland, New South Wales, and Tasmania, does the consumption of Australian grown sugar, and particularly that grown by white labour, bear any considerable proportion to the consumption of sugar imported to Australia from abroad? If we continue as we have done in the past, to debit to each State the amount of rebate of duty in proportion to the amount of Australian sugar grown by white labour which it consumes, it seems to me that we shall really be putting upon the Treasuries of those States a burden that they should not be asked to shoulder, whilst the other States of the Commonwealth, whose people are quite content to discard Australian grown sugar for sugar imported from Java, China, Mauritius, or elsewhere, and to receive the full Customs duty of £6 per ton upon it, are allowed to go scot-free. Senator Best in addressing himself to this question has said that he is in favour of the policy of a white Australia.

Senator MCGREGOR.—So long as it does not cost Victoria anything.

Senator KEATING.—Exactly. I was just coming to that. The honorable and learned senator has told us that he approves of the policy of a white Australia, and he says that the cost is something like £60,000 per annum in the remission of the sugar duties to maintain that policy. He has further said that he considers it cheap at the money. No doubt, he does, but he does not desire that Victoria should contribute one penny towards that £60,000.

Senator BEST.—That is not so.

Senator KEATING.—It is a beautiful thing to hear honorable senators, representing a State, coming here to indorse these principles as mere abstract principles, and saying, "A white Australia, yes, I approve of it. I think it is cheap at the money, we having nothing to pay for it." But are the people of Queensland, New South Wales, and Tasmania alone to bear the cost of the establishment of a white Australia? Surely very few people at the time of the first Federal elections, when the question of a white Australia was put before them, expected that we were going to carry out this policy without any additional cost to

themselves, without any loss to their Treasury, or without any additional taxation being imposed upon them? Is it not regarded as a general and well established principle in fiscalism, particularly by those who adhere to the protectionist cult, that the imposition of duties is designed with the object of enabling us to employ within our own territory labour at a rate of wage which is much higher than the rate of wage adopted in the competing countries beyond and outside us? Precisely on the same principle we act in endeavouring to establish a white Australia, to secure that those interested in the sugar industry, and who more particularly were instrumental in the introduction of kanakas should be induced to employ none but white labour. We necessarily considered that, in order that they may be placed on fair terms of competition, even within the confines of the Commonwealth, with those who would send their sugar here grown by the cheap labour of other countries—the people of the Commonwealth must submit to a certain amount of taxation in the nature of protection. We have given, in fact, to growers of sugar in Australia who utilize black labour a protection of £3 per ton, the difference between the excise and the import duties. We have given to the grower of sugar in Australia who employs only white labour a protection of £5 per ton. That is the position. We have a differential protection of £3 per ton on sugar grown by black labour, and £5 per ton on sugar grown by white labour. Are people who prefer to consume Australian grown sugar to bear the cost of their consumption of the local commodity in preference to the imported article? Senator Best talked of penalizing the State of Victoria, but the honorable and learned senator would penalize those true protectionists in Australia who are prepared to consume Australian grown sugar produced by white labour in preference to the importations from the black labour countries abroad. We have been told by the honorable and learned senator, and by a colleague from his own State, that it is a foolish argument to adduce that, because Victoria, by reason of her large importations of foreign sugar has received a considerable amount of revenue into her Treasury, she should be asked to pay out of that revenue the sum of £22,000 to New South Wales. That is rather a disingenuous argument. Why it should be considered that Victoria, particularly, will pay

ator Keating.

out of her Treasury the sum that New South Wales will gain by the change of policy—from a distribution upon a consumption basis to distribution upon a population basis—I am at a loss to imagine. The whole of the States will contribute to this in proportion to population, so that it will not be a case of Victoria, and Victoria alone, paying out of her revenue from sugar the whole of the sum which is to go into the Treasury of New South Wales!

Senator STYLES.—Why not divide the excise on the population basis also? If you pool one why not pool the other?

Senator KEATING.—The honorable senator knows very well that the excise duties are credited to the State in which the excisable article is consumed.

Senator STYLES.—Yes; under the Act.

Senator KEATING.—If 80,000 tons of sugar were produced in Queensland during the year, and if excise duty were paid on the 80,000 tons, and ultimately 12,000 tons of that quantity went into Victoria, the excise duty paid upon the 12,000 tons in Queensland would, in accordance with the Inter-State adjustment arrangement, be credited to Victoria and debited to Queensland. The principle that we are now going upon is this: That the representatives of the various States—not of Queensland alone—have decided that, after a certain date, there shall be no employment of a certain class of labour in this industry, and, as a set off against any disadvantage which would accrue to the cane-growers, we have adopted the differential protective system. Having done that as part and parcel of the one policy, I consider that we should adjust the cost amongst the States on the same principles which guided them in affirming and establishing the policy. Another thing to which Senator Best has referred is that in Victoria, and in other States, there has been, according to the return, a very small consumption of Australian grown sugar of any kind. We have to remember that it is a return of the approximate production of sugar in Australia in the year 1902–3. I hope that at a very early date we shall see a greater output of sugar in New South Wales and Queensland, that we may even see the production of sugar in other States, and that we shall endeavour as early as possible to see that the production of sugar overtakes the Australian consumption. And when that time comes about—and the

whole of the circumstances will tend to the achievement of that result—these figures so far as they go will be of very little value as a guide for the adjustment of the cost of this policy even upon a consumption basis. I do not think that we can take the figures supplied by the Treasurer for that particular period as a criterion of what will be the event in the years to come. With an import duty of £6 a ton and considering the bonus or rebate an excise duty of £1 a ton on white-grown sugar, there should be a considerable impetus given to the production of white-grown sugar. With the £3 per ton protection which is given to black-grown sugar, there should be, at any rate during that period when it will still be permissible for the planters to employ black labour, a considerable impetus given to the production of black-grown sugar. Under these circumstances we may reasonably hope that the production of Australian sugar will tend, as the years go by, and in the very near future, to overtake the consumption. Therefore, as suggested by the Postmaster-General in his speech, it would be only fair to assume that very few of the difficulties which now beset some of those who do not find themselves in accord with the policy of the Bill would crop up. We have affirmed this policy as an Australian matter, and considering that the bonus represents the cost of the policy, and that no objection has been raised so far as I know to the granting of a remission of duty to those who employ white labour, we ought to adjust that cost amongst the people of the whole Commonwealth as a national obligation, and not to particularly penalize the Treasuries of the States in which a preference is shown for the consumption of the local commodity. I certainly hope that the Bill will pass its second reading.

Senator BARRETT (Victoria).—I must confess that this measure has caused me a great deal of thought. I do not mean to pretend that it is not surrounded by a good many difficulties. Notwithstanding what has been said, one is inclined to look at the question from the State point of view. I have been asking myself first, how the Bill would affect Victoria from that stand-point; and secondly, what should be done in the interests of the whole people of Australia? The Senate is the States House, and the question of States rights crops up to some extent. It is, therefore, all the more difficult for any one to make up his mind. I certainly am not in favour of one part of

the Bill. But taking the measure as a whole, I think it ought to receive my support. I intend to vote for the second reading, and, if possible, to alter its provisions in a certain direction. The debate has ranged over a very wide area. The question of the Tariff, as well as the policy of a white Australia, has been introduced. I am one of those who thought it was almost impossible to ignore those two elements in considering the question of a bonus on white-grown sugar. What did we do when we had the Excise Tariff Bill before us? We made a certain discrimination. Having regard to the peculiar circumstances in which Australia was placed, and to the limitations we had imposed upon the employment of black labour, we recognised that something had to be done. The question of a white Australia also came into play. Very early in our career we adopted, I think very wisely, the principle that in future Australia should be kept for the white race. Those two elements entered into the discussion on that occasion, and we tried to do what we thought was fair and just. The only State which appealed to my mind then, as it does to-day, was Queensland. It deserves consideration, because it is really the only State which has been affected very largely by our legislation. When we are asked to change the rebate to a bonus, I am confronted with the fact that, under the Constitution, we cannot make any difference as between State and State. I have to consider whether I should not vote for the Bill as it stands, or whether, if I take the rebate as the solution of the difficulty, I should inflict an injustice upon the very State which I have always thought should receive some assistance from this Parliament. Although it may not be a popular thing to vote £18,000 as proposed by the Bill, yet desiring to do justice to Queensland, and holding that it alone should not shoulder the white man's burden, I am compelled, distasteful though it may be from the State point of view, to vote for the measure.

Senator BEST.—That does not affect the question at all. The Bill makes a difference of less than £900 to Queensland.

Senator BARRETT.—Whichever way we look at the question there are inequalities. If I take the tables which have been presented for our guidance I find that, on a population basis, there are inequalities existing. And if I take the consumption basis

I find that there are inequalities also existing in that direction. No better plan than the one embodied in the Bill has been presented. Many States which have had to import sugar, which they could not otherwise have obtained, have had a considerable increase of revenue. In my opinion, those States ought to be able to pay something in return for that revenue in the way which the Bill proposes. I am free to admit that this measure, as well as other legislation, will cause much disturbance during the first few years of the life of the Commonwealth. It has caused a disturbance in every State in the Union. I was sorry to hear the remark which Senator Dawson made this afternoon, with regard to the position that certain honorable senators have taken up in other matters. I do not think it can be said that those who believe in protection took a miserable attitude when we were discussing the Tariff. I disclaim any such intention. Wherever there was an industry to be fostered or established, I tried to do my best in that direction. But what did we find? The representatives of some States were prepared to get the utmost protection for particular industries in their States, and when we appealed to them about the duty on machinery, it became a question with them of 7 per cent. or 10 per cent. I hope that if ever that question is reopened, no matter how unpalatable it may be to the interests of their States, they will try to do the fair thing in the interests of the Australian people. By carrying out the principles of this Bill, we shall settle a great question. If it is ever re-opened we shall be able to say "the States have suffered from a pecuniary point of view, and therefore we are not prepared to go back upon what we have done." I say with Senator Best that if, at the price of £60,000, or even £100,000, we can settle the question of a white Australia, we have secured it very cheaply, even though it does involve some inequality to Victoria.

Senator STYLES.—No one grumbles at that amount.

Senator BARRETT. — The inequalities that have existed, and still exist, have, as I have shown, been brought about by the abnormal conditions that have prevailed during the last twelve months. The next advantage which we secure is that under this Bill we not only establish the sugar industry, but make it a white man's industry. The people of Victoria have an interest in this,

because, if we can expel the *kanaka*, the Japanese, the Chinaman, and other coloured aliens from the sugar industry of Queensland, labour upon the cane-fields may become very profitable indeed for men from the southern States who may go to Queensland. Thus, the policy we are now supporting will redound to the benefit of the people of Victoria. Putting aside the mere monetary disadvantages, and looking at the question from the broad Australian point of view, I consider that the two advantages that will follow from this policy prove that it is a wise one to adopt. The amendment foreshadowed by Senator Glassey is a very good one, and unless the Postmaster-General has good reasons to urge against it, I shall be prepared to support it—of course, with the further limitation foreshadowed by Senator Pearce, that after the bonus has once been paid to a planter, if he reverts to the employment of coloured labour in connexion with the growing of cane he shall not further participate in the bonus. The question has given me cause for a good deal of consideration, and the points raised have been of such a character, that at first I was not able to seize the salient features of the Bill; but after reviewing them with some care I consider that it is right to support the second reading.

Senator GLASSEY (Queensland).—We have had a somewhat lengthy, but at the same time a fairly interesting and exhaustive debate upon this Bill. I need scarcely say that I shall give to its second reading my most hearty support. Here I join issue with my honorable and learned friend Senator Downer. I welcome the measure because I think it is just; he opposes it because he thinks that it is unnecessarily unjust. The Bill changes the system which has been adopted for the encouragement of the production of sugar by means of white labour—a policy which the bulk of the Members of Parliament thought was wise and just, and which, I am quite certain, will in the future prove to be a prudent and diplomatic policy. With that end in view, it was decided that those sugar planters who registered as growers of sugar by white labour, should receive a rebate of £2 a ton from the £3 per ton levied as excise. It has been proved, after experiment, that that method was unjust in operation, inasmuch as two States out of the six had to bear the whole of the burden,

whilst the whole of the six benefited from the adoption of the white Australia policy. The States which have suffered are Queensland and New South Wales.

Senator KEATING.—And also Tasmania.

Senator GLASSEY.—Tasmania has suffered in another way. Hence the Government, in introducing this measure, propose that a bonus shall be paid instead of a rebate, and that the whole of Australia, which will benefit from the policy, shall pay for it. The speech of Senator Barrett is highly creditable to him. It shows that he views the matter not merely from a Victorian but from a broad comprehensive and Australian point of view. I was amused to hear the statement that this measure had no connexion with the white Australia policy. Senator Playford emphatically stated that it had no connexion with that policy, and Senator Best qualified that view by saying that the connexion existed only to a limited degree. In other words, those honorable senators welcome the adoption of the white Australia policy, provided it costs Victoria nothing!

Senator STYLES.—That is not so.

Senator GLASSEY.—Then I will say, provided it costs Victoria only a small amount.

Senator STYLES.—No; provided the rebate is fairly and justly apportioned on a consumption basis.

Senator GLASSEY.—The whole principle of our Constitution is that the taxation of the Commonwealth shall be in accordance with population.

Senator BEST.—Excise is on a consumption basis.

Senator GLASSEY.—So far as Victoria is concerned, the difference between the two methods of payment is as between £18,000 on a population basis and £2,500 on a consumption basis. The Victorian senators to whom I allude are not prepared to concede that Victoria shall pay the larger figure. That is rather a narrow view. There is about it a flavour of parochialism which ought to be deprecated by the Senate. Some very good measures have been passed at the instance of the present Government, and some of the best of them have been the series which had for their object the establishment of the principle of a white Australia. It is rather a narrow view for certain honorable senators to urge, that their States are not prepared to pay a little in order that this

principle may be carried into effect at an early date. I need scarcely say that although I welcome the Bill, it is, in my opinion, defective. I have already indicated one of the defects by an amendment which I intend to propose. That amendment is not quite so full and comprehensive as it will be after the adoption of Senator Pearce's suggestion. Undoubtedly he put his finger on a weak spot. That is to say, if we carried my amendment in the form suggested, it would mean that if a planter who put in his sugar-cane with the aid of black labour, afterwards employed white labour, the bonus would have to be paid to him; but there is the possibility that after obtaining the bonus, the planter might revert to black labour for a term. I propose to obviate that danger by amending my amendment in such a way as, I think, will meet with the approbation of the majority of honorable senators. It has been contended, even during the present debate, that it is impossible to grow sugar to any great extent in Queensland, particularly in the northern portions of the State, without the aid of coloured labour. I have endeavoured on two or three occasions to combat that view, and I venture to say that I and other honorable senators have done so with a fair measure of success. I hold in my hand a return showing the number of those growers of cane who have registered under the present Act. It will be admitted, at any rate by all fair-minded senators, that, considering the short time the Act has been in force, it has been fairly successful. This return shows the names and addresses of persons in Queensland registered as white growers of sugar-cane, the acreage claimed by each, and also the amount of claim and rebate paid to each person for the year 1902-3. The Act has only been in force one year. I dare say that some obstacles may have been thrown in the way of its success by those who were opposed to the policy of abolishing coloured labour, otherwise the measure might have been more successful. For the purposes of this rebate Queensland may be divided into four parts. The extreme northern parts, including Cairns, about which we have heard so much from Senator Fraser and others, may be described as the No. 1 district. The No. 2 district includes Mackay; the No. 3 district embraces Bundaberg; while the No. 4 district comprises Maryborough, Logan, and the more southern parts. In the No. 1 or Cairns district, where we have been

told that it is impossible to cultivate sugar successfully by means of white labour, 37 planters were registered in 1902 as growers of sugar cane by white labour. I should, mention, however, that this is the most recently settled district, and that there are consequently fewer growers there than in other parts of the State. The area under sugar cultivation was nearly 2,000 acres, and the rebate claimed and paid under the Act passed last year was £4,273 13s. 5d. I desire honorable senators to pay particular attention to the figures relating to the No. 2 or Mackay district, because it may be said that it is fairly far north, and is within the tropics. It has long been a settled part of Queensland, and embraces a wide area. In that district 519 growers were registered in 1902 as cultivators of sugar by means of white labour; the area worked by those persons was 12,333 acres, whilst the rebate claimed and paid under the Act was no less than £16,403 11s. 1d. It was stated by Senator Fraser, I think, that last year Queensland produced only a limited quantity of sugar. We may admit the correctness of that assertion; but it must be borne in mind that last season was, perhaps, one of the worst that was ever experienced in our State. The country had suffered from a protracted drought, with the result that the sugar districts, especially in the south and about Bundaberg, suffered materially. In that way we may account for the small amount of rebate which was claimed and paid. At the beginning of this year the area under sugar cultivation was something like 90,000 acres, whilst no less than 36,138 acres were registered as being cultivated and worked by means of white labour. Thus, nearly half the total acreage is now being worked by white men, whilst no less than 1,522 cultivators are registered under our existing law. I think that these figures afford some, if not a complete, answer to the statement that has been made from time to time in the Senate, that in Queensland, and especially in the tropical parts of that State, it is impossible to grow sugar except by the aid of coloured labour. If this policy is given a fair trial, and more particularly if the Government accept the amendment of which I have given notice, honorable senators who have opposed this legislation will come to the conclusion, two or three years hence, that the course pursued has been a wise one. If my amendment is carried, those who have worked

Senator Glassey.

their farms all the year round by means of white labour will have an opportunity of registering under the Act, irrespective of whether their cane was planted by black or white labour, while others will be able to register as their contracts with the kanakas expire. Without that amendment the Bill will be extremely defective, but with it, it will be found two or three years hence that the policy of carrying out the will of the people of Australia, so that this country shall be rid of the black labour which has tarnished the fair name of Australia for a considerable time, is a wise one. Those who have opposed this policy will then agree that their opposition has been in vain, and that the Government have acted prudently in carrying out the desires of the people in this respect. I wish to refer briefly to some statements which have been made by Senator Cameron, and particularly to certain allegations made by Senator Neild. It was asserted by Senator Neild that the sugar-growers had received a rebate on sugar grown by black labour, and not by white labour. That is a very bold and distinct statement. What evidence did Senator Neild adduce in support of it? I am bound to admit that the testimony which he brought forward must receive some attention. The honorable senator said that nominally the sugar on which rebate was paid was grown by white labour, but that in reality it was produced by coloured labour, and he asserted that he had received information to that effect from inspectors of cane-fields. That statement involves a very serious charge. Who are the inspectors of cane-fields? They are Government officials, paid to see that the policy of the people of Australia—administered by the Government as the executive authority—is duly observed. No rebate can be claimed in respect of Australian-grown sugar except on the production of certificates signed by these inspectors, setting forth that it has been produced by white labour. Yet Senator Neild asserts that he obtained this information from men whose certificates that this sugar had been grown by means of white labour were bound to be produced to, and accepted by, the Government before any demand for the rebate could be considered.

Senator DOBSON.—The inspectors do not go to all the plantations to see whether black or white labour is being employed. They take the word of the planters.

Senator GLASSEY.—That statement must be considerably qualified.

Senator DOBSON.—It was made to me whilst I was in Queensland.

Senator GLASSEY.—So far as some of the cane-fields are concerned it is absolutely incorrect.

Senator DOBSON.—In certain cases it is absolutely correct. They cannot visit all the plantations.

Senator GLASSEY.—During an extensive tour which I made recently, I visited the Mossman and Cairns districts. I had a conversation with the inspector, and I can tell a tale wholly different from that narrated by Senator Neild in regard to the information in the possession of the inspectors. Indeed, I challenge the statement made by Senator Neild. I ask the Postmaster-General to ascertain from these inspectors how far it is borne out by the facts; whether they furnished the information given by the honorable senator, and if so, upon what grounds. If they supplied Senator Neild with that information, while at the same time they gave contrary information to the Government in order that the rebate might be obtained by the growers, the position is a very serious one. I am sorry that Senator Neild is not present. I have a very great regard for him, for in many respects he holds advanced views, but his assertion that the cane-field inspectors of Queensland have supplied him with this information demands some serious inquiry. I desire to allude to the statement made by Senator Downer that Queensland has no claim for compensation in respect of the adoption of the policy of a white Australia. This is not merely a Queensland matter. The question is one that materially affects the whole of the people of Australia. What would the people be prepared to give to root out the smell holes of Little Bourke and Little Lonsdale streets? I confess that upon two or three occasions I have visited those places, accompanied by detectives and others, and that I have seen there more repulsive sights than I have witnessed even in San Francisco. The Chinese dens which exist there are to be found on a smaller scale in Cairns and Cooktown, and the question which we have to consider is how much the people are prepared to give in order to secure the carrying out of this prudent policy. Senator Downer, however, asserts that Queensland has no claim to compensation. He designates

the bonus which is to be given by the people of Australia for the adoption of this policy, as a compensation to the State from which I come. I am sure the honorable and learned senator will excuse me if I say that I repudiate the assertion that Queensland receives anything in the shape of a bonus. The people of Queensland do not, by any means, lay a claim to compensation, but they do say that the people of Australia, as a whole, should be prepared to pay a fair sum for the adoption of this policy. Senator Downer says that the Bill is unnecessary, and that it will be unjust in its incidence. The honorable and learned senator also condemns the measure, because he says it gives compensation to Queensland for the loss of this particular class of labour. Senator Cameron goes a step further, and tells us that Queensland, having spoken so strongly at the Federal elections in favour of the adoption of this policy, has no right now to come here cap in hand and ask the other States to assist her in carrying out the policy. Honorable senators from Queensland do not come here cap in hand. The Government, after mature consideration, and after giving the rebate arrangement a reasonable trial with the view of fixing this matter upon an equitable basis, have come to the conclusion that the people of Australia should pay *per capita* for carrying out the white Australia policy, and that the whole burden of its cost should not rest upon the States of Queensland, New South Wales and Tasmania. Senator Downer supported this policy, and I give him credit for doing so, but it is not a proper or patriotic position for the honorable and learned senator to take up after assisting in the adoption of the policy, to tell us now that Queensland is asking for compensation for the abolition of this particular class of labour; nor is it patriotic for Senator Cameron to tell us that we have no right to come here cap in hand to ask the people of Tasmania to compensate Queensland for the loss of this labour. I need hardly say that I repudiate these statements. I do not condemn honorable senators for representing their own States from their own point of view in a reasonable manner, or for endeavouring to preserve their people from being burdened with taxation. But honorable senators from South Australia and a majority of honorable senators from Tasmania, came here to support the policy of a white Australia, and now when a little

has to be paid in order to carry out the policy, those honorable senators say—"While we are favourable to the adoption of the policy and believe it to be wise in the interests of the people of Australia, we are not prepared to pay for it." Is that a manly or a proper position for honorable senators to take up at this eleventh hour? I do not think it is. Although the Bill is defective to some extent, I welcome it as an effort to place this matter upon a more equitable basis than did the measure providing for the payment of rebates which we passed last year. As I have already said, I hope that when we get into Committee we shall amend the Bill in such a way that it will not retard the complete adoption of the policy of a white Australia. I am satisfied that if we accept the measure as it is proposed we shall find that instead of effecting the clearance of this particular class of labour at an early date, we shall only be encouraging the planters to keep their kanakas to the last hour which the law will allow. But that is not the only danger. Supposing we get rid of the kanakas, unless we affirm the principle embodied in my suggested amendment, we are likely to have another class of coloured labour employed which will be far more objectionable. I refer to Hindoos, whom we have not yet passed a measure to exclude from Australia. If the Bill is amended as I propose, with the addition of the amendment suggested by Senator Pearce, it will be a fair and a reasonable measure, and will, I believe, do much to further the complete adoption of the great principle of a white Australia. If the Bill is not so amended, I am satisfied that valuable as it is in principle, it will not be effective in clearing the Commonwealth, and the State of Queensland particularly, of coloured labour, at as early a date as is desirable.

Senator MCGREGOR (South Australia).—Before the Postmaster-General replies to the debate, I should like to say a word to justify my position, because it seems that most of the representatives of South Australia hold views opposed to my own, though I am thoroughly convinced that the people of South Australia are entirely with the Government in the present circumstances. I think I made my position fairly clear when speaking upon the Address in Reply, and there is very little remaining for me to deal with; but I should like to call the attention of honorable senators who are opposing this Bill to one or two facts. It

has been stated that this Bill has nothing to do with the policy of a white Australia. I differ from that contention, because it is really a corollary of the white Australia movement. I should like to ask those honorable senators whether, when they were proclaiming themselves in favour of a white Australia, they imagined that they were going to get a white Australia without any cost to the States to which they belong. I do not think there is a man or a woman who has thought the question out in any of the States of the Commonwealth who is not entirely in accord with those who are supporting this Bill with a view of making an equitable distribution of the cost. We have been told that South Australia, particularly, took all possible steps to preserve herself from the contamination of the coloured races, and that Queensland did nothing of the kind. Did not the people of South Australia know the conditions existing in Queensland when they entered the Federation? I should like to ask some questions of certain honorable senators who were not here, and who very often are not here when they are wanted, like Senator Lt.-Col. Neild. I believe that that honorable senator is a soldier. I have no desire to cast any reflection upon the police force, but I think the honorable senator ought to be a policeman, because he is never here when he is wanted. Did not these honorable senators know very well when we were entering into the Federation, that we were entering into a union with the State of Queensland, which has great potentialities. Do we not know that they were prepared to take advantage of the great wealth which that State possesses, in a Federal union? I am sure that when we were passing the Alien Immigration Restriction Bill and the South Sea Island Labourers Bill, every honorable senator firmly believed that the rebate suggested in connexion with those measures was practically a bonus. There was not a single honorable senator who ever raised his voice in objection to the State to which he belongs paying a fair share under that arrangement. The whole question is: What is a fair share? Senator Styles says "Hear, hear." I should like to ask the honorable senator a few questions. I do not wish him to answer them, because he might answer them evasively; I shall answer them for myself, and I shall endeavour to do so straightforwardly. When the duty of £6 per ton was

imposed upon sugar for the purpose of encouraging a white Australia, the intention was that it should affect every State equally, that the people of every State should contribute fairly towards the maintenance of a white Australia, it did not matter whether it was in Queensland, New South Wales, or anywhere else. It was then generally supposed that in the course of a few years New South Wales and Queensland would produce enough sugar to meet the requirements of the whole of Australia. Undoubtedly that day will come, and I hope in the very near future. Knowing this we were prepared to sacrifice a little in the way of duty. Then, in order to provide against an extraordinary loss of revenue when that day did come, we imposed an excise duty of £3 per ton; that was really a revenue duty. But so strong was the inclination in favour of a white Australia that the majority of honorable senators said—"To bring this about as soon as it possibly can be brought about, we will give all growers of sugar, who are prepared to employ only white labour, a rebate of £2 per ton." Every honorable senator and every member of the House of Representatives who supported that provision did so in the conscientious belief that every portion of Australia would bear its fair share of the cost. The Government believed, at that time, that it was quite possible for them to distribute whatever amount might be earned in that way all over the Commonwealth. But suddenly they found that section 89 of the Constitution was a bar in the way of their doing so. Everybody acknowledges that. There is not an honorable senator here who will deny that it was the general impression that it could be done. But the Government suddenly discovered that it could not be done. And now we find that provincial members of the Senate and of another place discovering a loop-hole whereby their particular States might escape paying their fair share towards the maintenance of a white Australia, jump at it. But I say that they have jumped at this loop-hole without the concurrence of the people whom they represent, and that is particularly so in the case of the people of South Australia. I should like to call the attention of Senator Styles to the fact that the people of Victoria consumed last year 47,000 tons of sugar imported from outside the Commonwealth, and 8,000 tons

of Australian-grown sugar. New South Wales, on the other hand, consumed 60,000 tons of Australian-produced sugar, and 11,000 tons of imported sugar. But these consumptive individuals, who ought to be in a sanatorium, now say that they want everything done on the basis of consumption. Senator Styles says that under this Bill New South Wales has to contribute only £21,000, and Victoria £18,000, while Victoria consumes 8,000 tons of excisable sugar and New South Wales 60,000 tons. Let New South Wales pay on the basis of consumption, and it will pay an enormous sum whilst Victoria will almost entirely escape. Would that be a fair proposition? Let New South Wales take £180,000 from the revenue it derives from excisable sugar, and add that sum to the £60,000 it derives from imported sugar, and it will be found that it derives a revenue of about £240,000. Let Victoria add the £282,000 it derives from imported sugar to the £24,000 it derives from excised sugar, and it will be found that it gets a revenue of about £306,000. If you are going to do your business on the basis of consumption, do it both ways, and see whether Victoria or New South Wales, in proportion to its revenue from the same article, which was all considered in the adoption of the white Australia policy, will pay the most. I would ask the representatives of Victoria whether it would be better to have the amount which it has to pay fixed on the basis of consumption. Whenever honorable senators consider fairly the amount of revenue derived from sugar duties they will find that it will be much fairer for Victoria to base her contribution on population than on consumption.

Senator STYLES.—New South Wales has the sugar industry, and spends the money amongst its own people, and we have not the industry here.

Senator MCGREGOR.—Victoria produces a great many articles with which it has been supplying New South Wales during the last twelve months, and probably it has profited a great deal more than New South Wales has done.

Senator WALKER.—Has not Victoria got the beet-root sugar industry?

Senator MCGREGOR.—The beet-root sugar industry is only within the bounds of possibility: the people of Victoria are too

slow to develop it in a great hurry. Approximately the consumption of sugar in Australia is about 200,000 tons. Supposing that New South Wales and Queensland were able to produce enough sugar to supply the States, and in a very short time I have no doubt that they will be in that position, how would the basis of consumption come out then? Victoria would have to pay £60,000; New South Wales about £70,000; and South Australia between £20,000 and £30,000. But those conditions do not exist, and even when the operation of this Bill shall have expired the production of sugar will not amount to the consumption. When we consider that the Bill is only to operate for period of four years, and that it will probably have the effect of bringing about a white Australia much sooner than we could do under any other conditions, then I hold that it is the duty of those who have advocated that policy to do all they can in that direction. There are many other aspects of the question which might be debated, but as I know that the Postmaster-General is anxious to say a few words, and to close the debate to-night, and as there will be opportunities in Committee to explain the position that different senators like to take up, I have no desire to detain the Senate. I hope that the second reading will be carried, and that in Committee nothing will be done to destroy the efficiency of the Bill, and that any amendment which may be carried will have the effect of improving it.

Senator DRAKE (Queensland — Postmaster-General).—I do not desire to detain the Senate more than a few minutes at this hour; but I think that I ought to say a few words with reference to the argument in which Senator Playford charged the Government with having violated the Constitution, in not having distributed this amount of excise. I do not think he intended the Senate to give full force to his words, judging from the genial manner in which he spoke. In the paper which honorable senators have in their hands, the Treasurer has given a full explanation of the reason why that amount has not been distributed. He points out that under the Constitution he is required to distribute the excise amongst the States on the basis of consumption. Section 93, to which Senator Playford did not refer, requires that the distribution shall be made, having regard to not the State where the duty was collected, but to the

State where the excisable articles were consumed. The Treasurer commences to collect these amounts, and then he finds that, according to the strict reading of the Excise Tariff Act, he has to distribute the money according to the consumption of white-grown sugar and black-grown sugar in the several States; but, as he tells us, the black-grown sugar and the white-grown sugar are both sent to New South Wales, where they are refined and inextricably mixed, and thence distributed amongst the States. He says that a technical compliance with the Constitution is absolutely impossible, because, when he finds that a certain quantity of sugar has been transported from New South Wales to any State, he cannot state what proportion is white-grown sugar and what proportion is black-grown sugar. Senator Playford says that it can be ascertained by taking averages. In this paper the Treasurer has worked the thing out on the basis of averages. He reckons that the sugar which goes from New South Wales to the other States is as four of white-grown sugar to one of black-grown sugar; but still that is a mere guess, and he would not be justified by the letter of the Constitution in adopting that guess as his basis of distribution. As there is that uncertainty, he pays in the amount to a trust account pending a settlement of that question. Then he watches the operation of the excise receipts during the twelve months ending 30th June, 1903. He finds that not only is this a very uncertain method of distribution—that is to say, it is uncertain whether he would be justified in distributing the money according to the letter of the Constitution, even if he were able to do so—but as a means of distributing the burden over the whole of Australia, it would be absolutely unreliable. He has shown by his action that he held himself free to advance money from that fund to any State that required it. Queensland had £25,000 advanced to it, and he was quite prepared to advance from the fund any amount that might be required by any State so long as he did not advance such an amount as to dissipate the balance he held until he was satisfied as to the exact basis on which he was justified in making the distribution. I think every one will agree that the Treasurer, in taking that action, was quite justified. He was in the position of a trustee for the various States that had consumed this sugar, and he was justified in holding

that money in a trust account until he could be perfectly sure as to the correct basis of distribution. Then, during this year, watching the movements of sugar and the payments of excise, he finds that the consumption basis for the distribution of the burden would lead practically to absurdities. Many honorable senators have spoken as though we were discussing the question of whether Queensland and New South Wales should bear the burden of paying the bonus, or whether it should be distributed on a population basis; but that is not so. The Excise Tariff Act does not provide that Queensland or New South Wales shall pay its own bonus, but it provides that the bonus shall be paid on the basis of consumption. Not only has that law led to an absurdity, but it is absolutely unreliable, so that it is impossible for any one to forecast from year to year what proportion any State would be called upon to bear. Putting New South Wales and Victoria out of sight for a moment, let us consider the question from the point of view of Tasmania and South Australia. Evidently Senator Downer was under a misapprehension when he said that a time might come when the northern State would produce so much sugar that it would be able to supply the southern States, including Tasmania. It so happens that out of a total consumption of 7,000 tons, Tasmania has been getting 1,800 tons of white-grown sugar from either Queensland or New South Wales, or from both according to this calculation—actually consuming so much of Australian white-grown sugar that its contribution to the payment of the planters is greater than it will be on the population basis. On the other hand, South Australia, just as far as Tasmania from the sugar-growing countries, is in this position: that out of its total consumption of sugar only about 500 tons was Australian grown—a quantity so small that it is not taken into consideration in some of the figures. We may say that practically the whole of its sugar has been imported. That is the result of 1902-3, but in another year the conditions may be entirely reversed. How could that be a fair or a reliable basis of making the calculations? It might be worth the while of a State to export its locally-grown sugar, and to import in order to get rid of the burden. That is not altogether fanciful, because it was suggested by the Premier of New South Wales, in a letter which he wrote, and to

which the memorandum by Sir George Turner, printed in the parliamentary paper on sugar excise, is a reply. Sir George Turner deals with the subject in this way—

I quite realize that it is within the power of the sugar importers and refiners to so manipulate matters as to have black sugar instead of white consumed, and to secure the import into New South Wales and Queensland of foreign sugar, instead of the same being sent to the other States as at present; and, no doubt, if it be in the interests of these gentlemen they will do so. This cannot be avoided, and the other States must run the risk.

Then he goes on to say that though this might possibly be done he could hardly understand the Governments of New South Wales and Queensland acting in collusion with the merchants and retailers to alter the natural course of trade. We do not suppose that they would do so, but the fact that it may be done exposes the whole absurdity of apportioning this burden on such a basis, which appears to me to be not only unfair but totally unreliable. Therefore, the Government propose, instead of treating the matter as a rebate, as it would be under the Excise Tariff Act, to repeal that portion of the Act and give the money as a bonus. I venture to say that in treating it as a bonus and distributing the burden over Australia on a population basis we are carrying out the wishes of the people of Australia and the intentions of the Legislature when they took action on the subject last year.

Question—That the Bill be now read a second time—put. The Senate divided.

Ayes 19

Noes 4

Majority 15

AYES.

Barrett, J. G.	McGregor, G.
Dawson, A.	Neild, J. C.
De Largie, H.	O'Keefe, D. J.
Dobson, H.	Pulsford, E.
Drake, J. G.	Saunders, H. J.
Ferguson, J.	Smith, M. S. C.
Glasse, T.	Stewart, J. C.
Higgs, W. G.	Walker, J. T.
Macfarlane, J.	Teller.
Matheson, A. P.	Keating, J. H.

NOES.

Baker, Sir R. C.
Best, R. W.
Styles, J.

Teller.

Downer, Sir J. W.

PAIRS.

For.

Against.

Pearce, G. F.
Gould, A. J.

Charleston, D. M.
Playford, T.

Question so resolved in the affirmative
Bill read a second time.

In Committee:

Clause 1 agreed to.

Progress reported.

Senate adjourned at 10.7 p.m.

House of Representatives.

Wednesday, 24 June, 1903.

Mr. SPEAKER took the chair at 2.30 p.m., and read prayers.

PETITION.

Mr. FOWLER presented a petition from the Western Australian Chamber of Manufacturers, praying the House to repeal subsection (8) of section 3, and section 11, of the Immigration Restriction Act.

Petition received.

PERSONAL EXPLANATION.

Sir WILLIAM McMILLAN.—I desire to make a personal explanation. Unfortunately I was away last night when the division on clause 53 of the Judiciary Bill, which deals with pensions, was taken, because I did not know that that clause would be reached. I had paired as usual against the Government, but had I been present I should have voted most heartily with them for the retention of pensions for the Judges of the High Court.

OLD-AGE PENSIONS.

Mr. O'MALLEY asked the Prime Minister, *upon notice*—

Whether, in view of the large surplus of the Commonwealth revenue, as shown by him yesterday, he will immediately bring in a Bill establishing a system of national old-age pensions?

Sir EDMUND BARTON.—The answer to the honorable member's question is as follows:—

The surplus mentioned by the honorable member has been distributed among the several States, as mentioned by me yesterday; and it is believed that without it, embarrassment to their finances would have taken place. Moreover, if the

large sum mentioned could have been withdrawn from the above purpose and applied to the carrying out of a system of old-age pensions, it is more than doubtful whether it would have proved sufficient to pay throughout the Commonwealth pensions on the lines adopted in New South Wales and Victoria.

OVERTIME: POSTAL OFFICIALS.

Mr. FULLER asked the Minister representing the Postmaster-General, *upon notice*—

1. Whether the Postmaster-General is aware that claims have been submitted by certain clerical officers of the General Post-office, Sydney, for payment on account of overtime work performed during last year; and that such overtime was earned in accordance with State Public Service Regulations in force at the time?

2. Whether the Postmaster-General can assign a reason for the fact that these officers have not yet been apprised of any decision on their applications, which were made some months ago?

3. Whether the Postmaster-General will cause action to be taken with a view of meeting the legitimate claims of these officers before the end of the current financial year?

Sir PHILIP FYSH.—The answers to the honorable and learned member's questions are as follow:—

1. The Postmaster-General is aware that such claims have been submitted. It does not appear, however, that all the overtime claimed was earned in accordance with the State Public Service Regulations in force at the time.

2. The reason why the officers making the claims were not apprised of the decision at an earlier date was that inquiries were being made in all States as to the existence of any similar applications, and that information was being obtained as to whether they were in accordance with the regulations.

3. The Deputy Postmaster-General of New South Wales was informed as to the decision of the Postmaster-General some days since, with a view to the legitimate claims being paid before the end of the current financial year.

Mr. JOSEPH COOK asked the Minister representing the Postmaster-General, *upon notice*—

1. Is the Postmaster-General aware that the overtime allowance for dealing with the English mails has not yet been paid this year to the officers concerned in Sydney?

2. Will the Postmaster-General take steps to see that these due amounts are paid as early as possible?

Sir PHILIP FYSH.—The answers to the honorable member's questions are as follow:—

1. The Postmaster-General is aware that a claim for overtime allowances for dealing with the English mails has not yet been paid to officers in Sydney.

2. The Postmaster-General has taken steps to see that due amounts are paid as early as possible.

COMMONWEALTH OF AUSTRALIA.

I N D E X

TO

PARLIAMENTARY DEBATES.

SESSION 1903.

May 26 to October 22.

PART I., SPEECHES, pages iii to xxxvii.

PART II., SUBJECTS, pages xxxviii to lxx.

PART I.

SPEECHES.

EXPLANATION OF ABBREVIATIONS.—*Adj.*, motion of adjournment; *ad. rep.*, adoption of report; *amdt.*, amendment; *com.*, committee; *cons. amds.*, consideration of amendments; *cons. mes.*, consideration of message; *dis.*, order of the day discharged; *expl.*, explanation; *int.*, introduction; *mes.*, message; *m.*, motion; *m.s.o.*, motion to suspend standing orders; *obs.*, observations; *p.o.*, point of order; *q.*, question; *1r.*, *2r.*, *3r.*, first, second, or third reading; *recom.*, recommitted; *recons. amds.*, reconsideration of amendments.

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Regulations.—Where it is desired by a senator that the Public Service Commissioner should amend a regulation he should submit a proposal, not for the instruction of that official, but for an alteration of the regulation, 2583

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Chairman of Committees, Acting (Senate):

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An amendment to a motion must be relevant, 2815, 5571

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Anticipating Discussion.—The standing order referring to anticipation of debate does not apply to debate which may take place, but of which there is no notice on the business paper, 3605

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When a motion to dissent from a ruling has been made and the discussion adjourned to a later day, as provided by the standing orders; the President, before calling on the mover of the motion, may re-state and formulate his ruling, 4631

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Bills.—After a bill has been read a second time a senator may move that it be referred to a select committee, 4118

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A minister may move to postpone the consideration of Government business, but it is the practice to call upon private senators to move the postponement of private business in their charge, 2580

The Senate cannot take notice of pairs, 3429

A suspension of the sitting can only be determined by the Senate, and may be on motion without notice, 6000

Committees.—A Committee of the Whole can only recommend the Senate to adopt standing orders, and until its report, with or without amendments, is adopted, the resolutions of the committee have no effect, 660

Without an instruction a select committee on a bill could not inquire into a constitutional question, 4121-2

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A motion to adjourn a debate is not debatable, 1916; and cannot be moved by a senator who has spoken to the main question, 5751

A debate on a ministerial statement when there is no motion before the Senate is irregular; but leave may be given to certain senators to speak, 2591

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When a senator replies the debate is concluded and cannot be adjourned, 4125

The third reading of a bill may be debated, 4297

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If a debate is initiated in the Senate it cannot be finished in committee, 5223-4

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or condemned; but a senator should speak as briefly as possible and not indulge in strong language, 5442; and his remarks should be relevant to the subject-matter of the ministerial statement, 5448

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On the first reading of a bill which the Senate may not amend, any matter may be debated; but only its subject-matter should be discussed on the second reading, 5223, 5770, 6352

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The Senate ought to be asked to decide whether a question should be considered in committee before the mover begins his speech, if it is considered desirable to discuss the question in committee, 3814, 5223-4

A senator is not permitted to withdraw a motion, and then without notice to move another motion, 3901

An unopposed motion may by leave be put towards the close of a sitting, 4040

Motions for Adjournment.—A resolution to "now" adjourn means an adjournment until the next sitting day, 4658

A motion by a private senator that the Senate at the time of its rising adjourn until an unusual hour ought to be made before the business of the day has been called on; but when a motion of privilege has been brought forward before the business of the day has been called on, a similar motion may be made at the conclusion of the privilege debate, 3901

The four senators who rise in support of a motion for adjournment are the judges of the question of urgency, 4700

A question cognate to the subject-matter of an order of the day may be discussed on a motion under standing order 60; but the rule that debate shall not be anticipated applies to the motion, 4700

The failure of the President to open a letter giving written intimation under standing order 60 before business was called on should not prevent a senator from exercising his right under the standing order, 5833

Papers.—It is for the Senate, not the Printing Committee, to decide whether a paper shall be printed, 4789, 4805

A minister cannot, by command, lay on the table a copy of a notice of motion, concerning the conduct and procedure of the Senate: it is not a paper within the meaning of the standing order, 4790-1

Personal Explanation should contain no argument, 1464, 3317

Petitions.—It is improper for a senator, when he is presenting a petition, to make any statements, except such as are laid down in the standing orders, 4544

The names of the signatories to a petition may be read if desired by the Senate, 5524

Points of Order.—As a general rule it is not proper for the Chairman of Committees or the President to give a ruling on the interpretation of the Constitution, but where a ruling is absolutely necessary in order to carry on the business, it ought to be given, 4563

Private Business.—Under new standing order 70 a senator may place on the business-paper for a subsequent day any notice of motion or order of the day in which he is concerned, 4457

Privilege.—It is a breach of privilege for any person to use words which impugn the character of all members of the Senate, 3679; and where the utterer of the words is stated to be a senator, he should be afforded an opportunity to be heard in his place before any action is taken, 3680

Questions to the Chair.—It is not the duty of the Chair to answer a general question,

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3132; but merely to deal with points of order or procedure as they arise, 3132, 4073, 4652

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Detailed information should be obtained by a motion for a return, 2364

The only obligation upon the Chair is to see that notices of questions are in order, 3697

Under the new standing orders notices of questions should be handed in to the clerk, 4456, 5627

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Quotations and References.—There is no standing order on the subject; but the practice is not to comment upon a judge in his judicial capacity unless on a motion for his removal, 1730

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It is out of order to debate the subject-matter of another question on the order paper, 3903

A senator may allude in general terms to the attitude of the Government on the bill in another place, but he may not quote from the debate in that House, 4082

A quotation from a comic opera ought not to be advanced as an authority which should influence the Senate, 4094

No standing order prohibits a minister from reading an official document relating to the subject-matter of a discussion, 5348

It is irregular to refer to proceedings in committee until a report is made, though in peculiar circumstances the rule may be relaxed, 5560

Requests.—Reasons for pressing requests cannot be sent to the other House except by the express desire of the Senate, 6243

Resolutions.—A resolution cannot be rescinded during the same session, except with the concurrence of an absolute majority, and after seven days' notice, 3134, 5745

A motion to ask the concurrence of the other House in any resolutions cannot be moved without notice, except by leave, 5355

A proposal for communicating a resolution to the other House may be moved either as an addition to an amendment or as an amendment to the main question, 5571

A motion to inform the other House of non-concurrence in a resolution cannot be moved without notice, except by leave, 5574

Right of Speech.—When a senator desires leave to continue his speech on another day, unless he is prevented from so doing by other business of the day being called on in pursuance of the standing orders, or of sessional order, the standing orders should be suspended for that purpose, 3846

The mover of a motion is entitled to speak to an amendment; but his remarks must be

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relevant to the amendment ; and after it is disposed of he may exercise his right of reply, 5345

When a debate is interrupted in pursuance of a sessional order the senator then speaking does not lose his right to continue his speech, 5384

Every senator who has spoken to the main question may speak to an amendment ; other senators may speak to both the main question and the amendment ; and when that amendment has been disposed of, every senator may speak to a subsequent amendment, 5336-7

A senator who has moved an amendment cannot speak again to the question and move another amendment, 5573

A senator may not speak to a notice of motion which he does not intend to move or to the question for the consideration of a bill in committee, 6184

Rulings.—The President has as much right as any other senator to speak on a question ; but he will not take part in a debate on a motion to dissent from his ruling, although he ought to be permitted to if he desires to alter or modify the ruling or to clear up any matter which had been left vague, 4631

An objection to a ruling must be stated in writing, and the debate adjourned to another day, 5005

Supply Bills.—The first reading of a Supply Bill may be debated, and the discussion need not be relevant to its subject-matter, 5223

Vacation of Seat is caused by the absence of a senator for two consecutive months without leave, 6000

Vote of Senator.—It was not obligatory on Senator Saunders to take the oath of allegiance twice over, and therefore his vote in committee on the Defence Bill should not be disallowed, 4577, 4643, 4653

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President, The Deputy.

Business of the Senate.—It is not competent for the Senate, without suspending the standing orders, to anticipate any orders on the paper for a future day, 3236

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Speaker, Mr.

Amendments.—An amendment to a motion before the House should not anticipate or cover the same ground as a motion already given notice of to appear on the next business paper, 908

An amendment to a motion cannot be moved after the mover has replied, 3785, 6404

An amendment must be relevant, 5437

An amendment dealing with the site of the Federal Capital is not in order on a motion for fixing the method for choosing the site, 5797, 5813

An amendment which is not a direct negative of or irrelevant to the motion is in order, 5303

An amendment to an early part of a motion should be put in such form as not to include an amendment by a member who desires to move to amend a later part, 5288

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An amendment, consequential upon a decision of the House, will be made, although not formally moved, 5436

A member cannot move to amend his own motion, 5437

An amendment to consider a complicated question in committee may be moved, 5800

A member who has spoken and stated he has an amendment to propose in words proposed to be inserted when a blank is created may move accordingly when the blank has been created, 1170

A member having spoken to a question cannot at a later stage speak again to move an amendment, 2609

If a member gives an intimation to that effect in his speech upon the general question, he will be at liberty to move an amendment, but without making a speech upon it, to a later part of the question when an amendment to an earlier part has been disposed of, 5285 ; but the terms of the amendment should be intimated at the time ; and if a copy is handed in the Chair will put the amendment in its proper order, 5414

Any member who has not spoken to the main question may move an amendment, 5414

Appropriation (Works and Buildings) Bill is not a measure providing for the ordinary annual services of the year, and therefore the amendments by the Senate are not unconstitutional, 6145

Bills.—A motion for recommitting a bill must be made before the question for third reading is put from the Chair, 1716

After the third reading has been put from the Chair the time has passed at which any amendment in the bill could be proposed, 4589

Business of the House.—Until the address in reply is adopted, only formal business (which does not include an unopposed motion) may be dealt with, 125

On "grievance day" the first order of the day must be either Supply or Ways and Means, and it has to be called on within two hours of the meeting of the House, 4318

When the standing orders have been suspended to enable certain business to be done, that business, though opposed, may be taken after 11 o'clock, 5935

The discussion on a formal motion for adjournment must be interrupted at half-past four o'clock ; but the orders of the day may be postponed until after the further consideration of the motion for adjournment, 6377

The Appropriation Bill having been laid aside, it is competent for the House, after rescinding previous resolutions, to reconsider the estimates, a second message from the Governor-General is not necessary, 6399

Debate.—It is not customary to debate the motion for first reading of a bill, but on the motion that the second reading be made an order of the day for a later day a member may ask any question relating to the bill, 586

The remarks of a member must be relevant on a motion for leave to introduce a bill, 1767, 5652 ; to fix the date for second reading of a

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bill, 587, or resumption of a debate, 1514, or consideration of a message, 1963, 6401; for second reading of a bill, 716, 741, 912-4, 2527, 2791, 3369, 4052, 4253, 4284, 4398, 4400, 4441, 4450, 5687, or third reading, 1893, 4590-1, 5661; to receive and read a petition, 1011; to adjourn the House under standing order, 1115, 2960, 4844-7; to give precedence to Government business, 2305, 2309; to disapprove of electoral divisions, 3589; for a conference *re* Federal capital site, 5326-7

A member is not entitled to go beyond the scope of the question, 1501, 1519, 1649, 2761, 3555-6, 3589, 3645, 3653, 3655, 3662-3, 3763, 3770, 3773, 3775, 3862, 3871-2, 5286-7, 5309, 5326-8, 5391, 5403, 5434, 5796, nor to anticipate the discussion on a motion, 2522, 3555-6, 5687, 5796, or a bill, 1440, 2791, 4322, 4345, 4844-7, 6414, or on fixing date for stage of bill, 5652, or on matters to be dealt with in committee, 5797, 5813

On a motion for a conference to consider the selection of the seat of Government a member may not discuss the merits of a site, but may discuss the insufficiency of the number of sites on the list, 5286-7, 5424; the discussion should be confined to the terms of the "machinery" motion, 5299. On an amendment as to the price of land it is competent to discuss the question of deciding the site on the basis of points, 5389, or the question of relative values here and there, 5390

The subject-matter of a petition cannot be debated on the motion that it be received and read, 1011

On a motion for leave to introduce a bill a member may discuss the lax methods of the Government in regard to the bill, 1767

In speaking to the second reading of a bill, a member should address his remarks as speedily as he can to the consideration of its provisions, 4052

On the second reading of the Conciliation and Arbitration Bill a member is permitted to refer to a strike only so far as is necessary to illustrate his argument, 4253

The conduct or action of a member should not be discussed on a motion for second reading of a bill, 4450

On "grievance day" a member, though taking considerable latitude in ventilating a grievance, is not out of order, 4235

On the motion for adjournment, it is not improper for a member to refer incidentally to the subject-matter of a bill on the notice-paper, so long as he does not discuss the bill, 6414

At the "report" stage on a bill, a member is entitled to discuss the votes and proceedings in committee but not to refer to any matter which took place outside the committee, or to votes that were not given in the committee, 6300-2

When a member has been called by the Chair, and has risen, he must either proceed with his speech or resume his seat, 743

Except by leave, no interpositions to debate can be permitted, 745

Where an amendment has been moved both the original motion and the amendment are

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RULINGS—Speaker, Mr.—*continued.*

open to debate by any member who has not exercised his right of speech, 1649; provided that the mover has not replied, 6404

Liberty of debate is not curtailed by the moving of an amendment, 4321

Documents.—Unless it is stated to be of a confidential nature, or such as should more properly be obtained by address, a document relating to public affairs, quoted from by a minister, may be called for and made a public one, 4614

Interruptions.—The repeated interruption of a speaker is irregular, 51, 463, 466, 1014, 1997, 2002, 2165, 3456, 3645-6, 3653, 3658, 3664, 4588, 4592, 5300, 5302, 5407

Interjections across the chamber and conversations having no reference to the subject on which a member is addressing the Chair are distinctly disorderly, 1712, 2226

Interjections are especially irregular when ministers are replying to questions, 1961

The fairest opportunity should be given to those who ask or answer questions, 5960

In order to facilitate debate interjections not calculated or so frequent as to interrupt the speaker are overlooked, 3664

An ordinary interjection is out of order when it is too long, 3735

It is irregular to converse across the chamber, 3978, or to reply to a disorderly interjection, 4361

A member cannot make a speech while another member is speaking to the question, 4260

A request from the Chair to desist from interjecting must be complied with, 4454, 4586, 4592

Language, Parliamentary.—In his relation of a private conversation elsewhere a member is not precluded from quoting the words which were used, 4588

Language, Unparliamentary.—It is not in order to describe the statement of a member as grossly unfair, 317; absolutely untrue, 447, 2761, 4420; false, 3202; most untruthful, 3784; cowardly, 5695; cant and hypocrisy, 6381

to say a member has deliberately misled the electors, 346; humbugged or deceived the electors, 368; had to do what he was told, 3786; says that which he knows is not true, 4406; has been humbugging the electors, 4591; was treacherous and false to federation, 6379; that the truth must not be spoken in the House, 6379

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to characterize a member as stupid, 1518 to accuse the Government of a conspiracy, 3649; a dastardly attempt, 4440; roguish acts, 4587

to reflect upon a vote of the House, 3866; or upon Parliament, 4602

to describe the conduct of a minister as gerrymandering, 3740; a proposal before the House as a political crime, 4361; the action of any members as a backscratching proceeding, 4421; a majority in the House as brutal, 4533; any members as jackals, 4592

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A member is required to withdraw a remark which is considered offensive, 3786, 4364, 6381; or is a reflection upon a vote of the House, 3866

An imputation of improper motives must be withdrawn even though no objection be taken to the use of the words. Other words which are considered by a member to be a reflection upon him or upon any section of the House must be withdrawn upon attention being called to them, although they might not otherwise be considered offensive, 4533

The withdrawal of unparliamentary words cannot be debated, 3202, and should be made by a member, not from his seat, but standing, 4592

Members.—It is irregular for a member to stand in any of the passages or gangways, 2521; or to turn his back to the Chair when speaking, 4423; or while sitting down to address the Chair, 5386

No standing order requires a member to accept an assertion by another member; but the practice among gentlemen is to accept assurances as to matters of fact, 3756-7

A member is not prohibited from reading a newspaper in the chamber, 4335

Motions.—A motion approving of an extension of a mail contract does not require to be considered in committee, 1656-7

Notice is required of a motion relating to the supply of draft bills and other documents to the press before they have been laid before the House, 1758

Each paragraph of a complex motion will be submitted separately, when desired, 5414

Papers.—It is not competent for a private member to lay a paper on the table, 4365

Personal Explanation.—A member can only offer an explanation when no one is addressing the House, 47

A personal explanation cannot be debated, 443
By leave, a member may make a personal explanation regarding a petition in which he is misrepresented, 1011-12

A member cannot make an explanation in regard to a petition he has presented unless he has been misrepresented, 1012

It is competent for a member to explain any circumstances in regard to which he has been misrepresented, but not to debate any matter, 4365

Petitions.—A petition to the House cannot be amended, 1011

Until its subject-matter is known to the Chair, a petition cannot be ruled out of order, 1011

Notice has to be given of a motion to print and circulate a petition, 1519

Where a petition from a corporation is not under seal it can be received only as from the persons whose names are attached to it, 2011, 2299

The motion for reception and reading of a petition will be divided when required, 2299-2300

Privilege.—A question of privilege relating to a statement in a newspaper must be raised in accordance with standing order No. 285. No

RULINGS—Speaker, Mr.—continued.

breach of privilege is involved in the publication of a draft bill or a paper belonging to ministers and not to the House, but a very wide departure from parliamentary practice is involved. The practice is that such documents should not find their way into the press until they have been laid before the House, 1758-9

Questions without Notice.—It is not out of order to ask if a minister has any objection to lay certain papers upon the table, 234-5

A member cannot debate the subject of a question he is asking, 1013, 1014, 1102, 1962
The reply to a question cannot be interrupted by a member for the purpose of asking another question, 1014

Every member may ask any ordinary question and the Government have an equal right to answer it or to ask for notice, 1523

A question cannot be asked until petitions have been presented, 1758

A member is not obliged to answer a question relating to a matter of which he is not in charge, 3728-9

A member should not when asking a question read a very lengthy extract, but may move the adjournment of the House, 5048

Questions upon Notice.—A reply involving much detailed information is not out of order, but is contrary to custom; such a question should take the form of a motion for a return, 1185

Quotations and References.—A member is not permitted to read a document which has been read at a previous stage of the debate unless he desires to present a new argument or interpretation, 295

A member may quote as a part of his reply a letter in which he is asked by another member to call attention to a misconception of the arguments he used in discussing the second reading of the bill, 839

A member is entitled to refer to a bill on the business-paper as evidence of ministerial delinquencies, 1440

A reference to the Senate is out of order, 3870
It is irregular in discussing one bill to refer to another bill on the business-paper, 2791

A member may not refer to a previous debate of same session, 2329, 3862, 3864, 3869, 3870-1, 3878, 4361, 4421, 4439, 4606, 4845; but he may make an incidental allusion to its subject-matter, 3863

It is out of order to refer to, quote from, or even incidentally allude to a previous debate of the session, 4322-3

Previous debates of the session cannot be referred to, but any facts elicited during such debates may be referred to, 4398

A previous debate of the session, even when it relates to the same question, cannot be referred to; but a member may refer to the figures which he used in that debate, 4436

A member may refer to the decisions of the House preliminary to the introduction of a bill, and to any facts apart from the debates terminating in such decisions, 4588

The proceedings on a bill in committee cannot be referred to on the motion for adjournment, 4692

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On a motion for adjournment to discuss the action of the Government in dropping a bill, only an incidental reference to details of its provisions is permitted, 4844, 4847

Reference is not permitted to an interjection which has been ruled out of order, 5434

Requests for Amendment.—The alteration of clause 2 of Sugar Bonus Bill should have been sought by the Senate by request and not by amendment, in accordance with the third sub-section of section 53 of the Constitution, as the amendment would increase a proposed charge on the people, 1963

Right of Speech.—By leave a member may continue his speech on a subsequent day, 496, 745-6, 1513, 3397, 3674, 5783; and such leave must be asked for, not moved for, 3674

A member cannot reply to a personal explanation by another member; but if he has been misrepresented in any way he may explain his position, 1012

On a formal motion for adjournment, a member cannot exceed the allotted time, except by leave, 1118, 2951, 2958

A member who has spoken to both the main question and an amendment to create a blank with a view to insert words may in his speech formally state an amendment to be proposed by him in such words, and when the blank has been created may move accordingly, 1170

The mover of a substantive motion cannot make a second speech, except to close the debate, though by leave he may make a statement, 2605-6

Where a member during his speech asks a question and resumes his seat and a ministerial explanation has been made he cannot continue his speech, nor can he make an explanation unless he has been misunderstood, 2606

Strictly speaking, when a member resumes his seat, his right of speech has terminated, 4602

A member who has spoken to the question is not entitled at a later stage to speak again to move an amendment, 2609; but he may speak to any amendment before the House, 5414-5

If a member in his speech on the main question intimates his intention at a later stage, when some other amendment has been disposed of, to move an amendment, he cannot speak to that amendment, 5285, 5415

Ordinarily no member may make a statement except when there is a motion before the Chair; and if there is to be a general debate on a ministerial statement the Prime Minister must submit a motion, 2617

The right of reply when exercised closes the debate, 2762, 3785, 3864, 4348, 6404

The right of reply can be exercised while an amendment to the question is pending, 6404

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Vacant Seat.—Where a dissolution of the House is imminent, a writ for an election to fill a vacant seat will not be issued if it is not possible for the member elected to take his seat, 5574-8, 5653

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